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**The Gazette of India**

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

**MINISTRY OF LAW AND JUSTICE**  
(Legislative Department)

*New Delhi, the 20th January, 2006/Pausa 30, 1927 (Saka)*

The following Act of Parliament received the assent of the President on the 20th January, 2006 and is hereby published for general information:—

**THE COMMISSIONS FOR PROTECTION OF  
CHILD RIGHTS ACT, 2005**

No. 4 of 2006

[20th January, 2006.]

An Act to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

WHEREAS India participated in the United Nations (UN) General Assembly Summit in 1990, which adopted a Declaration on Survival, Protection and Development of Children;

AND WHEREAS India has also acceded to the Convention on the Rights of the Child (CRC) on the 11th December, 1992;

AND WHEREAS CRC is an international treaty that makes it incumbent upon the signatory States to take all necessary steps to protect children's rights enumerated in the Convention;

AND WHEREAS in order to ensure protection of rights of children one of the recent initiatives that the Government have taken for Children is the adoption of National Charter for Children, 2003;



AND WHEREAS the UN General Assembly Special Session on Children held in May, 2002 adopted an Outcome Document titled "A World Fit for Children" containing the goals, objectives, strategies and activities to be undertaken by the member countries for the current decade;

AND WHEREAS it is expedient to enact a law relating to children to give effect to the policies adopted by the Government in this regard, standards prescribed in the CRC, and all other relevant international instruments;

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Commissions for Protection of Child Rights Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—
  - (a) "Chairperson" means the Chairperson of the Commission or of the State Commission, as the case may be;
  - (b) "child rights" includes the children's rights adopted in the United Nations convention on the Rights of the Child on the 20th November, 1989 and ratified by the Government of India on the 11th December, 1992,
  - (c) "Commission" means the National Commission for Protection of Child Rights constituted under section 3;
  - (d) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;
  - (e) "notification" means a notification published in the Official Gazette;
  - (f) "prescribed" means prescribed by rules made under this Act;
  - (g) "State Commission" means a State Commission for Protection of Child Rights constituted under section 17.

## CHAPTER II

### THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

Constitution  
of National  
Commission  
for  
Protection of  
Child Rights.

3. (1) The Central Government shall, by notification, constitute a body to be known as the National Commission for Protection of Child Rights to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

- (2) The Commission shall consist of the following Members, namely:—

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in,—

- (i) education;
- (ii) child health, care, welfare or child development;
- (iii) juvenile justice or care of neglected or marginalized children or children with disabilities;
- (iv) elimination of child labour or children in distress;
- (v) child psychology or sociology; and
- (vi) laws relating to children.

- (3) The office of the Commission shall be at Delhi.



4. The Central Government shall, by notification, appoint the Chairperson and other Members:

Appointment of Chairperson and Members.

Provided that the Chairperson shall be appointed on the recommendation of a three member Selection Committee constituted by the Central Government under the Chairmanship of the Minister in-charge of the Ministry of Human Resource Development.

5. (1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office:

Term of office and conditions of service of Chairperson and Members.

Provided that no Chairperson or a Member shall hold the office for more than two terms:

Provided further that no Chairperson or any other Member shall hold office as such after he has attained—

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of a Member, the age of sixty years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

6. The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed by the Central Government:

Salary and allowances of Chairperson and Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

7. (1) Subject to the provisions of sub-section (2), the Chairperson may be removed from his office by an order of the Central Government on the ground of proved misbehaviour or incapacity.

Removal from office.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may by order remove from office the Chairperson or any other Member, if the Chairperson or, as the case may be, such other Member, —

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

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

(d) is of unsound mind and stands so declared by a competent court; or

(e) has so abused his office as to render his continuance in office detrimental to the public interest; or

(f) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude; or

(g) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

8. (1) If the Chairperson or, as the case may be, a Member, —

Vacation of office by Chairperson or Member.

(a) becomes subject to any of the disqualifications mentioned in section 7; or

(b) tenders his resignation under sub-section (2) of section 5,

his seat shall thereupon become vacant.



(2) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making afresh appointment in accordance with the provisions of section 4 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place he is so appointed would have held that office.

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

9. No act or proceeding of the Commission shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Commission; or
- (b) any defect in the appointment of a person as the Chairperson or a Member; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Procedure for  
transaction of  
business

10. (1) The Commission shall meet regularly at its office at such time as the Chairperson thinks fit, but three months shall not intervene between its last and the next meeting.

(2) All decisions at a meeting 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 casting vote.

(3) If for any reason, the Chairperson, is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.

(4) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including the quorum at such meeting, as may be prescribed by the Central Government.

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

Member-  
Secretary,  
officers and  
other  
employees of  
Commission.

11. (1) The Central Government shall, by notification, appoint an officer not below the rank of the Joint Secretary or the Additional Secretary to the Government of India as a Member-Secretary of the Commission and shall make available to the Commission such other officers and employees as may be necessary for the efficient performance of its functions.

(2) The Member-Secretary shall be responsible for the proper administration of the affairs of the Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the Central Government.

(3) The salary and allowances payable to, and the other terms and conditions of service of the Member-Secretary, other officers and employees, appointed for the purpose of the Commission shall be such as may be prescribed by the Central Government.

Salaries and  
allowances to  
be paid out of  
grants.

12. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Member-Secretary, other officers and employees referred to in section 11, shall be paid out of the grants referred to in sub-section (1) of section 27.



## CHAPTER III

## FUNCTIONS AND POWERS OF THE COMMISSION

13. (1) The Commission shall perform all or any of the following functions, namely:—

Functions of Commission.

(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 their effective implementation;

(b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;

(c) inquire into violation of child rights and recommend initiation of proceedings in such cases;

(d) examine all factors that inhibit the enjoyment of rights 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 matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family 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 recommendations for their effective implementation in the best interest of 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, the media, seminars and other available means;

(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 any 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,—

(i) deprivation and violation of child rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions 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 appropriate authorities; and

(k) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

(2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

14. (1) The Commission shall, while inquiring into any matter referred to in clause (j) of sub-section (1) of section 13 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:—

Powers relating to inquiries.

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

(b) discovery and production of any document;



- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

Steps after inquiry.

15. The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely :—

(i) where the inquiry discloses, the Commission of violation of child rights of a serious nature or contravention of provisions of any law for the time being in force, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(ii) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(iii) recommend to the concerned Government or authority for the grant of such interim relief to the victim or the members of his family as the Commission may consider necessary.

Annual and special reports of Commission.

16. (1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government concerned, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any, within a period of one year from the date of receipt of such report.

(3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the Central Government.

#### CHAPTER IV

##### STATE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS

Constitution of State Commission for Protection of Child Rights.

17. (1) A State Government may constitute a body to be known as the ..... (name of the State) Commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(2) The State Commission shall consist of the following Members, namely:—

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the State Government from amongst persons of eminence, ability, integrity, standing and experience in,—

(i) education;

(ii) child health, care, welfare or child development;

(iii) juvenile justice or care of neglected or marginalized children or children with disabilities;



- (iv) elimination of child labour or children in distress;
- (v) child psychology or sociology; and
- (vi) laws relating to children.

(3) The headquarter of the State Commission shall be at such place as the State Government may, by notification, specify.

18. The State Government shall, by notification, appoint the Chairperson and other Members:

Appointment of Chairperson and other Members.

Provided that the Chairperson shall be appointed on the recommendation of a three Member Selection Committee constituted by the State Government under the Chairmanship of the Minister in-charge of the Department dealing with children.

19. (1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office:

Term of office and conditions of service of Chairperson and Members.

Provided that no Chairperson or a Member shall hold the office for more than two terms:

Provided further that no Chairperson or any other Member shall hold office as such after he has attained—

- (a) in the case of Chairperson, the age of sixty-five years; and
- (b) in the case of a Member, the age of sixty years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the State Government, resign his office at any time.

20. The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed by the State Government:

Salary and allowances of Chairperson and Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

21. (1) The State Government shall, by notification, appoint an officer not below the rank of the Secretary to the State Government as the Secretary of the State Commission and shall make available to the State Commission such other officers and employees as may be necessary for the efficient performance of its functions.

Secretary, officers and other employees of the State Commission.

(2) The Secretary shall be responsible for the proper administration of the affairs of the State Commission and its day-to-day management, and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the State Government.

(3) The salary and allowances payable to, and the other terms and conditions of service of the Secretary, other officers and employees, appointed for the purpose of the State Commission shall be such as may be prescribed by the State Government.

22. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, other officers and employees referred to in section 21, shall be paid out of the grants referred to in sub-section (1) of section 28.

Salaries and allowances to be paid out of grants.

23. (1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

Annual and special reports of State Commission.

(2) The State Government shall cause all the reports referred to in sub-section (1) to be laid before each House of State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.



Application of certain provisions relating to National Commission for Protection of Child Rights to State Commissions.

24. The provisions of sections 7, 8, 9, 10, sub-section (1) of section 13 and sections 14 and 15 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

(a) references to "Commission" shall be construed as references to "State Commission";

(b) references to "Central Government" shall be construed as references to "State Government"; and

(c) references to "Member-Secretary" shall be construed as references to "Secretary".

#### CHAPTER V

##### CHILDREN'S COURTS

Children's Courts.

25. For the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children's Court to try the said offences:

Provided that nothing in this section shall apply if —

(a) a Court of Session is already specified as a special court; or

(b) a special court is already constituted,

for such offences under any other law for the time being in force.

Special Public Prosecutor.

26. For every Children's Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

#### CHAPTER VI

##### FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

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

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

Grants by State Governments.

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

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

Accounts and audit of Commission.

29. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.



(3) The Comptroller and Auditor-General and any person appointed by him 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 Comptroller and Auditor-General 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 Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

30. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of State Commission

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General 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 State Commission.

(4) The accounts of the State Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER VII

MISCELLANEOUS

31. No suit, prosecution or other legal proceedings shall lie against the Central Government, the State Government, the Commission, the State Commission, or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission, or the State Commission of any report or paper.

Protection of action taken in good faith.

32. Every Member of the Commission, State Commission and every officer appointed in the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairperson, Members and other officers to be public servant.

45 of 1860.

33. (1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes, as may be given to it by the Central Government.

Directions by Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government thereon shall be final.



Returns or information.

34. The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Power of Central Government to make rules.

35. (1) The Central Government may, by notification, make rules to carry out the provisions 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) terms and conditions of service of the Chairperson and Members of the Commission and their salaries and allowances under section 6;

(b) the procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of section 10;

(c) the powers and duties which may be exercised and performed by the Member-Secretary of the Commission under sub-section (2) of section 11;

(d) the salary and allowances and other terms and conditions of service of officers and other employees of the Commission under sub-section (3) of section 11; and

(e) form of the statement of accounts and other records to be prepared by the Commission under sub-section (1) of section 29.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule 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; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules

36. (1) The State Government may, by notification, make rules to carry out the provisions 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) terms and conditions of service of the Chairperson and Members of the State Commission and their salaries and allowances under section 20;

(b) the procedure to be followed by the State Commission in the transaction of its business at a meeting under sub-section (4) of section 10 read with section 24;

(c) the powers and duties which may be exercised and performed by the Secretary of the State Commission under sub-section (2) of section 21;

(d) the salary and allowances and other terms and conditions of service of officers and other employees of the State Commission under sub-section (3) of section 21; and

(e) form of the statement of accounts and other records to be prepared by the State Commission under sub-section (1) of section 30.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.



37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Power to  
remove  
difficulties.

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

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

T.K. VISWANATHAN,  
*Secy. to the Govt. of India.*



Kolkata

The



Gazette

Extraordinary  
Published by Authority

THURSDAY, SEPTEMBER 13, 2012

[SAKA 1934

BHADRA 22]

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury etc.

**GOVERNMENT OF WEST BENGAL  
DEPARTMENT OF CHILD DEVELOPMENT  
Writer's Buildings, Kolkata-700001**

**NOTIFICATION**

**Dated, Kolkata, the 17th August, 2012**

**No. 3806-SW/JJA-58/11**

In exercise of the powers conferred by sub-section (1), read with clauses (a) to (d) of sub-section (2), of section 36 of the Commissions for Protection of Child Rights Act, 2005, (4) of 2006, the Governor is pleased hereby to make the following rules, namely:-

**RULES**

**1. Short title and commencement:**

- (1) These rules may be called the 'West Bengal Commission for Protection of Child Rights Rules, 2012'.
- (2) They shall come into force on the date of their publication in the *Official Gazette*.

**2. Definition :**

- (1) In these rules, unless the context otherwise requires,-
  - (a) "Act" means the Commissions for Protection of Child Rights Act, 2005, (4) of 2006;
  - (b) "Chairperson" means the Chairperson of the State Commission;
  - (c) "State Commission" for the purposes of these Rules means 'the West Bengal Commission for Protection of Child Rights' constituted under section 17 of the Commission for Protection of Child Rights Act, 2005;
  - (d) "Member" means the Member of the State Commission;
  - (e) "Secretary" means the Secretary of the State Commission;
  - (f) "Section" means a section of the Act;
  - (g) "State Government" means Government of West Bengal in the Department of Child Development.
- (2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings as respectively assigned to them in the Act.

**3. Eligibility for appointment as Chairperson and other Members :**

- (1) a. The Chairperson who is a person of eminence and has done outstanding work for promoting the welfare



b. Six members, out of which at least two shall be women, from the following fields to be appointed by State Government from amongst persons of eminence, ability, integrity, standing and experience in-

- i. education;
- ii. child health, care, welfare or child development;
- iii. juvenile justice or care of neglected or marginalized children or children with disabilities;
- iv. elimination of child labour or children in distress;
- v. child psychology or sociology; and
- vi. laws relating to children.

(2) No person shall be eligible and considered for appointment as the Chairperson or the Member of the State Commission, if such person -

- a) has been convicted and sentenced for imprisonment of an offence which in the opinion of the State Government involves moral turpitude or an offence under any law ;
- b) has any past record of violation of human rights or child rights;
- c) has been removed or dismissed from service of the Central Government or State Government or a body corporate or corporation owned or controlled by the Central Government or State Government;
- d) does not complete the age of 35 years.

#### 4. Removal from office:

(1) The Chairperson and Members shall be removed from office in accordance with section 7 of the Act on the basis of a complaint made to the Principal Secretary/ Secretary of the State Government and on the basis of a report by a three-person Enquiry Committee to be constituted by the State Government.

(2) The Enquiry Committee constituted under sub-rule (1) shall investigate and submit the report within such time as may be specified in the order constituting such committee.

#### 5. Term of office of Chairperson and other members:

(1) The Chairperson shall, unless removed from office under the provisions laid down in 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 office under the provisions laid down in section 7 of the Act, hold office for a term of 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) a person who has held the office of Chairperson or Member for two consecutive terms in either capacity shall not be eligible for re-appointment, and

(b) a person who has held the office of a Member once shall be eligible for re-appointment as a Member or appointment 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-appointment as Chairperson or, as Member, as the case may be.

(4) The Chairperson or a Member may, in writing under his or her hand addressed to the State Government, resign from his or her office at any time.

(5) If a casual vacancy occurs in the office of the Chairperson or a member whether by reason of death, resignation or otherwise, such vacancy shall be filled-up within a period of ninety days by making fresh appointment in accordance with the provision of section 17 and the person so appointed shall hold office for the remainder of the term of the office for which the Chairperson, or a Member, as the case may be, in whose place he or she is so appointed would have held that office.

#### 6. Appointment of Chairperson and other Members of the State Commission:

The State Government shall constitute a Selection Committee subject to provisions laid down in section 18 of the Act for recommending names for appointment as Chairperson and Members of the Commission.



### 1. Selection Committee, its Composition and Functions:

(1) The State Government shall constitute the following three members Selection Committee, as provided in section 18 of the Act, for recommending names for appointment of Chairperson and Members of the State Commission :-

Sl. No.	Name	Designation
(i)	Minister-in-Charge of the Department of Child Development	Chairperson
(ii)	Chief Secretary to the Government of West Bengal	Member
(iii)	Principal Secretary/ Secretary, Child Development Department	Member

(2) The Selection Committee shall select and recommend a panel of names, within such period as may be fixed by the State Government in this behalf, to the State Government for the appointment of the Chairperson and the Members of the State Commission.

(3) While selecting the names of the Chairperson and the Members of the State Commission, due regard shall be given to the provisions of rule 3.

### 8. The Secretary :

(1) The State Government shall appoint, under sub-section (1) of section 21 of the Act, an officer not below the rank of Secretary to the State Government as the Secretary of the State Commission for the efficient performance of the functions of the Commission.

(2) The Secretary shall ordinarily have a minimum tenure of three years.

### 9. The Secretary, officers, and other employees of the State Commission:

(1) The Secretary shall be responsible for the proper administration of the affair of the State Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as stated in rule 11.

(2) The State Government shall appoint, under sub-section (1) of section 21 of the Act, such other officers or employees as deemed necessary for the efficient performance of the functions of the Commission.

(3) The salary and allowances payable to, and the other terms and conditions of the service of the Secretary, other officers and employees, appointed for the purpose of the State Commission shall be equivalent to the salary and allowances and other terms and conditions of service admissible to the equivalent ranks of the officers and employees of the State Government.

### 10. Functions and powers of the State Commission:

The State Commission, in respect of its jurisdiction within the State, shall perform all or any of the functions and powers *mutatis mutandis* as stated under Chapter-III, particularly stated under sections 13, 14 and 15 of the Act.

### 11. Powers and duties of the Secretary :

(1) the Secretary shall -

(a) have power to execute all decisions taken by the State Commission subject to the provisions of the Act and these rules ;

(b) exercise and discharge such powers and perform such duties as are required for the proper administration of the affairs of the State Commission and its day to day management *mutatis mutandis* as specified in section 21;

(c) convene the meetings of the State Commission in consultation with the Chairperson and serve notices of the meetings to all concerned;

(d) take steps to ensure that the quorum required for convening a meeting of the State Commission is secured;

(e) prepare, in consultation with the Chairperson, the agenda for each meeting of the State Commission and have notes prepared by the Secretariat and such notes shall, as far as possible, be self-contained;



- (f) make available specific records covering the agenda items to the State Commission for reference;
- (g) ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting, except in cases where urgent attention is required;
- (h) prepare the minutes of the meetings of the State Commission and shall execute the decisions of the State Commission taken in the meeting and shall also ensure placing of the Action Taken Note of the decisions of the State Commission before the State Commission in its subsequent meetings;
- (i) ensure that the procedure of the State Commission is followed by it in transaction of its business;
- (j) take up all such matters with the State Government for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit report in the State Legislative Assembly, re-appropriation of funds, residential accommodation, permitting any officer of the Commission for deputation abroad and any other matter requiring the approval of the State Government;
- (k) exercise such financial powers as are delegated to him by the Chairperson on behalf of the State Commission;

Provided that no expenditure on an item exceeding Rs.1,00,000/- (Rupees one lakh) only shall be incurred without the sanction of the Chairperson;

(l) be the appointing and disciplinary authority in respect of officers and other employees of the State Commission.

## 12. Salaries and allowances of Chairperson and Members of the State Commission:

(1) Save as otherwise provided in section 22 of the Act, the Chairperson shall be paid a consolidated monthly honorarium of Rs.30,000/- (Rupees thirty thousand) only per month and a Member shall be paid a consolidated monthly honorarium of Rs.25,000/- (Rupees twenty five thousand) only per month.

Provided that where the Chairperson or any other Member is a retired Government servant, Local authority, public sector undertaking or recognized research institution, the consolidated monthly honorarium payable together with the pension or pensionary value of the terminal benefits, or both, received by him shall not exceed the last pay drawn.

(2) If the Chairperson or a Member is in service of the State Government, his salary shall be regulated in accordance with the rules applicable to Government Servant.

## 13. Leave:

The Chairperson and every other Member shall be entitled to thirty days earned leave and fourteen days casual leave in a year, the relevant provisions of the West Bengal Service Rules (Part-I) with respect to such leave shall apply to them *mutatis mutandis*.

## 14. Leave sanctioning authority:

- (1) The State Government shall be the competent authority to sanction leave to the Chairperson.
- (2) The Chairperson shall be the authority to sanction leave to every Member including the Secretary.
- (3) The Secretary shall be authority to sanction leave to any officer or other employee of the State Commission.

## 15. Traveling allowance:

The Chairperson and every other Member shall be entitled to draw traveling allowances and daily allowances for attending official work including enquiry at the rates appropriate to Group 'A' officers of the State Government and the rules as applicable to the Group 'A' officers of the State Government in respect of traveling allowances, shall be applicable to the Chairperson and every other Member.

## 16. Facility for conveyance:

The Chairperson and every other Member shall be entitled to a fixed monthly car allowances of Rs.300/- (Rupees three hundred) only per day to attend his office from his residence and return thereto if no Government vehicle is provided to them.



**17. Facility for medical treatment:**

The Chairperson and every other Member shall be entitled to medical treatment and hospital facilities as applicable to Group-'A' State Government employees or as may be determined by the State Government.

**18. Procedure for the admission and disposal of complaints:**

(1) Save as otherwise provided in sub-rule (2), all complaints which are received by the State Commission in any manner shall be registered with a number assigned to them and shall be placed before a two members bench constituted for this purpose for admission ordinarily not beyond two weeks from the date of receipt.

(2) Ordinarily the complaints of the following nature are not admissible before the State commission:-

- (a) in relation to such matters which are 'sub-judice'
- (b) which are not clear or without any name or having a disguised name;
- (c) which are frivolous in nature;
- (d) which are outside the jurisdiction of State Commission.

(3) No fees shall be payable for complaints.

(4) Every complaint should preferably be made in writing in Bengali, English or Hindi so that the State Commission shall be able to process quickly and every effort should be made by which the nature of the matter shall become clear for the reason it is made;

Provided that for the convenient filling of the complaints, the State Commission may accept complaints made in any language included in Eighth Schedule of the Constitution of India.

(5) The State Commission whenever it thinks necessary shall have freedom to call upon the filing of affidavits or more information in support of the complaint.

(6) The State Commission shall have the powers to reject any complaint.

(7) After the admission of a complaint, the Chairperson/the State Commission shall direct whether the matter shall be kept for enquiry or further investigation should be made.

(8) In respect of every complaint on which the Chairperson/ the State Commission have decided that whether it should enquire or investigate, the State Commission shall call the reports/comments from the Government or Authority concerned and for this purpose reasonable time shall be given to the Government or concerned Authority.

(9) 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.

**19. Enquiry and hearing of the complaint :**

(1) The State Commission, subject to the provision of section 14 of the Act, and its discretion, may provide opportunity of personal hearing to the complainant or any person on behalf of the complainant and if the State Commission is of the opinion that other interested person or persons should be heard for end of justice, the State Commission may call for records and examine the same.

(2) The State Commission shall provide appropriate opportunity of hearing to those persons whose characters have been the subject matter of its enquiry and if, in its opinion, there is a possibility of adverse effect on their goodwill they shall be given opportunity for cross examination of witnesses, if any, in support of complaint and be given opportunity to present their evidence.

(3) Every report of investigation shall be presented to the State Commission within a week from the date of its completion or within such additional time as may be permitted by the State Commission.

Provided that if, the State Commission is of the opinion that investigation has not been made in a proper way or to ascertain the truth or to be enable disposal of that matter properly, it may order for further investigation in the matter:

Provided further that if, the State Commission orders for further investigation into the matter, then any Member from amongst the Members of the State Commission may conduct spot investigation and where such



investigation is made by more than one Member, the report thereof shall be submitted to the State Commission, as soon as possible.

#### **20. Secretariat assistance:**

(1) The Secretary, along with such officers, as the Chairperson may direct, shall attend the meeting of the State Commission.

(2) (a) The Secretary shall, in consultation with the Chairperson, prepare the agenda for each meeting of the State Commission and shall have notes prepared by the Secretariat and such notes shall, as far as possible, be self-contained.

(b) The records covering the agenda items shall be readily available to the State Commission for its reference.

(c) The agenda papers shall ordinarily be circulated to members at least two clear working days in advance for the meeting except in cases when urgent attention is required.

(3) Four members including the Chairperson shall form the quorum at every meeting of the State Commission.

(4) All decisions of the State Commission at its meetings shall be taken by majority;

Provided that in case of equality of votes, the Chairperson, or in his absence the person presiding shall have and exercise a second or a casting vote.

(5) If, for any reason, the Chairperson is unable to attend the meeting of the State Commission, any member chosen by the Members present from amongst themselves at the meeting, shall preside.

#### **21. Minutes of the meeting:**

(1) The minutes of each meeting of the State Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer of the State Commission as directed.

(2) The minutes of meeting of the State Commission shall be submitted to the Chairperson for approval and upon approval, be circulated to all members of the State Commission at the earliest and in any case, sufficiently before the commencement of the next meeting.

(3) The conclusions of the State 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.

(4) Action shall be taken on the basis of majority opinion where there is any difference of opinion.

(5) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the State Commission duly authorized by the Secretary with the prior approval of the Chairperson in this behalf.

(6) Unless specifically authorized, no action shall be taken by the Secretariat of the State Commission on the minutes of the meetings until the Chairperson confirms the same.

(7) A master copy of the record of all meetings and opinions of the State Commission shall be maintained duly authenticated by the Secretary.

(8) 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.

#### **22. Report of Action Taken:**

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

#### **23. Transaction of business outside headquarters:**

The State Commission or its Members may transact business at places outside its headquarters as and when previously approved by the Chairperson:



Provided that if, such business relates to hearing of the parties in connection with any enquiry under the Act, at least two Members shall constitute the bench of the State Commission for such purpose.

#### 24. Panel of Consultants:

(1) The State Commission may constitute a panel of consultants for assisting the State Commission in a wide range of tasks such as investigation or enquiry, to serve on task forces or Committees and for research and analysis.

(2) The State Commission may draw on experts from academic, research, administrative, investigative, legal or civil society groups to form the panel.

(3) The State Commission may devise a transparent process for empanelling these consultants so that they are available for quick delegation of tasks.

#### 25. Annual report:

(1) The State Commission shall prepare and publish an annual report before the 31st December every year for submission to the State Government.

(2) The State 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 State Commission to be laid before State Assembly.

(4) The annual report shall include information on administrative and financial matters, complaint investigated or enquired into; action taken on cases; details of research; reviews, education and promotion efforts, consultations; details and specific recommendations of the State Commission on any matter, besides any other matter that the Commission may consider warranting inclusion in the report.

(5) In case, the State Commission considers that there could be a time lag for the preparation of the annual report, it may prepare and submit a special report to the State Government.

(6) The budget may be prepared and forwarded to the State Government in the formats prescribed for the purposes by the State Government.

(7) The estimated receipts and expenditure shall be accompanied by the revised budget estimates for the relevant financial year.

(8) The budget shall, as far as may be, base on the account heads specified in Schedule-I.

#### 26. Financial Powers:

(1) The State Commission shall spend the sum of money received by it for the purposes of implementation of the provisions of the Act in terms of the provisions of the Act.

(2) The Chairperson shall have all powers relating to financial transaction of the State Commission, except in cases, which require prior approval of the State Government.

(3) The Chairperson shall obtain prior approval of the State Government in matters 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 State Commission to participate in Seminars, conferences or training programmes abroad and such other matters determined by the State Government, by order.

(4) The Chairperson shall, subject to such appeals of the State Government and subject to such conditions, limitations and control and supervision, have powers to delegate his financial powers to any Member or the Secretary:

Provided that no such powers shall be delegated in respect of incurring an expenditure on an item exceeding Rs.1,00,000/- (Rupees one lakh) only without the prior approval of the chairperson.

(5) The Chairperson in consultation with the State Government shall have powers to engage any person or persons as consultants for a specific period on the terms and conditions agreed in advance relating to honorarium, traveling allowances, dearness allowances.



(6) The Secretary shall have powers to execute all decisions taken by the Chairperson or any other Member on his behalf relating to financial matter.

(7) All financial powers of the State Commission shall be governed by the West Bengal Financial Rules, Delegation of the Financial Powers, Rules and financial instructions issued by the State Government from time to time.

**SCHEDULE- I**

[See rule 25 (8)]

**BUDGET AND ACCOUNT HEADS ADMINISTRATION**

1. Head of Accounts (Expenditure):

1. Salaries
2. Wages
3. Travel Expenses
4. Office Expenses
  - (a) Furniture
  - (b) Postage
  - (c) Office machines/ equipment
  - (d) Liveries
  - (e) Hot and cold weather charges
  - (f) Telephones
  - (g) Electricity and water charges
  - (h) Stationery
  - (i) Printing
  - (j) Staff car and other vehicles
  - (k) Other Items
5. Fee and honorarium
6. Payment for professional and special services
7. Rents, rates and taxes / royalty
8. Publications
9. Advertising sales and publicity expenses
10. Grant-in-aids/ contributions/ subsidies
11. Hospitality expenses, sumptuary allowances etc
12. Pensions/ Gratuities
13. Write off/ losses
14. Suspense
15. Other charges ( a residuary head, this will also include rewards and prizes)

2. Heads of Account (Receipts):

1. Payments by State Government
2. Other receipts

This has the approval of the West Bengal Cabinet vide Cabinet Sectt. U.O.No.CAB(D)-717 dt.01.08.2012

By order of the Governor,

(UMA MUKHERHEE)

Secretary

to the Government of West Bengal.