

**BILLS INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE
STATE OF TAMIL NADU**

Under rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 13th May 2010 is published together with Statement of Objects and Reasons for general information:—

L.A. BILL No. 20 of 2010

A Bill to constitute a State Commission for Minorities and to provide for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty First Year of the Republic of India as follows:—

CHAPTER-I

PRELIMINARY.

Short title,
extent and
Commence-
ment.

1. (1) This Act may be called the Tamil Nadu State Minorities Commission Act, 2010.

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

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

Definitions.

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

(a) "Commission" means the Tamil Nadu State Minorities Commission constituted under section 3;

(b) "Government" means the State Government;

(c) "member" means a member of the Commission and includes the Chairperson and the Member-Secretary;

(d) "minorities" means the persons belonging to minority communities residing in the State of Tamil Nadu whom the Government have recognized as minorities;

(e) "prescribed" means prescribed by rules.

CHAPTER-II

TAMIL NADU STATE MINORITIES COMMISSION

Constitution
of the
Commission.

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

(2) The Commission shall consist of,—

(a) a Chairperson and six other members to be nominated by the Government, from amongst persons of eminence, ability and integrity:

Provided that the members including the Chairperson shall be from amongst the minority communities; and

(b) the Commissioner of Minorities Welfare – Member Secretary.

(3) The head quarters of the Commission shall be at Chennai and the Government may establish one or more offices of the Commission at any other place in the State.

Term of office
and
conditions of
service of the
Chairperson
and members.

4. (1) The Chairperson and every member of the Commission shall hold office for such period, not exceeding three years, as may be specified by the Government in this behalf.

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

(3) The honorarium and allowances payable to, and the other terms and conditions of service of, the Chairperson and members shall be such as may be prescribed.

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

(a) becomes an undischarged insolvent;

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

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

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

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

(f) in the opinion of the Government, has so abused the position of Chairperson or member, as the case may be, as to render that person's continuance in office detrimental to the public interest:

Provided that no member shall be removed from office under this sub-section until that member has been given a reasonable opportunity of being heard in the matter.

(5) A vacancy caused under sub-section (2) or sub-section (4) or otherwise shall be filled by fresh nomination by the Government and the person so nominated shall hold office for the remainder of the term of office of the person in whose vacancy such person has been nominated would have held office, if the vacancy had not occurred:

Provided that if a vacancy of a member, other than that of the Chairperson, occurs within six months preceding the date on which the term of office of the member expires, such vacancy shall not be filled in.

Explanation.—For the purpose of this section, “member” does not include “Member-Secretary”.

5. (1) The Commission shall meet as and when necessary atleast once in a month and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

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

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

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

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

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

Procedure to be regulated by the Commission.

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

Officers and other employees of the Commission.

CHAPTER-III

FUNCTIONS OF THE COMMISSION.

Functions of
the
Commission.

8. (1) Subject to the performance of the functions of the National Commission for Minorities under section 9 of the National Commission for Minorities Act, 1992 the functions of the Commission shall be as follows:—

Central Act
19 of 1992.

(a) to examine the working of various safeguards provided in the Constitution and in the laws made by the State Legislature for the protection of minorities;

(b) to make recommendations with a view to ensuring effective implementation and enforcement of all the safeguards;

(c) to monitor the working of the safeguards provided in the Constitution, laws enacted by the State Legislature and policies and schemes of the Government for minorities;

(d) to conduct studies, research and analysis on the questions of avoidance of discriminations against minorities;

(e) to make a factual assessment of the representation on minorities in the services of the Government undertakings, Government and quasi-Government bodies and in case the representation is inadequate, to suggest ways and means to achieve the desired level;

(f) to make recommendations for ensuring, maintaining and promoting communal harmony in the State;

(g) to make periodical reports at prescribed intervals to the Government;

(h) to study any other matter which in the opinion of the Commission is important from the point of view of the welfare and development of minorities and to make appropriate recommendation;

(i) to consider the grievances of the minorities and to suggest appropriate solution, from time to time;

(j) to look into specific complaints regarding deprivation of rights and safeguards of minorities and take up such matter with the appropriate authorities; and

(k) any other matter which may be referred to it by the Government.

(2) The Commission shall, while performing any of these functions, 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:—

Central Act
V of 1908.

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

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

(c) receiving evidence on affidavits;

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

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

(f) any other matter which may be prescribed.

(3) The Government shall cause the recommendations of the Commission to be laid before the Legislative Assembly along with the memorandum explaining the action taken or proposed to be taken on the recommendations and the reasons for non-acceptance, if any, of any of such recommendations.

CHAPTER-IV

FINANCE, ACCOUNTS AND AUDIT.

9. (1) The Government shall pay to the Commission by way of grants such sums of money as the Government may think fit for being utilised for the purposes of this Act.

Grants by the Government.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act.

(3) The honorarium and allowances payable to the Chairperson and members and the administrative expenses, including salaries, allowances and pensions payable to the Member-Secretary and to the officers and other employees referred to in section 7 shall be paid out of the grants referred to in sub-section (1).

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

Annual accounts and audit.

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

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

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

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

(6) The accounts of the Commission as certified by the auditor together with the audit report along with the remarks of the Commission thereon shall be forwarded to the Government within such time as may be prescribed.

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

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

Annual report.

12. The Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein in so far as they relate to the Government and the audit report to be laid as soon as may be after the reports are received, before the Legislative Assembly.

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

CHAPTER-V

MISCELLANEOUS.

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

Chairperson, members and staff of the Commission to be public servants.

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

Protection of action taken in good faith.

Power to
remove
difficulties.

15. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty:

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

Power to make
rules.

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

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

(a) the honorarium and allowances payable to, and other terms and conditions of service of, the Chairperson and members under sub-section (3) of section 4 and the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees under sub-section (2) of section 7;

(b) the form and the manner in which the accounts, and the form in which the annual statement of accounts, shall be prepared under sub-section (1) of section 10;

(c) the form in which, and the time at which the annual report shall be prepared under section 11;

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

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

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

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

STATEMENT OF OBJECTS AND REASONS

In G.O. Ms. No. 1020, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare Department, dated 13-12-1989, orders were issued for the Constitution of State Minorities Commission and the said Commission was last re-constituted in G.O. Ms. No. 104, Backward Classes, Most Backward Classes and Minority Welfare Department, dated 19-11-2009.

2. While replying to the demand for Backward Classes, Most Backward Classes and Minority Welfare Department, the Hon'ble Minister for Backward Classes announced on the floor of the Legislative Assembly on 29-4-2008 that the Hon'ble Chief Minister ordered that statutory status be given to the State Minorities Commission. To give effect to the above announcement, the Government have decided to enact a law.

3. The Bill seeks to give effect to the above decision.

M.K. STALIN,
Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 1(3), 3(1), 4(1), 4(3), 7(2), 8(2), 10 (1), 10 (3), 10 (6), 10(7), 11, 15 and 16 of the Bill empower the Government to issue notifications or to make rules or to pass orders as the case may be, for the purpose specified therein.

2. The powers delegated are normal and not of an exceptional character.

M.K. STALIN,
Deputy Chief Minister.

FINANCIAL MEMORANDUM

Clause 9(1) of the Bill provides for the payment by way of grants by the Government for being utilised for the purposes of the proposed legislation. Hence, the Bill when enacted and brought into operation would involve expenditure from the Consolidated Fund of the State.

2. It is not possible at this stage to estimate with any degree of accuracy the expenditure to be incurred from the Consolidated Fund of the State as result of the proposed legislation.

M.K. STALIN,
Deputy Chief Minister.

M. SELVARAJ,
Secretary.