

More powers to NCW through : NCW (Amendment) Bill 1998

Suggested Amendment by NCW

1. The Commission for Women (Amendment) Bill, 2000 - the following amendments were proposed.

Section 1 : Short title, extent and commencement - ' It extends to the whole of India'.

Explanation : 'Provided that it shall apply to the State of Jammu & Kashmir only in so far as it pertains to the matters relating to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State. Provided further that it shall come into force in the State of J & K on such date as the Central Government may, by notification in the Official Gazette.'

Section 2: Definitions - For Clause (a) the following clauses shall be substituted -

1. 'Chairperson' means the Chairperson of the Commission.
2. 'Commission' means the National Commission for Women constituted under Section 3.
3. 'Commissioner' means the Commissioner for Women's Rights appointed under Section 4 A who shall be the investigating authority in respect of the complaints filed before the Commission and includes Deputy and/or Assistant Commissioner appointed under that Section.

Section 3 : Constitution of the National Commission for Women - Sub-section 2, clause (c) - in the opening portion, after the words 'the Central Government' the words ' in consultation with the Chairperson' shall be inserted. In sub-section 3, another clause (g) shall be inserted viz; 'engages during her/his term of office in any paid employment outside the duties of her/his office'.

Insertion of new Section 4 A - Appointment of Commissioner etc - the following section shall be inserted:

1. The Central Government may, by notification in the Official Gazette, appoint a Commissioner for Women's Rights and as many Deputy and / o r Assistant Commissioners for Women's Rights as it may think fit to appoint.
2. Every persons appointed under sub-section (1) as Commissioner and every Deputy or Assistant Commissioner shall exercise her/his powers and discharge her/his functions, subject to the general - superintendence, direction and control of the Commission.
3. The Central Government may, by rules, make provision for the terms and conditions of service of the commissioner, Deputy or Assistant Commissioners.

Section 5 : Officers and other employees of the Commission - For Sub-section (1) the following sub-section shall be substituted: 'Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such officers and other employees as it may consider necessary.'

Section 10 : Function of the Commission - In Sub-section (1) - i) in clause (e) the words 'and make recommendations and/or take appropriate measures for the effective implementation of those provisions' shall be added at the end, ii) after clause (f) the following clause shall be inserted, viz ' (ff) Intervene in any proceedings involving any allegation of violation of the rights of women or of the safeguards provided for women under the Constitution or any other law for the time being in force pending before a court with the approval of such court'.

Sub Section 2 of Section 10 : The following sub-section shall be substituted - i) 'the Commission shall submit an annual report to the central 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; ii) The Central Government shall within 3 months, cause the annual and special reports of the Commission to be laid before each House of Parliament 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.

Sub-section 4 : the following sub-section shall be substituted - 'The Commission shall, while investigating any matter referred to in sub-section (1), or inquiring into any complaints under this Act, have all the powers of a Civil court trying a suit under the code of Civil Procedure, 1908 (5 of 1908), and in particular in respect of the following matter, - a) summoning and enforcing the attendance of witnesses any person of India and examining them on oath, ii) discovery and inspection, c) receiving evidence on affidavits, d) requisitioning any public record or copy thereof from any court or office, e) issuing commissions and f) impounding of documents and retaining in custody for a specified period.

Insertion of new Sub-sections (5), (6), (7), (8) and (9) - after Sub-section 4 of Section 10 the following sub-section shall be inserted -

Sub-section 5: The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points

or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of Section 176 and Section 177 of the Indian Penal Code.

Sub-section 6: The Commission or any other officer, specially authorized in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies there from subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

Sub-section 7: The Commission shall be deemed to be a civil court for the purposes of any offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code and if any offence is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same.

Sub-section 8: Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Section 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a Civil court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure 1973 and the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same.

Sub-section 9 : Initiation of Prosecution: If after, investigation into any complain under Section 10, the Commission is satisfied that a person has committed any criminal offence, then it may pass an order to that effect and initiate prosecution of the person concerned, if there is no necessity for prior sanction; and if prior sanction of any authority is required for such prosecution, then notwithstanding anything contained in any law, such sanction shall be granted by that authority within thirty days of the request by the Commission and if such sanction is not granted within the said period such sanction shall be deemed to have been granted by the authority.

Insertion of new Sections 10A, 10B and 10C: After Section 10, the following sub-section shall be inserted:

Sub-section 10(A): Powers of the Commission - i) Where any complaint received by the Commission under clause (a) or clause (f) of sub-section (1) of Section 10, or in respect of any other matter, the Commission may before issuing any processing requiring the attendance of the person complained against, by an order require the Commissioner to make or cause to be made, a preliminary investigation in such manner as may direct and submit a report to the Commission to enable it to satisfy itself as to whether or not complaint requires to be inquired into or that any other action is to be required to be taken. ii) The power of investigations vested with the Commission shall be delegated to the Commissioner whenever required to the extent necessary. (ii) For the purpose of conducting the preliminary investigation under sub-section (1) the Commissioner shall have the same power as may be exercised by an officer of police making an investigation under the Code of Criminal Procedure, 1973. iv) Any order or requisition made by a person making an investigation under sub-section (1) shall be enforced in the same manner as if it were an order of requisition made by a police officer under the provisions of the Code of Criminal Procedure, 1973.

Sub-section 10(B): Enforcement Powers of Commission - i) In making any order under this Act, the Commission may make such provisions not inconsistent with this Act, as it may think necessary or desirable for the proper execution of the order and any person who commits a breach of, or fails to comply with, any obligation imposed on him by any such provision shall be deemed to be guilty of an offence under this Act. ii) Any order made by the Commission may be amended or revoked at any time.

Sub-section 10(C) : Powers of the Commission to cause investigation - i) The Commission may, if it has any reasonable cause to believe that any person has omitted or failed to comply with any order made by it under this Act or of any obligation imposed on him by or under any order made by the Commission under this Act, authorize the Commission to make an investigation into the matter and the Commissioner may, for the purpose of making such investigation, exercise all or any of the powers delegated by the Commission under Section 10A.

Section 15 : Chairperson, Members and Staff of the Commission to be public servants - After the words 'the Members' the words 'the Commissioner' shall be inserted.

Insertion of new Section 16A, 16B, 16C and 16D: The following sections shall be inserted -

Section 16A: Penalty for offences in relations to furnishing of information - i) if any person fails, 'without any reasonable cause to appear or to produce any books, documents or papers, or to furnish any information required by the Commissioner under Section 10A or under any other provisions of this Act, 'he/she shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both, and where the offence is a continuing one, with a further fine which may extend to one hundred rupees for every day, after the first, during which such failure continues. ii) If any person who fails to appear or furnish, or is required to furnish, any particulars, documents or any information viz; a) makes any statement or furnishes any document which he knows or has reason to believe it to be false in any material particular; b) omits to state any material fact knowing it to be material; and c) willfully alters, suppresses or destroys any document which is required to be furnished as aforesaid - 'shall

be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five thousand rupees.

Section 16B: Penalty for offences in relation to orders under this Act: i) A persons who is deemed, under sub-section (1) of Section 10B, to be guilty of an offence under this Act, shall be punishable with imprisonment for a term which may extend to five thousand rupees or with both and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first, during which such contravention continues. ii) If any person contravenes without any reasonable cause, any order made by the Commission or the Commissioner, shall be punishable with imprisonment for a term which shall not be less than - a) in the case of first offence, six months but which may extend to two years; and b) in the case of any second nd subsequent offence, two years but which may extend to five years; and in either case where the contravention is a continuing one, also with fine which may extend to five hundred rupees for every day, after the first, during which such contravention continues. Provided that the Court may, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment for a term lesser than the minimum term specified in this Section.

Section 16C: Jurisdiction of Courts to try offences - No Court inferior to that, of the High Court shall try any offence under this Act and any person aggrieved by any decision or order of the Commission, in any matter, may file an application in the High Court.

Section 16D : Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall be against the Commission, or any member, Commissioner, officer or servant of the Commission in respect of anything which is in good faith done or intended or remained to be done under this Act.

The Status of the Chairperson and Members of the Commission: The Commission suggested that the Chairperson of NCW be given the status of the Union Cabinet Minister and the Members that of Minister of State.



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