The Tamil Nadu State Commission for the Scheduled Castes and Scheduled Tribes Act, 2021

Act No. 17 of 2021

Keywords:

Civil Rights, Scheduled Castes and Scheduled Tribes

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 22nd September 2021 and is hereby published for general information:—

ACT No. 17 OF 2021.

An Act to constitute a Commission for the Scheduled Castes and Scheduled Tribes in the State of Tamil Nadu and to provide for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to constitute a Commission for the Scheduled Castes and Scheduled Tribes and to provide for matters connected therewith or incidental thereto;

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Seventy-second Year of the Republic of India as follows:—

CHAPTER – I.

PRELIMINARY.

Short title, extent and commence-ment.

1. (1) This Act may be called the Tamil Nadu State Commission for the Scheduled Castes and Scheduled Tribes Act, 2021.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the Commission nominated under section 3;

(b) "civil rights" means any right accruing to a person by reason of the abolition of untouchability by Article 17 of the Constitution of India;

(c) "Commission" means the Tamil Nadu State Commission for the Scheduled Castes and Scheduled Tribes constituted under section 3;

(d) "Government" means the State Government;

(e) "Member" means a Member of the Commission and includes the Chairperson, the Vice-Chairperson and the Member-Secretary;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "Scheduled Castes and Scheduled Tribes" shall have the meanings, respectively, assigned to them in clauses (24) and (25) of Article 366 of the Constitution of India;

(h) "State" means the State of Tamil Nadu.

CHAPTER – II.

SCHEDULED TRIBES.

Constitution of Commission.

3. (1) The Government shall, by notification, constitute a body to be known as the Tamil Nadu State Commission for the Scheduled Castes and Scheduled Tribes to exercise the powers conferred on and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of,—

(i) the following Members to be nominated by the Government, namely:—

(a) the Chairperson, who shall be a retired Judge of the High Court belonging to any of the Scheduled Castes or Scheduled Tribes and has special knowledge in matters relating to the Scheduled Castes and Scheduled Tribes;

(b) the Vice-Chairperson, who shall be a prominent person belonging to any of the Scheduled Castes or Scheduled Tribes, who has worked for the welfare of the Scheduled Castes and Scheduled Tribes;

(c) five Members, of which three Members shall belong to any of the Scheduled Castes, one shall belong to any of the Scheduled Tribes and one shall be a prominent person having special knowledge in matters relating to Scheduled Castes and Scheduled Tribes:

Provided that one of the Members shall be a woman; and

(ii) a Member–Secretary, to be appointed by the Government from amongst the officers of the Indian Administrative Service, not below the rank of Additional Secretary to Government.

Term of office and conditions of service of Chairperson, Vice-Chairperson and Members.

4. (1) Subject to the pleasure of the Government, the Chairperson, the Vice-Chairperson and every Member of the Commission shall hold office for such period, not exceeding three years and shall be eligible for re-nomination for a second term:

Provided that the Chairperson shall hold office as such till the date on which he attains the age of seventy years and the Vice-Chairperson and the other Members shall hold office as such till the date on which they attain the age of sixty-five years:

Provided further that if the Chairperson is by reason of absence or for any other reason, unable to perform the duties of his office, those duties shall, until a Chairperson has been nominated under section 3 and entered on the duties thereof or until the Chairperson has assumed his duties, as the case may be, be performed by the Vice-Chairperson, or such other Member, as directed by the Government:

Provided also that the successor so nominated shall hold office only for the remainder of the term of the Member in whose place he has been nominated.

(2) The Chairperson, the Vice-Chairperson or a Member may, at any time, by writing under his hand addressed to the Government, resign from the office of the Chairperson, the Vice-Chairperson or Member, as the case may be, but shall continue in office until his resignation is accepted by the Government.

(3) Notwithstanding anything contained in sub-section (1), the Government shall remove a person from office of the Chairperson, the Vice-Chairperson or any Member, if that person,—

(a) becomes an undischarged insolvent; or

(b) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(c) becomes of unsound mind and stands so declared by a competent court; or

(d) refuses to act or becomes incapable of acting; or

(e) without obtaining leave of absence from the Commission, absent for three consecutive meetings of the Commission; or

(f) has, in the opinion of the Government, so abused the position of the Chairperson, the Vice-Chairperson or Member, as the case may be, as to render that person's continuance in office detrimental to the interest of the Scheduled Castes and Scheduled Tribes:

Provided that no Member shall be removed from his office until that Member has been given a reasonable opportunity of being heard.

(4) The honorarium and allowances payable to, and the other terms and conditions of service of, the Chairperson, the Vice-Chairperson and Members shall be such as may be prescribed.

Procedure to be regulated by Commission.

5. (1) The Commission shall meet as and when necessary at least once in three months, and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other Officer of the Commission duly authorised by the Member-Secretary in this behalf.

Vacancies, etc., not to invalidate proceedings of Commission.

6. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Commission, or any defect in the nomination of a person acting as the Chairperson or the Vice-Chairperson or a Member or any irregularity in the procedure of the Commission, including in issuing of notice for holding of a meeting, not affecting the merits of the matter.

Officers and employees of Commission.

7. (1) The Government shall provide the Commission with such number of other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Commission shall be such as may be prescribed.

(3) The officers and employees referred to in sub-section (1) shall be under the administrative control of the Chairperson.

CHAPTER – III.

FUNCTIONS OF THE COMMISSION.

Functions of Commission.

8. The functions of the Commission shall be as follows,—

(a) inquire, suo moto or on a petition presented to it by a victim or by any person on his behalf, into complaint of,—

(i) violation of any rights provided in the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the rules made thereunder or abetment thereof;

Central Act 22 of 1955.

Central Act 33 of 1989.

(ii) negligence in the prevention of such violation, by a public servant;

(b) inquire and recommend to the Government to initiate disciplinary action in cases where the Commission is of the view that any public servant has been grossly negligent or grossly indifferent in the discharge of his duties in regard to the protection of the interests of the Scheduled Castes and Scheduled Tribes;

(c) evaluate the working of various safeguards and civil rights accruing to a person as stipulated, in the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 or in any other law, regulation or order passed by the Union and the State Governments and to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution or under any other law for the time being in force;

Central Act 22 of 1955.

Central Act 33 of 1989.

(d) make recommendations with a view to ensure effective implementation and enforcement of all safeguards under the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 or any other law for the time being in force;

Central Act 22 of 1955.

Central Act 33 of 1989.

(e) undertake a review of the implementation of the policies pursued by the Union and the State Governments with respect to the Scheduled Castes and Scheduled Tribes;

(f) inquire into specific complaints of deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;

(g) spread literacy among various sections of the society regarding the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and to promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means;

Central Act 22 of 1955.

Central Act 33 of 1989.

(h) conduct studies, research and analysis on the question of avoidance of discrimination against the Scheduled Castes and Scheduled Tribes;

(i) suggest appropriate legal and welfare measures in respect of the Scheduled Castes and Scheduled Tribes to be undertaken by the Government;

(j) monitor the working of laws in force concerning the Scheduled Castes and Scheduled Tribes Women with a view to identify the areas where the enforcement of laws is not effective or has not been streamlined and recommend executive or legislative measures to be undertaken;

(k) encourage the efforts of non-governmental organizations and institutions working, in the field of human rights or for the upliftment and betterment of the Scheduled Castes and Scheduled Tribes;

(l) send periodical reports in such manner and at such intervals, as may be prescribed, to the Government; and

(m) exercise such other functions as may be conferred or enjoined upon it by this Act or the rules made thereunder:

Provided that if the National Commission for Scheduled Castes established under Article 338 of the Constitution or the National Commission for Scheduled Tribes established under Article 338-A of the Constitution is seized of any matter, the Commission shall cease to have jurisdiction on such matter and in case of conflicting recommendations, the recommendation of the National Commission for Scheduled Castes or the National Commission of Scheduled Tribes, as the case may be, shall prevail over the recommendation of the Commission.

Powers of Commission. Central Act V of 1908.

9. The Commission shall, while discharging any of the functions under section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and, in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Government to consult Commission.

10. The Government may consult the Commission on major policy matters affecting the Scheduled Castes and Scheduled Tribes.

CHAPTER – IV.

FINANCE, ACCOUNTS AND AUDIT.

Grants by the Government.

11. (1) The Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants such sums of money as the Government may think fit, for being utilised for the purposes of this Act.

(2) The Commission may spend such sums out of the grants as it thinks fit for discharging its functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

(3) The honorarium and allowances payable to the Chairperson, the Vice-Chairperson, Members and the administrative expenses, including salaries and allowances payable to the Member-Secretary, officers and other employees of the Commission, shall be paid out of the grants referred to in sub-section (1).

Accounts and audit.

12. (1) The accounts of the Commission shall be maintained in such manner and in such form as may be prescribed. The Commission shall prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Commission shall be audited annually by such auditor as the Government may appoint in this behalf.

(3) The auditor appointed under sub-section (2) shall, for the purposes of audit, have such rights, privileges and authority as may be prescribed.

(4) The Member-Secretary shall cause the audit report to be printed and forward a printed copy thereof, to each Member and shall place such report before the Commission for consideration at its next meeting.

(5) The Commission shall take appropriate action forthwith to remedy any defect or irregularity that may be pointed out in the audit report.

(6) The accounts of the Commission as certified by the auditor together with the audit report along with the remarks of the Commission thereon shall be forwarded to the Government and shall cause to be published in such manner, as may be prescribed.

(7) The Government may, by order in writing, direct the Commission to take such action as may be specified in the order to remedy, within such time as may be specified therein, the defects, if any, disclosed in the audit report, and the Commission shall comply with such direction.

Annual report.

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

Annual report and audit report to be laid before the Legislative Assembly.

14. The 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 Government and the audit report to be laid, as soon as may be, after the reports are received, before the Legislative Assembly.

CHAPTER – V.

MISCELLANEOUS.

Chairperson, Vice-Chairperson, Members, Officers and employees of the Commission to be public servants.

15. The Chairperson, the Vice-Chairperson, Members, officers and employees of the Commission, when acting or purporting to act in pursuance of any of the provisions of this Act, or any rule or order or direction made or issued under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Central Act XLV of 1860.

Protection of action taken in good faith.

16. No suit, prosecution or other legal proceeding shall lie against any Member of the Commission or any officer or other employee of the Commission or any person acting under the direction either of the Government or of the Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made or issued thereunder.

Power to make rules.

17. (1) The Government may make rules for carrying out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the honorarium and allowances payable to, and other terms and conditions of service of, the Chairperson, the Vice-Chairperson and Members under

sub-section (4) of section 4 and the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees under sub-section (2) of section 7;

form in which the annual statement of accounts, shall be prepared under sub-section (1) of section 12;

(c) the form in which, and the time at which the annual report shall be prepared under section 13;

(d) in such manner and the intervals at which periodical reports are to be sent by the Commission to the Government;

(e) any other matter which is required to be, or may be, prescribed under this Act.

(3) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the date on which they are so published.

(b) All rules, notifications or orders issued under this Act shall, unless they are expressed to come into force on a particular day, shall come into force on the date on which they are so published.

(4) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule, notification, or order, or the Legislative Assembly decides that the rule, notification, or order should not be made or issued, the rule, notification, or order shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or order.

Statements made by persons to Commission.

18. No statement made by a person in the course of giving evidence before the Commission or any officer or agency or the person referred to in section 9, shall subject him to, or be used against him, in any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(a) is made in reply to a question which is required by the Commission or such officer or agency or such person to answer, or

(b) is relevant to the subject matter under investigation.

Application of other laws not barred.

19. Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Power to remove difficulties.

20. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, published in the T*amil Nadu Government* as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(By order of the Governor)

c. gopi ravikumar,
Secretary to Government (Legislation),
Law Department.

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