



LEGISLATIVE ASSEMBLY OF GOA

The Goa Women's Commission Bill, 1992

(Bill No. 12 of 1992)

(By Shri Surentra V. Sissat, M.A.)

(To be introduced in the Legislative Assembly of Goa)

GOA LEGISLATURE DEPARTMENT
ASSEMBLY HALL, PANAJI
JULY, 1992

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A

BILL

to provide for the constitution of a Women's Commission to improve the status of women in the State of Goa and to enquire into unfair practices affecting women and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Forty-Third year of the Republic of India as follows:

1. *Short title, extent and commencement.* — (1) This Act may be called the Goa Women's Commission Act, 1992.

(2) It extends to the whole of the State of Goa.

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

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

(a) "Commission" means the Commission constituted under section 5;

(b) "Director" means the Director appointed under Section 11;

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

(d) "person" shall include a firm, company, corporation association of persons, or the Government and its agencies including agencies receiving aid from the Government;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "public servant" means any employee of the Government or a local body or any Corporation owned or controlled by the Government or of any Government agency;

(g) "registered" means registered with the Commission under the Act;

(h). "unfair practice" means any distinction, exclusion or restriction made on the basis of sex for the purpose of or which has the effect of impairing of nullifying the recognition, enjoyment or exercise by women of fundamental Constitutional rights, or of human rights, or of fundamental freedom in the political, economical, social, cultural, civil or any other field or the infringement of any right or benefit conferred on women by or under the provisions of any law for the time being in force; or the mental or physical torture or sexual excesses on women.

3. *Act not to apply in certain cases.* — This Act shall not apply to—

(i) The Central Government; or

(ii) any Public Sector undertaking of the Central Government, or any other institution owned, or controlled or financed directly by the Central Government.

4. *Application of other laws not barred.* — Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, except to the extent the provisions of the other law are inconsistent with the provisions of this Act.

5. *Constitution of the Commission.* — (a) For the purpose of this Act, the Government shall, by notification in the Official Gazette, constitute a commission to be known as the Goa Women's Commission which shall consist of a Chairperson and not more than six other members to be appointed by the Government of whom one shall be a woman belonging to Scheduled Castes or Scheduled Tribes:

(b) any woman member elected by the Goa Legislative Assembly, from amongst its members;

(c) The Chairperson shall be an eminent woman committed to the cause of women with sufficient knowledge and experience in dealing with women's problems;

(d) The members of the Commission shall be persons of ability, integrity, intelligence and standing having adequate knowledge or experience or have shown ability in dealing with problems relating to

safeguarding and promoting the interests of women and protecting their rights.

6. *Term of office and conditions of service of members.*— (1) Every member shall hold office for a period of five years.

(2) Notwithstanding anything contained in sub-section (1), a member may—

(i) by writing under his hand and addressed to the Government resign his office at any time and such resignation being accepted by the Government he shall cease to be a member.

(ii) be removed from his office in accordance with the provisions of section 10.

(3) A vacancy arising by reason of resignation or removal of any member of the Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 5:

Provided that a person so appointed shall hold office for the remaining period of the term of the person in whose place such a person is appointed.

(4) The member shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed:

Provided that such conditions of service shall not be varied to the disadvantage of a member after his appointment.

(5) A person so elected under clause (b) of section 5 shall cease to be a member of the Commission if she ceases to be a member of the Goa Legislative Assembly.

7. *Quorum.*— The quorum for a meeting of the Commission shall be three.

8. *Disposal of business.*—(1) All questions at a meeting of the Commission shall be decided by the majority opinion of the members present and in case the opinions of the members divide equally, the Chairperson shall have a second or casting vote.

(2) The Commission may invite, if they consider it necessary, for such purpose as may be prescribed,

any person with expert knowledge in a particular subject to be present at the meeting to assist the Commission in arriving at a decision but such person shall not be entitled to vote.

9. *Acts of the Commission not to be invalidated by infirmity or any vacancy etc.*— No act or proceeding of a Commission shall be invalidated by reason only of any defect or irregularity in its constitution or on the ground of existence of any vacancy in the office of any member.

10. *Removal of members from office.*— Any member of the Commission may be removed from office by an order of the Government, if he—

(a) becomes an undischarged;

(b) gets convicted and sentenced to imprisonment for an offence which involves moral turpitude;

(c) becomes of unsound mind;

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

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

(f) in the opinion of the Government has so abused to position of Chairperson or Member as to render that person's continuance in office detrimental to the Public interest:

Provided that a member shall not be removed under this section until that person has been given a reasonable opportunity of being heard in the matter.

11. *Appointment of Director and other staff of the Commission.*— (1) The Government may, in consultation with the Commission, appoint a Director for making investigations for the purposes of the Act and to carry out such directives given to him by the Commission besides the functions conferred on him by this Act. The Government may also provide the Commission with such other staff as may be necessary and prescribed their conditions of service.

(2) The qualifications, term of appointment and other conditions of service of the Director shall be such as may be prescribed.

12. *Provision for salaries, allowances etc.*—The salaries and allowances payable to the members and the administrative expenses including the salaries, allowances and pensions payable to, or in respect of the Director and the other staff of the Commission, shall be charged on the Consolidated Fund of the State.

13. *Registration of Women's Organisation.*—

(1) Any women's organisation governed by written rules, regulations or bye-laws and working for the uplift, development, welfare or promotion of the interests of women or women's wing of any other organisation having all or any of the above activities as one of its objectives may apply to the Director for registration of such organisation with the Commission, in such form and in such manner as may be prescribed.

(2) The Director shall verify the applications in such manner as may be prescribed and recommended to the Commission, the organisations qualified for registration and reject the other applications.

(3) The Commission may consider the recommendation and direct that the name and particulars of the organisations qualified to be registered be entered in the Register maintained for the purpose in the manner prescribed and shall issue a Certificate of Registration in the prescribed form.

(4) The Commission may, at any time, either on its own motion or otherwise cancel the registration of any organisation, after giving an opportunity to be heard and on being satisfied that it is no longer qualified to continue as a registered organisation.

(5) The party aggrieved by the decision of the Director under sub-section (2) may file an appeal before the commission within such time and in such manner as may be prescribed and thereupon the commission shall after conducting such enquiry as it deems fit and giving the party an opportunity of being heard, pass appropriate orders thereon.

14. *Powers of the Commission.*— (1) the Commission shall, for the purpose of any inquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil-

Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any witness and examining him;

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

(c) receiving evidence on affidavits;

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

(e) issuing commissions for the examination of witness.

(2) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860) and the Commission shall be deemed to be a Court for the purpose of section 195 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

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

(i) inquire into any unfair practice, take decision thereon and to recommend to the Government the sanction to be taken in that matter;

(ii) Cause investigations to be made by the Director on issues of importance concerning women and issues concerning unfair practice and to report thereon to the Government on the corrective measures to be taken;

(iii) Submit to the Government annual reports on.—

(a) the lacunae, inadequacies, or shortcomings in the laws in force which affect the constitutional right to equality and fair treatment of women and also on the remedial legislative measures to be taken to meet the situation;

(b) the monitoring of the working of laws in force concerning women with a view to identifying the areas where the enforcement of laws is not adequately effective or has not been streamlined and recommending executive or legislative measures to be taken;

(c) Monitoring the recruitments made to State Public Services and State Public Sector Corporations and promotions within the said services and scrutinising the rules and regulations governing such recruitments and promotions with a view to reporting to the Government action, if any required to guarantee equal opportunity to women in the matter of such recruitments and promotions.

(iv) (a) inspect or cause to be inspected, by the Director or any officer of the Commission authorised by the director in that behalf, prison, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise, or shelters for women or other places run by the Government or any of its agencies including agencies receiving aid from the Government for the purpose of offering rescue or shelter to women, or hostels intended for women or girls run by any person and such other places wherein unfair practice to women is complained of and cause further inquiries to be made about the treatment that women and girls are subjected to at such places and to report to the Government for taking remedial action.

(b) in cases where the Commission is of the view that any public servant has been grossly negligent or grossly indifferent in regard to the discharge of his duties in relation to the protection of the interests of women, recommend to the concerned disciplinary authority to initiate disciplinary action;

(v) recommend to Government, the social welfare measures to be adopted and implemented by the Government with a view to ameliorating the the conditions of women;

(vi) formulate a comprehensive and affirmative scheme for securing equal opportunities to women and devise a programme for implementing such scheme which shall be forwarded to the Government for approval and on obtaining approval thereof with or without modifications, implement the same;

(vii) empower the Director to recommend to the appropriate authority to take prosecution proceedings in respect of offences committed against women under any statute providing for penalty for violation of the provisions of such statute;

(viii) maintain comprehensive Data Bank relating to the social, economic and political conditions of women including comparative study, updating the same from time to time making available such data for use in actions for vindication of the rights of women;

(ix) recommend to Government to initiate legislation for removal of discrimination in the case of inheritance, guardianship, adoption and divorce or for matters relating to the safeguarding of the dignity of women and the honour of motherhood.

(x) call for special studies or investigations into specific problems or situation arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

(xi) Participate and advise on the planning process of socio-economic development of women;

(xii) fund litigation involving issues affecting a large body of women;

(xiii) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

(xiv) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic service inadequate support services and technologies for, reducing drudgery and occupational health hazards and for increasing their productivity..

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

(2) The Government shall cause the recommendations of the commission under sub-section (1) to be placed before the Legislative Assembly during its next session and cause action to be taken thereon by the authority concerned within two months from the placing of such recommendations.

16. *Inquiry into unfair practice.* — (1) The Commission shall inquire into any unfair practice,—

(a) on receiving a written complaint from any woman alleging that she has been subjected to any

unfair practice or on a similar complaint from any registered women's organisation;

(b) on its own knowledge or information;

(c) on any request from the Government.

(2) Where the complaint has been made under clause (a) of sub-section (1), the Commission may,

before the issue of any process to the person complained against, cause a preliminary investigation to be made by the Director in such manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be enquired into.

(3) Where the person against whom the complaint has been made, appears and shows cause or fails to appear on the day appointed for that purpose the Commission may proceed to inquire into the matter in the complaint and take a decision thereon and if the Commission finds that there is unfair practice, it shall recommend to the Government the action to be taken thereon.

(4) The Government shall, within two months from the date of receipt of the recommendation of the Commission under sub-section (3), take a decision thereon and intimate the same to the Commission.

17. *Annual report to be laid before the Legislative Assembly.* — The annual report submitted to the Government by the Commission in accordance with clause (iii) of sub-section (1) of section 15 shall be laid, before the Legislative Assembly, for not less than fourteen days, as soon as may be after the report is received by the Government.

18. *Sitting of the Commission.* — (1) The Commission shall hold sitting ordinarily at Panaji to enquire into any unfair practice but it may, with notice to the parties, hold sittings at any other place in the State.

(2) The Commission shall with the previous approval of the Government make regulations for regulating its procedure and the disposal of its business and which regulations shall, after they are made, be published in the Official Gazette.

(3) The Chairperson may, with the approval of the Commission, assign any function of the Chair-

person or of the Commission to any other member or members of the Commission.

19. *Authentication of orders, etc., of the Commission.* — All orders and decision of and all other proceedings or instruments, if any, issued by the Commission shall be authenticated by the signature of the Director or of such other Officer as may be authorised by the Commission in this behalf.

20. *Government to consult the Commission.* — The Government shall consult the Commission on all major policy matters affecting women.

21. *Members, Officers and employees of the Commission to be Public servants.* — All members, Officers and other employees of the Commission shall be deemed when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of 21 of the Indian Penal Code (Central Act 45 of 1860).

22. *Protection of Acts done in good faith.* — No suit, prosecution or other legal proceedings shall lie against any member of the Commission or any officer of the Commission for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

23. *Courts not to grant injunctions.* — Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) or any other law for the time being in force, no court shall grant any injunction restraining any proceedings which is being or about to be taken under the provisions of this Act.

24. *Removal of difficulties.* — (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, do anything not inconsistent with such provisions to remove such difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under this section shall be laid as soon as may be after it is made before the Legislative Assembly.

25. *Power to make rules.* — (1) The Government may by notification in the Gazette, make rules for the purpose of carrying in to effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the salary, allowances and other conditions of service of the members, the Director and the other staff of the Commission;

(b) Procedure for removal of the members of the Commission under Section 10;

(c) the procedure for registration under section 13 of the Act;

(d) procedure for inquiries under section 16 of the Act;

(e) investigations by the Director;

(f) Procedure for inspection of prisons, Police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise or shelters for women or other places run by the Government or any of its agencies including agencies receiving aid from the Government for the purpose for offering rescue or shelter to women or hostels intended for women or girls run by any person and such other places wherein unfair practice to women or girls is complained of or for holding of enquiries about the treatment that women or girls are subjected to at such places;

(g) Maintaining a Data Bank;

(h) the formulation of comprehensive and affirmative scheme for securing equal opportunity to women and for the improvement and uplift of women and programme for its implementation;

(i) procedure for recommending prosecution in respect of offences committed against women under any statute;

(j) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the

Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session immediately following, the Legislative Assembly makes any modification in the rule or decides 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.

Statement of Objects and Reasons

The Women population of Goa is approximately 5,75,059 out of which half of the women population is illerate. There is no Legislation in Goa to protect the general interest of women community. Many women are of working class in Government offices/ /public sectors as well as private sectors. They have been exploited by their officers/and private employers. Mostly in the villages social conditions of women is deplorable. There is a great necessity to improve their living conditions. This Bill seeks to protect the interest of the women community in all the respect and it will help to improve the statues of women in the State of Goa and will also safe-guard the unfair practices which affects women and for the other matters, which are connected therewith. This Bill will also help to uplift, to develop and also to look after the welfare and promoting the interest of women.

Finãncial Memorandum

Initially, the expenditure of approximately Rs. 10 lakhs per annum will be required on account of payments of salaries and allowances for the staff of the Commission, including transport and accommodation for the Officers of the Commission.

Memorandum Regarding Delegated Legislation

Sub-Section (3) of Section 1 empowers the Government by Notification to bring the Act into force on such date as a Government may by notification of Official Gazette, may appoint.

Section 25 also empowers the Government to make rules for the purpose of carrying into effect the provisions of this Act by notification in the Gazette.

This delegated Legislation is of normal character.

Panaji,
6th July, 1992

Shri Surendra V. Sirsat
M.L.A.

Assembly Hall,
Panaji,
13th July, 1992

M. M. NAIK
Secretary to the Legislative
Assembly of Goa