

# Commission for Protection of Child Rights Rules, 2009

CHHATTISGARH

India

## Commission for Protection of Child Rights Rules, 2009

### Rule

## COMMISSION-FOR-PROTECTION-OF-CHILD-RIGHTS-RULES-2009 of 2009

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Commission for Protection of Child Rights Rules, 2009Published vide Notification No. 1456/4163/2009/WCD/50, dated 16th June, 2010Last Updated 14th October, 2019Notification No. 1456/4163/2009/WCD/50 dated the 16th June, 2010. - In exercise of the powers conferred by sub-section (1) and (2) of Section 36 of the Commission for Protection of Child Rights Act, 2005 (Central Act No. 4 of 2006), the State Government hereby makes the following rules, namely : -

### 1. Short title and commencement.

(1)These rules may be called the Commission for Protection of Child Rights Rules, 2009.(2)It shall come into force on the date of its Publication in the "Official Gazette".

### 2. Definitions.

- In these rules, unless the context otherwise requires, -(a)"Act" means the Commission for Protection of Child Rights Act, 2005 (Central Act No. 4 of 2006);(b)"Commission" means the Chhattisgarh State Commission for Protection of Child Rights constituted under Section 17 of the Act;(c)"Chairperson" means the Chairperson of the Commission;(d)"Member" means the Member of the Commission;(e)"Member-Secretary" means the Member-Secretary of the Commission;(f)"Section" means the section of the Act;(g)"State Government" means the Government of Chhattisgarh;(h)Words and expressions used and not defined in these rules but defined in the Act shall have the same meaning herein respectively as assigned to them in the Act.

### **3. Selection Committee.**

- The Selection Committee referred to in the proviso to Section 18 shall be headed by the Minister-in-Charge of the Women and Child Development Department.

### **4. Eligibility for appointment as Chairperson and other Members.**

- No Person having any past record of violation of human rights or child rights shall be eligible for appointment as Chairperson or other Member of the Commission.

### **5. Member-Secretary.**

- The State Government shall appoint the Member-Secretary of the Commission under sub-section (1) of Section 21.

### **6. Powers and duties of the Member Secretary.**

- The Secretary shall - (i) Have the power to execute all decisions taken by the Commission in order to carry out the powers and functions of the Commission as provided in Sections 13 and 14; (ii) Exercise and discharge such powers and perform such duties as are required for the proper administration of the affairs of the Commission and its day to day management as specified in section 13 and 14; (iii) Convene the meetings of the commission in consultation with its Chairperson and serve notices of the meetings to all concerned; (iv) Take steps to ensure that the quorum required for convening a meeting of the Commission is secured; (v) Prepare, the agenda of each meeting of the Commission and self explanatory notes in consultation with the Chairperson; (vi) Make available specific records covering the agenda items to the Commission for reference. (vii) Ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting, except in cases when urgent attention is required; (viii) Prepare the minutes of the meetings of the Commission and shall execute the decisions of the Commission taken in the meeting and shall also ensure placing of the Action Taken Note of the decisions of the Commission before the Commission in its subsequent meetings; (ix) Ensure that the procedure of the Commission is followed by it in transaction of its business; (x) Take up all such matters with the department of Women and Child Development for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit report in State legislature, re-appropriation of funds, residential accommodation, permitting any officer of the Commission for deputation and any other matter requiring the approval of the State Government; (xi) Exercise such financial powers as are delegated to him by the State Government: Provided that no expenditure on an item exceeding his financial power shall be incurred without the prior sanction of the State Government; (xii) Be the appointing and disciplinary authority in respect of other officers and employees of the Commission.

## **7. Term of office of Chairperson and other Members.**

(1)The Chairperson shall, unless removed from his office under Section 7 of the Act, hold office for a period not exceeding three years, or till the age of sixty-five years, whichever is earlier.(2)Every Member shall, unless removed from his office under section 7, hold office for a period not exceeding three years, or till the age of sixty years, whichever is earlier.(3)Notwithstanding anything contained in sub-rule (1) or sub-rule (2) -(a)any person who has held the office of Chairperson shall be eligible for renomination, and(b)any person who has held the office of a Member shall be eligible for renomination as a member or nomination as a Chairperson :Provided that a person who has held an office of Chairperson or Member for two terms, in any capacity shall not be eligible for re-nomination as Chairperson or member as the case may be.(4)If the Chairperson is unable to discharge his functions owing to illness or incapacity, the State Government shall nominate any other Member to act as Chairperson and the Member so nominated shall hold office of Chairperson until the Chairperson resumes office or till the remainder of his term.(5)The Chairperson or a Member may, by writing under his hand addressed to the State Government, resign his office at any time.(6)A vacancy caused by death, resignation or any other reason shall be filled-up by nomination within ninety days from the date of occurrence of such vacancy.

## **8. Terms and Conditions of Service of Chairperson and Member.**

- Terms and Conditions of Service of Chairpersons and Member for which provision is not made in these rules, shall be such as may be determined by the State Government.

## **9. Functions of Commission.**

- The Commission shall perform all or any of the following functions namely : -(a)examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for effective implementation of those safeguards;(b)present to the State Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;(c)investigate into violation of child right and recommend initiation of proceedings in such cases.(d)examine all factors that inhabit the enjoyment of right of children affected by terrorism communal violence, riots, natural disaster, domestic violence HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures.(e)look into the matter relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, in conflict with law, juveniles, children without family/destitute children and children of prisoners and recommend appropriate remedial measures.(f)study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendation for their effective implementation in the best interest of the Children.(g)undertake and promote research in the field of child rights.(h)spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available sources.(i)inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or

State Government or any other authority, including any institution run by a social organisation, where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary.(j)inquire into complaints and take suo-motu notice of matters relating to -(1)Deprivation and violation of child rights,(2)Non-implementation of laws providing for protection and development of children,(3)Non-compliance of policy decisions, guidelines or instruction aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children or take up the issues arising out of such matters with authorities, and(k)perform duties as are specified by the State Government relating to any such matter.

## **10. Additional Functions of the Commission.**

- The Commission shall, in addition to the functions assigned to it under rule 9, also perform the following functions namely: -(a)analyze existing law, policy and practice to assess compliance with Convention on the Rights of the Child undertake inquiries and produce reports on any aspect of policy or practice affecting children and comment on proposed new legislation from a child rights perspective;(b)present to the State Government annually and at such intervals as the Commission may deem fit, reports upon the working of those safeguards;(c)undertake formal investigations where concern has been expressed either by children themselves or by concerned person on their behalf;(d)ensure that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives;(e)promote, respect and serious consideration of the views of children in its work and in that of all Government Department and Organizations dealing with child;(f)produce and disseminate information about child rights ;(g)compile and analyse data on children; and(h)promote the incorporation of child rights into the school curriculum, teachers training of personnel dealing with children.

## **11. Headquarters of State Commission.**

- The Head Quarter of the State Commission shall be at Raipur.

## **12. Place of meeting.**

- The State Commission shall ordinarily hold meeting in its office located at Raipur, but may in its discretion hold its meetings at any other place in Chhattisgarh, if it considers it necessary or expedient to do so.

## **13. Periodicity of the meetings.**

- The Commission shall meet regularly at its office at Raipur at such time as the Chairperson thinks fit, but three months shall not intervene between its last meeting and the next meeting. Even though the Chairperson, may direct to call the special meeting of the Commission for considering any necessary specified matter, on the initiative of his/her own or one more than one member.

## **14. Procedure for the disposal of complaints.**

(1) All complaints, which are received by State Commission in any manner, shall be registered and assigned to them a number and shall be kept before the two members judicial bench constituted for this purpose for admission ordinarily not more than two week from the date of its receipt. Ordinarily the complaints of following nature are not admissible for Commission : - (a) in relation to those incidents occurred before, more than a year from presenting the complaint; (b) in relation to such matters which are "sub-judic"; (c) which are not clear without any name of disguised name; (d) which are of insignificant nature; (e) which are outside the jurisdiction of Commission. (2) No fees shall be payable for complaints. (3) Every complaint should be made in Hindi or English so that Commission shall be able to process quickly and every effort should be made by which the nature of the matter shall become complete clear, for the reasons it made. Nevertheless for the convenient filing of the complaints, the commission may accept complaints made in any language included in Eighth Schedule to the Constitution. The Commission whenever thinks necessary, shall have freedom to call upon the filing of affidavits, more information in support of allegations. (4) The Commission at its discretion shall admit the complaints sent by telegraph or e-mail and the complaints through fax. (5) The Commission shall have the power to reject any complaint in limine. (6) After the admission of a complaint Chairperson/Commission shall direct whether the matter be kept for inquiry or further investigation should be made. (7) In respect of every complaint on which the Chairpersons/Commission have decided that whether it should inquire or investigate then the commission shall call the report/comments from the Government/Authority concerned and for this purpose appropriate time shall be given to the Government/Authority. (8) On the receipt of the comments of the authority concerned a detailed note on that matter on merits shall be prepared for the consideration of the Commission. (9) The Commission on suo-motu take action. - The Commission at its discretion may provide opportunity of personal hearing to petitioner or any person on behalf of petitioner and if the Commission is of the opinion that those other person or persons should be heard for the appropriate disposal of the matter before it and in relation to that where it is necessary it may call for record and examine the subjects. The Commission shall provide appropriate opportunity of hearing to those persons whose character has been the subject matter of its inquiry and in its opinion that there is a possibility of adverse effect on their goodwill and give opportunity for cross examination of witnesses, if any, in support of complaint and given opportunity for cross-examination of witness, if any in support of complaint and give opportunity to present their evidence. (10) Where the investigation has been made by a team of the Commission or any other person, such report shall be presented within a week of such more time, as may be permitted by the Commission, from that of its completion: In any specific matter, if the Commission is of the opinion that investigation has not been made in a proper way or to ascertain the truth or to enable to dispose of that matter properly further investigation in that matter is required then, the Commission at its discretion may direct for further investigation. (11) The Commission or when the Chairperson has made such request then any member from amongst the members of Commission may tour for the study at site and where such request is made by one or more members, then that report shall be given to Commission as soon as possible.

## **15. Procedure for transaction of business of Commission.**

(1)The "Member-Secretary" of the Commission, alongwith such officers as the Chairperson may direct shall attend the meetings of the Commission.(2)The Member Secretary shall in consultation with the Chairperson prepares the agenda for each meeting of the Commission and shall have note prepared for the use of the Commission and such notes shall, as far as possible shall be explanatory.(3)The records covering the agenda items shall be made readily available to the Commission for reference.(4)The agenda papers shall ordinarily be circulated to member at least two clear working days in advance of meeting except in cases when urgent attention is required.(5)Three members including the Chairperson shall form the quorum at every meeting of the Commission.(6)All decisions of the Commission at its meetings shall be taken by majority :Provided that in the case of equality of votes, the Chairperson, or in his absence, the person presiding shall have and exercise a second or a casting vote.(7)If, for any reason, the Chairperson is unable to attend the meeting of the Commission any member chosen by the member present from amongst themselves at the meeting, shall preside.

## **16. Minutes of the meeting.**

(1)The minutes of such meeting of the Commission shall be recorded during the meeting itself or immediately or thereafter by the Member Secretary or by any other officer of the Commission as directed.(2)The minutes of meeting of the Commission shall be submitted to the Chairperson for approval and, upon approval, be circulated to all members of the Commission at the earliest and in any case, sufficiently before the commencement of the next meeting.(3)The conclusion of the Commission in every matter undertaken by it shall be recorded in the form of an opinion and dissenting opinions, if given, shall also form part of and be kept on record. Action shall be taken on the basis of majority opinion where there is any difference of opinion.(4)All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorized by the Member Secretary with the prior approval of the Chairperson in this behalf.(5)Unless specifically authorized, no action shall be taken by the Commission on the minutes of the meeting until Chairperson confirms the same.(6)A master copy of the record of all meetings and opinions of the Commission shall be maintained duly authenticated by the Member Secretary.(7)A copy of the minutes pertaining to each item shall be kept in the respective files for appropriate action. Opinions shall be kept in respective records and for convenience. Copies thereof with appropriate indexing shall be kept in guard files.

## **17. Report of Action Taken.**

- Report of the follow up action shall be submitted by the Member Secretary to the Commission at every subsequent meeting indicating therein the present stage of action taken on each item on which the Commission had taken any decision in any of its earlier meetings, excepting the items on which no further action is called for.

## **18. Transaction of business outside headquarters.**

- The Commission or some members may transact business at places outside its headquarters as and when previously approved by the Chairperson, provided that if parties are to be heard in connection with any inquiry under the Act, at least two members shall constitute the bench of the Commission for such purpose.

## **19. Panel of Consultants.**

(1)The Commission may constitute a panel of consultants for assisting the Commission in a wide range of tasks such as investigation or inquiry, to serve on task forces or Committees and for research and analysis.(2)The Commission may draw on experts from academic, research, administrative, investigative, legal or civil society groups to form the panel.(3)The Commission may devise a transparent process for the empanelling these consultants so that they are available for quick delegation of tasks.

## **20. Annual report.**

(1)The Commission shall prepare and publish an annual report for the period starting from 1st April to 31st March of the Commencing year, every year for submission to the Government.(2)The Commission shall also prepare special reports on specific issues as and when necessary under the direction of the Chairperson.(3)The State Government shall cause the annual report and the special reports of the Commission to be laid before the State Assembly.(4)The annual report shall include information in administrative and financial matters; complaints investigated/inquired into; action taken in cases; details of research; reviews; education and promotion efforts; consolations; details and specific recommendations of the Commission on any matter, besides any other matter that the Commission may consider warranting inclusion in the report.(5)In case the commission considers that there could be a time lag for the preparation of the annual reports, it, may prepare and submit a special report to the State Government.(6)The estimated receipts and expenditure shall be accompanied by the revised budget estimates for the relevant financial year.

## **21. Financial Powers.**

(1)The Commission shall spend the sums of money received by it for the purposes of the Act.(2)The Member Secretary of the Commission shall have all powers relating to financial transaction of the Commission, except in cases, which require prior approval of the State Government.(3)The Member Secretary shall obtain prior approval of the State Government in matter of creation of posts, revision of pay scales, procurement of vehicles, re-appropriation of funds from one head to another, permitting any officer of the Commission to participate in seminars, conferences or training programmes abroad and such other matters determined by the State Government, by order.(4)The Commission shall have power to engage any person as consultant or consultants for a specific purpose and for a specific period on the terms and conditions agreed in advance relating to honorarium, travelling allowance, dearness allowance.(5)All financial powers of the Commission

shall be governed by the General Financial Rules, delegation of financial powers, Rules and economy instructions issued by the Finance department of the State Government.