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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

No. 3806-SW/JJA-58/11

Dated, Kolkata, the 17th August, 2012

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 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.

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

- a) has been convicted and sentenced for imprisonment of an offence which in the opinion of the 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 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 by 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 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 17 of the Act for recommending names for appointment as Chairperson and Members of the Commission.

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.

- (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 on 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 of a 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 allowance 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 allowance 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 his residence is situated at a distance of more than 5 km from his office.

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 filing 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 that if the State Commission orders for further investigation into the matter then any

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 and 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, sufficient time 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 minutes and 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 on his behalf.

(6) Unless specifically authorized, no action shall be taken by the Secretariat of the State Commission until 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 and duly authenticated by the Secretary.

(8) A copy of the minutes pertaining to each item shall be kept in the respective files for appropriate reference. Opinions shall be kept in respective records and for convenience, copies thereof with appropriate reference 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 meeting indicating therein the present stage of action taken on each item on which the State Commission has taken any decision in any of its earlier meetings, excepting the items on which no further action is required.

23. Transaction of business outside headquarters:

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.

(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

By order of the Governor,

(UMA MUKHERJEE)
Secretary