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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1475-L.—20th December, 2011.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 22 of 2011

**THE WEST BENGAL FINANCE COMMISSION
(MISCELLANEOUS PROVISIONS) BILL, 2011.**

A

BILL

to provide for the composition of, the qualifications requisite for appointment as members of the West Bengal Finance Commission, the manner in which they shall be selected, their powers and matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the composition of, the qualifications requisite for appointment as members of the West Bengal Finance Commission, the manner in which they shall be selected, their powers and matters connected therewith or incidental thereto;

It is hereby enacted in the Sixty-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal Finance Commission (Miscellaneous Provisions) Act, 2011.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Finance Commission (Miscellaneous Provisions)
Bill, 2011.*

(Clauses 2-7.)

Definitions.

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

- (1) "Chairperson" means the Chairperson of the Commission;
- (2) "Commission" means the West Bengal Finance Commission constituted by the Governor in pursuance of provisions contained in clause (1) of article 243I, and clause (1) of article 243Y, of the Constitution of India;
- (3) "State Government" means the Government of West Bengal.

Composition of Commission.

3. The Commission shall consist of a Chairperson and the four other members.

4. The Chairperson of the Commission shall be an eminent serving or retired civil servant well versed in administration and finance or an eminent academician in economics or public finance or political science or a related area of studies and the four other members shall be selected from amongst persons who,—

- (a) have wide experience in financial matters and in administration; or
- (b) have special knowledge of finances and accounts of the State Government; or
- (c) have special knowledge and experience about the local self-Government in urban areas; or
- (d) have special knowledge and experience about the local self-Government in rural areas:

Provided that one of the members shall be a person who is holding or has held the post not lower in rank than that of Joint Secretary to the Government of West Bengal or an officer of equivalent rank and he shall be the Member-Secretary of the Commission.

Disqualifications for being Chairperson or members of Commission.

5. A person shall be disqualified for being appointed as, or for being as, the Chairperson or a member of the Commission—

- (a) if he has been convicted of an offence involving moral turpitude;
- (b) if he is adjudged an insolvent;
- (c) if he is of unsound mind and stands so decided by a competent court.

Term of office of members and eligible for re-appointment.

6. Every member of the Commission shall hold office for such period as may be specified by the State Government in the Order of appointing him, but shall be eligible for reappointment:

Provided that he may, in writing addressed to the State Government, resign his office.

Conditions of service and salaries and allowances of Chairperson and members.

7. (1) The Chairperson and the members of the Commission shall render whole-time or part-time service to the Commission as the State Government may in each case specify and they may be paid such fees or salary and such allowances as the State Government may, by rules by notification in the *Official Gazette*, determine.

(2) The rules made under sub-section (1) shall be laid, as soon as may be after it is made, before the West Bengal Legislative Assembly, 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 in which it is so laid or the session immediately following, the West Bengal Legislative Assembly makes any modification in the rules or decides that the rules should not be made, the rules 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 rules.

The West Bengal Finance Commission (Miscellaneous Provisions) Bill, 2011.

(Clause 8.)

Procedure and
powers of
Commission.

8. (1) The Commission may determine their procedure and in the performance of their functions shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely,—

- summoning and enforcing the attendance of witnesses;
- requiring the production of any document; and
- requisitioning any public record from any court or office.

5 of 1908.

(2) The Commission shall have power to require any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission and any person so required shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be legally bound to furnish such information within the meaning of section 176 of the Indian Penal Code.

45 of 1860.

(3) The Commission shall be deemed to be a civil court for the purposes of section 345 and section 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the State of West Bengal.

STATEMENT OF OBJECTS AND REASONS.

The Bill, namely, the West Bengal Finance Commission (Miscellaneous Provisions) Bill, 2011, seeks to provide for the composition of, the qualifications requisite for, appointment as the Chairperson and members of the West Bengal Finance Commission, and the manner in which they shall be selected, their powers and matters connected therewith or incidental thereto.

2. Besides, the Thirteenth Finance Commission has recommended a pre-condition for eligibility to draw performance grant for local bodies, by way of prescribing the qualifications of persons for appointment as members of the West Bengal Finance Commission in the manner laid down in clause (2) of article 243I of the Constitution of India.

3. The Bill is framed with the above objects in view.

KOLKATA,
The 13th December, 2011.

DR. AMIT MITRA,
Member-in-charge.

FINANCIAL MEMORANDUM.

The Bill, if enacted and brought into operation, would involve additional expenditure from the Consolidated Fund of the State when the West Bengal Finance Commission would be set up by the State Government in pursuance of the provisions of this Bill. The fund for this purpose would be met by making suitable provisions in the budget of the Finance Department.

KOLKATA,
The 13th December, 2011.

DR. AMIT MITRA,
Member-in-charge.

By order of the Governor,

B. K. SRIVASTAVA,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*