

# **ODISHA STATE COMMISSION FOR WOMEN**

**LAW DEPARTMENT**

**NOTIFICATION**

The 7th October 1994

REGISTERED No. 0-24

No. 13850/Legis – The following Act of the Orissa Legislative Assembly having been assented to by the President on the 24th September, 1994 is hereby published for general information.

ORISSA ACT 19 OF 1994

**THE ORISSA STATE COMMISSION FOR WOMEN ACT, 1993**

AN ACT TO CONSTITUTE A STATE COMMISSION FOR WOMEN AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :-

**CHAPTER - I**

**PRELIMINARY**

1. (1) This Act may be called the Orissa State Commission for Women Act, 1993.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force on such date as the State Government may, by notification, appoint.
2. In this Act, unless the context otherwise requires –
  - (a) "Commission" means the State Commission for women constituted under section 3;
  - (b) "Member" means a Member of the Commission;
  - (c) "Prescribed" means prescribed by rules made under this Act.

## **CHAPTER - II**

### **THE STATE COMMISSION FOR WOMEN**

3. (1) The State Government shall constitute a body to be known as the State Commission for Women to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of –

(a) a Chairperson, who is an eminent social worker or a professional committed to the cause of women, to be nominated by the State Government;

(b) six members to be nominated by the State Government from amongst persons of ability, integrity and standing of whom –

(i) one shall be an official,

(ii) one shall be an eminent advocate,

(iii) two shall be social workers of repute, and

(iv) two shall be experts in education and health; Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and the Scheduled Tribes respectively.

(3) An officer not less than the rank of a Deputy Secretary to the Government of Orissa in charge of Women's Welfare shall be the Convenor-Secretary of the Commission whose duty shall be to facilitate co-ordination between the Commission and the Government in the activities and policies relating to Women's Welfare and participation in the development of the State.

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

(2) The Chairperson or a Member (other than the official Member) may, by writing and addressed to the State Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.

(3) The State Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person –

(a) becomes an undischarged insolvent;

(b) gets convicted and sentenced to imprisonment for an offence involving 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; or

(f) in the opinion of the State Government, has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest; Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

5. (1) The State 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 appointed for the purpose of the Commission shall be such as may be prescribed.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 11.

7. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

8. (1) The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.

(2) The commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.

9. (1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.
- (2) The commission shall regulate its own procedure and the procedure of the committees thereof.
- (3) All orders and decisions of the Commission shall be authenticated by the Convenor-Secretary or any other officer of the Commission duly authorised by the Convenor-Secretary in this behalf.

### **CHAPTER - III**

#### **FUNCTIONS OF THE COMMISSION**

10. (1) The Commission shall perform all or any of the following functions namely:-

(a) make in depth studies on –

(i) the economic, educational and health situation of the women of the State, which particular emphasis on the tribal districts and areas which are under-developed with respect to women's literacy, mortality and economic development.

(ii) condition in which women work in factories, establishments construction sites and other similar situations, and recommend to the State Government on the basis of specific reports on improving the status of women in the said areas;

(b) compile information, from time to time, on instances of all offences against women in the State, or in selected areas, including cases related to marriage and dowry, rape, kidnapping, criminal abduction, eve teasing, immoral trafficking in women and cases of medical negligence in causing delivery or sterilisation or medical intervention that relates to child bearing or child birth.

(c) will co-ordinate with the State Cell and District Cells for atrocities against women, if any for mobilisation of public opinion in the State as a whole or in specific areas which would help in speedy reporting and detecting of offences of such atrocities and mobilisation or public opinion against the offenders.

(d) received complaints on –

(i) atrocities on women and offences against women,

(ii) deprivation of women of their rights relating to minimum wages basic health and maternity rights,

(iii) non-compliance of policy decisions of the Government relating to women,



- (iv) rehabilitation of deserted and destitute women and women forced into prostitution,
  - (v) atrocities on women in custody, and take up with authorities concerned for appropriate remedial measures.
  - (e) assist, train and orient the non-Government organisation in the State in legal counselling of poor women and enabling such women to get legal aid,
  - (f) inspect or cause to be inspected, a jail remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary,
  - (g) perform functions in relation to any other matter which may be referred to it by the State Government.
- (2) The State Government shall cause all the recommendations or reports, or any part thereof, as may be presented to it by the Commission under sub-section (1), which relate to any matter with which the State Government is concerned, to be laid before the Legislature of the State alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations of the Commission and the reasons for the non-acceptance, if any of such recommendations.
- (3) The Commission shall while investigating any matter referred to in clause (a) or clause (d) of sub-section (1) having all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely; :-
- (a) summoning and enforcing the attendance of any person from any part of India 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 witness and documents; and (f) any other matter which may be prescribed.

## **CHAPTER – IV**

### **FINANCE ACCOUNTS AND AUDIT**

11. (1) The State Government shall, after due appropriation made by the Legislative Assembly by law in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purpose of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

12. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Governments in consultation with the Accountant-General, Orissa.

(2) The Accounts of the Commission shall be audited by the Accountant-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant-General.

(3) The Accountant-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Accountant-General generally has in connection with the audit of Government accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant-General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the State Government by the Commission.

13. 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 State Government.

14. The State 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 State Government and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid, as soon as may be after the reports are received, before the Legislative Assembly.



## **CHAPTER - V**

### **MISCELLANEOUS**

15. The Chairperson, the Members, Officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
16. The State Government shall consult the Commission on all major policy matters affecting women.
17. (1) The State Government may, by notification, make rules for carrying out the provisions 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) salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;
  - (b) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;
  - (c) other matters under clause (f) of sub-section (3) of section 10;
  - (d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;
  - (e) the form in, and the time at which, the annual report shall be prepared under section 13; (f) any other matter which is required to be, or may be, prescribed.



**WOMEN & CHILD DEVELOPMENT DEPARTMENT**

**NOTIFICATION**

The 26th December 2006

No. 26133-IV-WP(SCW)-3/2006-WCD - In exercise of the powers conferred by Section 17 of the Orissa State Commission for Women Act, 199 (Orissa Act 19 of 1994), the State Government do hereby make the following rules regulating the salaries, allowances, other terms and conditions of services of the Chairperson and Members of the Orissa State Commission for Women and other matters, namely :-

**SHORT TITLE AND COMMENCEMENT**

1. (1) These rules may be called **The Orissa State Commission for Women Rules, 2006**
- (2) They shall come into force from the date of their publication in the Orissa Gazette.

**DEFINITIONS**

2. (1) In these rules, unless the context otherwise requires,-

(a) "Act" means The Orissa State Commission for Women Act, 1993;

(b) "Chairperson" means the Chairperson of the Commission nominated under clause (a) of sub-section (2) of Section 3 of the Act;

(c) "Financial year" means the year begins from the 1st April to the 31st March of the succeeding calendar year;

(d) "Form" means form appended to these rules;

(e) "Government" means Government of Orissa;

(f) "Secretary" means Convenor-Secretary of State Commission for Women appointed under sub-section (3) of Section 3 of the Act;

(g) "Section" means Section of the Act.

- (2) Words and expressions used in these rules but not defined, unless the context otherwise requires, shall have the same meanings as respectively assigned to them in the Act.

**HEADQUARTERS OF THE COMMISSION**

3. The Headquarters of the Commission shall be located at Bhubaneswar.

### **TERMS OF OFFICE**

4. (1) The Chairperson or Member shall hold office as such for a period of three years from the date of issue of notification under sub-section (1) of Section 4 until she/he attains the age of sixty-five years or reconstitution of the Commission whichever is earlier.

(2) A person who held the office of the Chairperson or member shall be eligible for re-nomination.

(3) If a vacancy occurs in the office of the Chairperson by reason of removal, death or resignation or otherwise, the official Member shall act as the Chairperson until the vacancy is filled up by fresh nomination by the Government and shall exercise all the powers and perform all the functions of the Chairperson.

### **DUTIES OF THE MEMBERS**

5. The Members shall act under the overall direction of the chairperson in the administrative side and shall attend to the following duties; namely :-

(i) they shall attend the meeting of the Commission as and when called for by the Commission;

(ii) they shall head such committees as may be formed by the Chairperson;

(iii) they shall conduct spot inspection in important cases as and when required by the Chairperson;

(iv) they shall take up hearing of all important cases, which are entrusted to them by the Chairperson;

(v) they shall participate in the awareness camps organised in different districts;

(vi) they shall inspect the jails, women institutions or other places of custody, where women are kept as prisoners or otherwise as and when required to do so by the Chairperson; and

(vii) they shall carry out such other functions as assigned to them from time to time by the Chairperson.

### **SALARIES AND ALLOWANCES**

6. The Chairperson shall get the following monthly entitlements:-

(i) If the Chairperson is a Government servant on deputation he will get his grade pay.

(ii) If the Chairperson is a retired Government servant, he will be entitled to get last pay minus pension and pension equivalent.



(iii) If the Chairperson and others happen to be non-officials, their monthly honorarium will be determined by Government from time to time.

7. The Chairperson and other Members shall be entitled to leave as under –

(a) If the Chairperson and Members are Government servant on deputation they shall be entitled to leave as admissible to their Government counterparts.

(b) Others - Only casual leave as admissible to their Government counterparts.

8. (1) The Members shall undertake tour on the written permission of the Chairperson. They shall be entitled to draw travelling allowances and daily allowances as admissible to Grade-II Officers of the Government.

(2) As and when Chairperson and Members are required to go outside the State on tour for the work of the Commission with prior approval of Government, they shall be entitled for Government accommodation on payment of usual rent. In case, Government accommodation is not available the Chairperson and Members shall be entitled to accommodation elsewhere and conveyance hiring charges as admissible to First and Second Grade Government servant respectively.

#### **RESIDENTIAL ACCOMMODATION**

9. (i) The Chairperson and Member shall reside at the Headquarters of the Commission and shall be entitled to Government accommodation on payment of usual rent.

(ii) If the Chairperson and Members are not provided with or do not avail of the Government accommodation, they shall be paid house rent allowance at the rate admissible in the State Headquarters.

#### **FACILITIES FOR MEDICAL TREATMENT**

10. The Chairperson and Members shall be entitled to reimbursement of the cost of medicine as admissible to Government servants.

#### **PENSION**

11. No pension shall be payable to the Chairperson or Members for holding the posts as such except the Government servant on deputation. Provided that a retired Government employee if nominated as Chairperson or Member his/her term of office shall be treated as re-employment and regulated by provisions laid down in 89 0 O.C.S. (Pension) Rules, 1992.



12. (i) The State Government may sanction such post as deemed necessary by following an yardstick and those posts will be filled up either by deputation from Central/State Government or by open market recruitment

. (ii) The officers and staff who come on deputation to the Commission shall enjoy the same benefits, which they were enjoying in the parent Department prior to their deputation. They shall exercise such powers as may be assigned by the Commission under the provision of the Act.

13. The Secretary of the Commission shall function as Head of the Office under overall supervision and direction of the Chairperson and he will exercise the financial powers as per Delegation of Financial Power Rules of the Government.

14. (i) Every co-opted Member of the Committee if she/he is in service of State Government or in an institution funded by the State Government shall be entitled to an allowance of Rs.100 for attendance of each day of the meeting.

(ii) The out station co-opted Member if he/she is a Government servant or an institution funded by the State Government shall get Rs.100 as sitting allowance for attendance of each day of the meeting in addition to normal T.A. and D.A. as admissible to his Grade.

(iii) Other outstation Members will receive Rs.100 as sitting allowance for attendance of each day of the meeting in addition to T.A./D.A. as admissible to Second Grade Officers.

#### **ACCOUNTS OF THE COMMISSION**

15. (1) The annual statement of accounts of the Commission for every financial year shall be prepared by the Secretary in Form-A.

(2) The annual statement of accounts duly approved by the Commission shall be submitted by the Secretary to the State Government in Women & Child Development Department by the 30th June of the following year to which the accounts relate.

(3) The Commission shall forward the State Government first quarterly review of the progress of expenditure incurred and expenditure likely to be incurred in the remaining quarters of the financial year as and when called for by the State Government.

(4) The Secretary to Commission shall be responsible for the maintenance of the accounts of the Commission, the composition of the financial statement and returns and shall ensure that all accounts, books, connected vouchers and other documents and papers of the Commission required by the Audit Officer for the purpose of auditing the accounts of the Commission are placed at the disposal of that officer.

(5) The annual statement of the accounts shall be signed and authenticated by the Secretary and the Chairperson.

(6) The account of the Commission shall be subject to audit by the Accountant-General (A. & E.), Orissa. The Commission shall appoint a registered Chartered Accountant on contract basis to audit the accounts of the Commission on or before the 30th June following the year to which the accounts relate.

(7) The Commission shall, within ninety days of the receipt of the audit report of the Chartered Accountant, remedy the defect or irregularity, if any, pointed out therein and report the same to the State Government.

#### **ANNUAL REPORT OF THE COMMISSION**

16. (1) The Secretary shall prepare the annual report referred to in Section 13 in Form-B on or before the 31st July following the financial year to which the report relates.

(2) The annual report referred to sub-rule (1) after approval of the Commission shall be authenticated by the Secretary.

(3) Copies of authenticated report shall be submitted by the Secretary to the State Government by the end of August following the year to which the report relates to enable the State Government to take action under Section 14.



## LANDMARK JUDGMENTS

- **KPMG India Pvt. Ltd vs. National commission for women Bombay High Court, 11<sup>th</sup> August, 2014**

The Bombay High Court dealt with two broader issues

- a) Whether the National Commission for women is entitled to entertain complaints of individuals in relation to the matters concerning rights of women?
- b) The nature of reliefs the Commission can grant to the individual complainants, if any?

**Held :** We are of the view that the Commission is empowered to look into complaints relating to deprivation of women's rights, non implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development, noncompliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and provide relief to women and to take up such issues with appropriate authorities. However, it does not have unbridled power or authority. The Commission functions in a recommendatory capacity and is empowered to take up issues relating to women with the authorities concerned. It is not an adjudicatory body yet Commission complies with the quasi-judicial character of "State" under Article 12 of the Constitution of India. The intention is that the commission is entitled to act as a guardian of women's' rights with a view to ensuring that women's' rights are protected or not rendered inaccessible.

As regards the second issue, namely, nature of reliefs the commission can grant to individual complainant we are of the view that the commission may after investigating the complaint take up the matters with appropriate authorities including employer or such other persons whose action or inaction have given rise to such complaints. We are of the view that the commission is not entitled to arrive at final conclusions or grant reliefs that a civil or criminal court can.

- **Bhavani Prasad Jena vs. Convenor, Scretary, Odisha State Commission for women 2010 (8) SCC 633**

**Held:** It would be seen from Section 10 of the 1993 Act that the State Commission has been authorized to take up studies in respect of economic, educational and health situation of the women of the State and also the working conditions of women in the factories, establishments, construction sites and make its recommendations to the State Government. The State



Commission is empowered to compile information in respect of the offences against women and to coordinate with the State Cell and District Cells for atrocities against women. Further, the State Commission is competent to receive complaints in respect of the matters specified in Section 10(1)(d) and take up the grievances raised in the complaint/s with the concerned authorities for appropriate remedial measures. The State Commission is also given role of assisting, training and orienting the non-Government organization in the State in legal counseling of poor women and enabling such women to get legal aid. Under clause (f) of Section 10(1), the State Commission is authorized to inspect or cause to be inspected, a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities these matters for remedial action. In other words, the State Commission is broadly assigned to take up studies on issues of economic, educational and healthcare that may help in overall development of the women of the State; gather statistics concerning offences against women; probe into the complaints relating to atrocities on women, deprivation of women of their rights in respect of minimum wages, basic health, maternity rights, etc. and upon ascertainment of facts take up the matter with the concerned authorities for remedial measures; help women in distress as a friend, philosopher and guide in enforcement of their legal rights. However, no power or authority has been given to the State Commission to adjudicate or determine the rights of the parties. The provision contained in Section 10(1)(d) is expressly clear that the State Commission may receive complaints in relation to the matters specified therein and on receipt of such complaints take up the matter with the authorities concerned for appropriate remedial measures. The 1993 Act has not entrusted the State Commission with the power to take up the role of a court or an adjudicatory tribunal and determine the rights of the parties. The State Commission is not a tribunal discharging the functions of a judicial character or a court. The expression, 'have all the powers of a Civil Court' in Section 10(3) is qualified by the following words, 'in respect of the following matters'. That is to say, the State Commission has powers of Civil Court trying a suit for the matters specified in clauses (a) to (f) thereof and not for other purposes.