

Arunachal Pradesh State Commission For Women Act, 2002

ARUNACHAL PRADESH

India

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Act 4 of 2002

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Arunachal Pradesh State Commission For Women Act, 2002(Act No. 4 of 2002)Last Updated 18th February, 2020[Dated 21.06.2002]An Act to provide for the constitution of a Women's Commission in the State of Arunachal Pradesh to improve the status of women and to inquire into unfair practices affecting women and for matters connected therewith or incidental thereto.Preamble. - Whereas it is expedient to provide for constitution of a Commission for furthering the fundamental rights and directive principle of a State Policy enshrined in the Constitution of India with respect to women to improve their status and dignity of women in the State of Arunachal Pradesh and to investigate and inquire into unfair practices affecting women and for matters connected therewith or incidental theretoBe it enacted by the Legislative Assembly of Arunachal Pradesh in the Fifty Third year of the Republic of India as follows:

1. Short title, extent and commencement.

(1)This Act may be called the Arunachal Pradesh State Commission for Women Act, 2002.(2)It shall extend to the whole State of Arunachal Pradesh.(3)It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires(1)"Commission" means the Arunachal Pradesh State Commission constituted under section 5(2)"Government" means the Government of Arunachal Pradesh;(3)["Member" means a member of the Commission and include the Chairperson, Vice Chairperson and Member Secretary;] [Substituted by Act 2 of 2005, s.2 (w.e.f. 5.3.2005)](4)"Member Secretary" means the Member Secretary appointed under section 5 and 12(5)"Person" includes a firm, company, corporation or any public undertaking association of persons, or the Government and its agencies including agencies receiving aid from the

Government;(6)"Prescribed" means prescribed by rules made under this Act;(7)"Public servant" means any employee of the Government or a local body or any corporation owned or controlled by the Government or of any Government agency or any public undertaking;(8)"Unfair practice" means any distinction, exclusion or restriction or exploitation made on the basis of sex for the purpose of or which has the effect or impairing or nullifying the recognition, enjoyment or exercise by women of fundamental constitutional rights, or of human rights, or of fundamental freedom in the political economic, social, cultural, civil or any other field or the infringement of any right or benefit conferred or women by or under the provisions of any law for the time being in force or the mental or physical torture, coercion or sexual excesses on women;(9)"Woman" includes adolescent girl or female child.

3. Act not to apply in certain cases.

- This Act shall not apply to-(1)the Central Government; or(2)any public sector undertaking of the Central Government; or any other institution owned or controlled or financed directly by the Central Government.Provided that if any case involving person or persons belonging to these categories comes up before the State Commission, the State Commission will have the powers to refer the matter to the National Commission of Women with its findings and recommendation thereto.

4. Application of other laws not barred.

- Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, except to the extent the provisions of the other law are inconsistent with the provisions of this Act.

5. Constitution of the Commission.

(1)For the purpose of this Act, the Government shall, by notification in the official Gazette, constitute a Commission to be known as the Arunachal Pradesh State Commission for Women, which shall consist of a [Chairperson, Vice Chair-Person a Member-Secretary and not more than three (Seven) other members to be appointed by the Government of whom all the other three (seven) members shall be APST women.] [Substituted by Act 2 of 2005, s.3 (w.e.f. 5.3.2005)](2)The Chairperson shall be an eminent woman committed to the cause of women with sufficient knowledge and experience in dealing with women's problems.(3)The members of the Commission shall be persons of ability, integrity, intelligence and standing and, having adequate knowledge or experience or have shown ability in dealing with problems relating to safeguarding and promoting the interests of women and protecting their rights.(4)The Government shall appoint the Member Secretary, whose responsibilities are stated in section 12 and whose qualification, terms of appointment and other conditions or service shall be such as may be prescribed.

6. Term of office and condition of service of members and Member Secretary.

(1)Every member shall hold office for a period of 3 (three) years.(2)Notwithstanding anything

contained in subsection (1), a member may -(a)by writing under her hand and addressed to the Government resigns her office at any time;(b)be removed from office in accordance with the provisions of section II.(3)A vacancy arising by reason of resignation or removal on the death of any member of the Commission under Sub-Section (2) or otherwise, shall be filled-up in accordance with provision in section 5;(4)The members shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed/fixed by the Government from time to time.Provided that such conditions of service shall not be varied to the disadvantage of a member after the Member's appointment.(5)For the purpose of constitution of the first Commission, a panel of candidates along with their bio data, prepared by the Draft Legislation Committee on receipt of application from individual applicants or recommended by various sections of Society, shall be submitted to the State Government. For the purpose of subsequent constitution of the Commission in the State, the panel of candidates shall be prepared by the preceding Commission.

7. Quorum.

- The Quorum for a meeting of the Commission shall be [6 (Six)] [Substituted by Act 2 of 2005, s.4 (w.e.f. 5.3.2005)] including the Chairperson.

8. Disposal of Business.

(1)The meeting of the Commission shall be presided over by the Chairperson or in her absence a member chosen for the purpose by the members present.(2)All question at a meeting of the Commission shall be decided by the majority of the votes of the members present and in case of equality of votes, the Chairperson or the member presiding, as the case may be, shall have a second or casting vote.(3)The Commission may invite, if it is considered necessary, for such purpose and on such conditions as may be prescribed, any person with expert knowledge in a particular subject to be present at the meeting lo assist the Commission in arriving at a decision, but such person shall not be entitled to vote.(4)In case the outlying are not properly represented in the Commission, or if the Commission decides so, the Commission can constitute committees in the outlying regions to help it dispense with issues thereon, the terms of reference and constitution of which may be decided by the Commission.

9. Constitution of an Ad-hoc committee.

(1)The Commission may for the purpose of transacting any business before it or for any special issue constitute an ad-hoc committee consisting of(a)not more than two members of the Commission;(b)not more than two experts of the particular subject before the Commission.(2)If the Chairperson is a member of the committee the Chairperson or any other members shall preside over the meeting of the committee.(3)The provisions of sections 7, 8, 19 and 20 shall mutatis mutandis apply to the meetings of the committee.(4)The final report of the ad-hoc committee shall be placed before the commission for its approval and on the approval thereof by the Commission it shall be deemed to be the repo of the Commission.(5)The persons in the ad-hoc committee shall be paid such remuneration as may be prescribed.

10. Acts of the Commission not to be invalidated by infirmity or any vacancy etc.

- No Act or proceeding of the Commission shall be invalidated by reason only of any defeat or irregularity in its constitution or on the ground of existence of any vacancy in the office of any members.

11. Removal of Members from Office.

- Any member of the Commission may be removed from office by an order of the Government:(1)becomes an un-discharged insolvent;(2)is convicted and sentenced to imprisonment for an offence which involves moral turpitude;(3)becomes of unsound mind;(4)refuses to act or becomes physically or mentally incapable of acting;(5)has acquired such financial or other interest as is likely to affect pre-judicially the function as the Chairperson or member;(6)is without obtaining leave of absence from the Commission absent from three consecutive meetings of the Commission : or(7)in the opinion of the Government has so abused the position of Chairperson or member as to render that person's continuance in the office detrimental to the public interest ;Provided that a member shall not be removed under this section until that person has been given a reasonable opportunity of being heard in the matter.

12. Appointment of Member Secretary and other Staff of the Commission.

(1)The Member Secretary, appointed by the Government, may make investigations for the purposes of this Act and to carry out such directives given to him / her by the Commission besides the functions conferred on him/her by this Act.(2)The Commission may appoint such other staff as may be necessary to assist the Commission by deputation or by direct recruitment and prescribe their condition of service. The qualifications/terms of appointment and other conditions of service of the other staff shall be such as may be prescribed.Provided that appointment made under this clause shall be made by the State Government on the recommendation of the Commission to assist the Commission in its day to day work and perform such other functions as are provided under this rule or assigned to him./her by the Commission.(3)In the discharge of their functions under this Act, the Member Secretary and other staff, referred to in sub-section (1) and (2), of section 12, shall be subject to the administrative control of the Chairperson.(4)The Commission may appoint/engage a Legal Adviser to counsel and offer legal aid to assist the work of the Commission.

13. Provision for Salaries, Allowances, etc.

- The salaries and allowances payable to the members and the administrative expenses, including the salaries, allowances payable to, in respect of the Member Secretary and the other staff of the Commission, shall be met out of the Grant-in-Aid received by the Commission from the Government.

14. Powers of the Commission.

(1)The Commission shall, for the purpose of any inquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, (Central Act 5 of 1908), in respect of the following matters namely : (a) summoning and enforcing the attendance of any witness and examining him/her on oath; (b) requiring the discovery and production of any document; (c) receiving evidence on affidavits; (d) requisitioning any public records or copy thereof from any public office; (e) issuing commissions, summons for the examination of witnesses. (2) Any proceedings before the Commission shall be deemed to be a judicial proceedings within the meaning of section 193 and 228 of the Indian penal code (Central Act 45 of 1860) and the commission shall be deemed to be a court for the purpose of section 195, of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

15. Functions of the Commission.

(1)The Commission shall perform all or any of the following functions, namely: (a) inquire into any unfair trade practice, take decision thereon, and to recommend to the Government the actions to be taken in that matter; (b) cause investigations to be made by the Member Secretary on issue of importance concerning women or issues concerning unfair practice and to report thereon to the Government in the corrective measures to be taken ; (women related issues) (c) submit Annual Reports to the Government - (i) on the lacunae, inadequacies, or shortcomings in the laws in force which affect the constitutional right to equality and fair treatment of women and also on the remedial legislative measures to be taken to meet the situations; (ii) of the monitoring of the working of laws, in force, concerning women with a view to identifying the areas where the enforcement of law is not adequately effective or has not been streamlined and recommending executive or legislative measures to be taken in amelioration thereof; (iii) of the monitoring the recruitment made to State Public Service and State Public Undertakings and, promotions within the said services and, scrutinizing the rules and regulations governing such recruitment and promotions, with a view to reporting to the Government for action, if any, required to guarantee equal opportunity to women in the matter of such recruitment and promotions; (d) (i) inspect or cause to be inspected, by the Member Secretary or any officer of the Commission duly authorised by the Commission, in that behalf, prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise, or shelters for women or other similar places run by the Government, or any of its agencies including agencies receiving aid from the Government for the purpose of offering rescue or shelter to women, or hostels intended for women or girls run by any person and all such other places wherein unfair practices against women is complained of and, cause further inquiries to be made about the treatment that women and girls are subjected to at such places and, to report to the Government for taking remedial action ; (ii) in case where the Commission is of the view that any public servant has been grossly negligent or grossly indifferent in regard to the discharge of his/her duties in relation to the protection of the interest of women, it may recommend to the concerned disciplinary authority or initiate disciplinary action ; (e) recommend to Government, the welfare measures to be adopted and implemented by the Government with a view to ameliorating the conditions of women; (f) formulate a comprehensive and affirmative scheme for securing equal opportunities to women and devise a programme for

implementing such scheme which shall be forwarded to the Government for approval and, on obtaining approval thereof with or without modification, implement the same or cause the same to be implemented;(g)Empower the Member Secretary to recommend to the appropriate authority to take prosecution proceedings in respect of offences committed against women under any statute providing for penalty for violation of the provisions of such statute;(h)maintain a comprehensive Data Bank relating to the social economic and political conditions of the women including comparative study, updating the same from time to time, making available such data for use in actions for vindication of the rights of women ;(i)recommend to Government to initiate legislation for removal of discrimination in the case of inheritance, guardianship, adoption and divorce or for matters relating to the safeguarding of the dignity of women and the honour of motherhood :(j)call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;(k)participate and advise on the planning process of social, political and economic development of women ;(l)fund litigation involving issues affecting a large body of women ;(m)make periodical reports lo the Government on any matter pertaining to women, and in particular, various difficulties under which women toil;(n)undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres, including monitoring of the academic curricula in the State so as to check gender-bias, sex stereotyping, envisaged in the core curricular area of National Policy of Education, 1986 (Revised 1992).(o)identify factors responsible for impeding the advancement of women. such as lack of access to housing and basic services, particularly for single women and female-headed households, and inadequate support services and technologies for reducing drudgery and, occupational health hazards and, for increasing their productivity;(p)hold Family Court to dispose off cases related to unfair practices against women;(r)any other matter which may be referred to it by the Government(2)The Government shall lay the recommendations of the commission under subsection (1) of section 15, before the Legislative Assembly during its next session and cause action to be taken thereon by the authority concerned within 60 days from the date of laying such recommendations.

16. Inquiry into unfair practices.

(1)The Commission shall inquire into any unfair practice :(a)in receiving a written complaint from any women alleging that she has been subjected to any unfair practice or on a similar complaint from any registered reputed women's organization or individuals;(b)on its own knowledge or information;(c)request from the Government;(2)Where the complaint has been made under clause (a) of sub-section (I) of section 16, the Commission may, before the issue of any process to the person complained against, cause a preliminary investigation lo be made by the Member Secretary, in such manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be inquired into.(3)Where the person against whom the complaint has been made, appears and show cause or fails to appear on the day appointed for that purpose, the Commission may proceed to inquire into the matter in the complaint and, take a decision thereon and, if the Commission find that there is unfair practice, it shall recommend to the Government the action to be taken thereon or initiate prosecution.(4)The Government shall, within two months (60) days, from the date of receipt of the recommendation of the Commission under sub-section (3) of section 16, take a decision thereon and, intimate the same to the Commission.

17. Initiation of Prosecution and implementation.

- If, after investigation into any complaint under section 16, the Commission is satisfied that a person has committed any criminal offence and that the person should be prosecuted in a court of law for such offence, then it may pass an order to that effect and initiate prosecution of the person concerned, if there is no necessity for prior sanction, and, if prior sanction of any authority is required for such prosecution, then notwithstanding anything contained in any law, such sanction shall be granted by that authority within forty-five (45) days of the request by the Commission and, if such sanction is not granted within the said period, such sanction shall be deemed to have been granted by that authority. Thereafter, implementation of the prosecution will be carried out by the concerned authorities on the recommendation of the Commission.

18. Annual report to be laid before the Legislative Assembly.

- The Annual Report submitted to the Government, by the Commission in accordance with sub clause (a), (b) and (c) of sub-section (I) of section 15, shall be laid before the Legislative Assembly, as soon as may be, after the report is received by the Government.

19. Sitting of the Commission.

(1)The Commission shall hold sitting ordinarily at Itanagar to inquire into any unfair practice but it may hold sittings at any other region in the State.(2)The Commission shall, with the previous approval of the Government, make regulations for regulating its procedure and the disposal of its business and, which shall, after they are made, be published in the official Gazette.(3)The Chairperson may, with the approval of the Commission, assign any function of the Chairperson or of the Commission to any other member or members of the Commission,(4)The Commission shall meet as and when necessary, but at least one meeting of the Commission shall be held before lapse of three months between two consecutive meetings.(5)The Commission shall meet at such a time and place as the Chairperson may think fit and shall observe such procedure in regard to her business as may be prescribed.(6)Each meeting of the Commission shall be called by giving not less than 10 days from the date of issue of notice in writing to every member.

20. Authentication of orders etc. of the Commission.

- All orders and decisions of and all other proceeding or instruments, if any, issued by the Commission shall be authenticated by the signature of the Member Secretary or of such other officer as may be authorised by the Commission in this behalf.

21. Donations, contributions etc. to the Commission.

- The Commission may, with the previous sanction of the Government and subject to such terms and conditions as may be specified on their behalf by the Government, receive money from any organization, or person by way of donation, contribution or by whatever name called for the purpose

of this Act.

22. Government consulting the Commission.

- The Government shall consult the Commission on all policy matters affecting the women in the State from time to time as when sought for by the Commission.

23. Members, officers and employees of the Commission to be Public Servants.

- All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code 1860 (Central Act 45 of 1860).

24. Protection acts done Good Faith.

- No suit, prosecution or other legal proceedings shall lie against any member of the Commission or any office of the Commission for anything done in good faith or intended to be done under this Act or the rules made thereunder.

25. Courts not to Grant injunctions.

- Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), or any other law for the time being in force, no Court shall grant any injunction restraining any proceeding which is being or about to be taken under the provisions of this Act.

26. Removal of Difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions to remove such difficulty. (2) No order under sub-section (1) of section 26 shall be made after the expiration of a period of two years from the commencement of this Act. (3) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Arunachal Pradesh.

27. Power to make rules.

(1) The Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provision of this Act. (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matter namely : (a) the salary, allowances, and other conditions of service of the members, the Member Secretary and the other staff of the Commission ; (b) procedure for removal of the members of the Commission under section 11. (c) procedure for inquiries under section 16 of the Act; (d) investigations by the committee(s)/Member Secretary; (e) procedure for inspection of prisons, police stations, lock-ups,

sub-jails, rescue homes or, other places of custody where women are kept as prisoners or otherwise or, shelters for women or, other places run by the Government or any of its agencies including agencies receiving aid from the Government for the purpose of offering rescue or shelter to women or, hostels intended for women or girls run by any person and such other places wherein unfair practice to women or girls is complained of or, for holding of inquiries about the treatment that women or girls are subjected to at such place;(f)maintaining a Data Bank;(g)the formulation of comprehensive and affirmative scheme for securing equal opportunity to women and for the improvement and uplift of women and, programme for its implementation.(h)procedure for recommending prosecution in respect of offences committed against women under any stature or any other laws and prevailing practices;(i)any other matter which has to be, or may be prescribed.(3)Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the legislative Assembly makes any modification in the rule or decides that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be howsoever, that any such modification or annulments shall be without prejudice to the validity of anything previously done under that rule.

28. Finance, Accounts and Audit.

(1)The State Government shall after due appropriation made by the State Legislature in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilized for the purpose of this Act.(2)The Commission may spend such sums as it think fit for performing the sanctions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1) of Section 28.

29. Maintenance of Accounts and other records.

(1)The Commission shall maintain proper accounts and other relevant records and, prepare an annual statements accounts in such form as may be prescribed by the State Government in consultation with the Directorate of Accounts, Government of Arunachal Pradesh, Naharlagun.(2)The Accounts of the Commission shall be audited by the Directorate of, Accounts, Government of Arunachal Pradesh, Naharlagun at such intervals as may be specified by him/her and any expenditure incurred in connection with such audit shall be payable by the Commission to the Directorate of Account.(3)The Directorate of Accounts, Naharlagun or any person appointed by him./her in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Directorate of Account generally has in connection with the audit of government accounts, and in particular, shall have the right to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the offices of the Commission.(4)The accounts of the Commission, as certified by the Directorate of Account or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government.

30. Report of Activities etc.

- The Commission shall prepare in such form and Report of Activities such time for each financial year, as may be prescribed, in its annual report giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.

31. Commission and the State.

- The State Government shall cause the Annual Report, together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the State Government. and the reasons for the non-acceptance, if any, of any of such recommendations, and the audit report to be laid as soon as may be, after the reports are receive before the Assembly.