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NOTIFICATION

No. H. 12018/4/91-LJD/160, the 26th June, 1992. The following constitution (Sixty fifth Amendment) Act, 1990 and the National Commission for Scheduled Castes and Scheduled Tribes Chairperson, Vice-Chair person and Members (Constitutions of Service and Tenure) Rules, 1990 are hereby published for general information.

R. Lalthazuala,
Under Secretary to the Govt. of Mizoram,
Law, Judicial & Parliamentary Affairs Department.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 8th June, 1990/Jyaistha 18, 1912 (Saka)

The following Act of Parliament received the assent of the President on the 7th June, 1990, and is hereby published for general information:-

THE CONSTITUTION (SIXTY-FIFTH AMENDMENT) ACT, 1990

[7th June, 1990]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows :-

1. (1) This Act may be called the Constitution (Sixty-fifth Amendment) Act, 1990. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In article 338 of the Constitution.— Amendment of article 338.
- (a) for the marginal heading, the following marginal heading shall be substituted namely :—
- “National Commission for Scheduled Castes and Scheduled Tribes”;
- (b) for clause (1) and (2), the following clauses shall be substituted namely :—
- “(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and other Members and the conditions of service and tenure or office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
- (3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his **HARD AND SOAL**.
- (4) The Commission shall have the power to regulate its own procedure.
- (5) It shall be the duty of the Commission—
- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this COMMISSION or under any other law for the time being in force or under any order of the Government and to evaluate the working or such safeguards.
- (b) to inquire into specific complaints with respect to the deprivation or rights and safeguards of the Scheduled Castes and Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as for the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause(5) have 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 witnesses and documents;

(f) any other matter which the President may by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matter affecting Scheduled Castes and Scheduled Tribes”;

(c) existing clause (3) shall be renumbered as clause (10).

V.S. Rama Devi,
Secy. to the Govt. of India.

MINISTRY OF WELFARE

(Department of Welfare)

NOTIFICATION

New Delhi, the 3rd November, 1990

G.S.R. 891(E):— In exercise of the powers conferred by clause (2) of article 338 of the Constitution, the President hereby make the following rules, namely:—

1. Short title and commencement:— (1) These rules may be called the National Commission for Scheduled Castes and Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 1990.

(2) They shall come into force on the date of commencement of the Constitution (Sixty-fifth Amendment) Act, 1990.

2. Definitions: In these rules, unless the context otherwise requires :—

(a) “article” means article of the Constitution;

(b) “Chairperson” means the Chairperson of the Commission;

(c) “Commission” means the National Commission for Scheduled Castes and Scheduled Tribes established under articles 338

(d) “Member” means a Member of the Commission and includes the Chairperson and the Vice-Chairperson:

(e) the expressions “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366;

(f) “Vice-Chairperson” means the Vice-Chairperson of the Commission.

3. Qualifications:—(1) The Members shall be appointed from amongst persons of ability integrity and standing who have had a record of selfless service to the cause of justice for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of sub-rule(1):-

(a) the Chairperson shall be appointed from amongst eminent socio-political workers belonging to the Scheduled Castes or Scheduled Tribes, who inspire confidence amongst the Scheduled Castes and Scheduled Tribes by their very personality and record of selfless service;

(b) the Vice Chairperson and not less than three other Members shall be appointed from amongst persons belonging to the Scheduled Castes and Scheduled Tribes;

(c) at least one other Member shall be appointed from amongst women.

4. Appointment of Members.- The Members to be appointed under these Rules may be appointed on part-time basis also.

5. Term of Office:— Save as otherwise provided in these Rules, every Member shall hold office for a term of three years from the date on which he assumes such office:

Provided that the first Chairperson shall hold office for a term of five years from the date of his assumption of office.

6. Rotation of Office:- In a block of three terms of Office of the Chairperson a person belonging to the Scheduled Caste shall hold office of the Chairperson for two terms and a person belonging to the Scheduled Tribes shall hold office of the Chairperson for one term:

Provided that where the Chairperson is from amongst persons belonging to the Scheduled Castes, the Vice-Chairperson shall be from amongst persons belonging to the Scheduled Tribes and where the Chairperson is from amongst person belonging to the Scheduled Tribes, the Vice-Chairperson shall be from amongst persons belonging to the Scheduled Castes.

7. Salaries and allowances:-(1) Every Member shall have the rank of the Secretary to Government of India unless otherwise specified.

(2) Every Member shall be entitled to such salary, allowances and other facilities as admissible to the Secretary to Government of India:

Provided that the Chairperson shall also be entitled to a rent free accommodation.

(3) Notwithstanding anything contained in sub-rules (1) and (2), if the Chairperson, Vice Chairperson or any other Member is a Member of parliament, or a State Legislature, he shall not be entitled to any remuneration other than the allowances, defined in clause (a) of Section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959) or as the case may be, other than the allowances, if any, which a Member of the Legislature of the State may, under any law for the time being in force in the State relating to the prevention of Notification for Membership of the State Legislature receive without incurring such disqualification.

(4) Notwithstanding anything contained in sub-rules (1) and (2), a Member appointed on part-time basis shall be entitled to travelling allowance and daily allowance applicable to the Secretary to Government of India.

8. Arrangement in case of permanent or temporary vacancies: (1) If the office of the Chairperson becomes vacant or if the Chairperson is for any reason absent or unable to discharge the duties of his office, those duties shall, until the new Chairperson assumes office or the existing Chairperson resumes his office, as the case may be, be discharged by the Vice-Chairperson.

(2) If the office of the Vice-Chairperson becomes vacant or if the Vice-Chairperson is for any reason absent or unable to discharge the duties of his office, those duties shall until the new Vice-Chairperson assumes office, or the existing Vice-Chairperson discharged by such other Member as the President may direct.

9. Special provision for retired persons appointed as Chairperson, Vice-Chairperson and other Members of the Commission:

Where any person, being a retired Judge of the Supreme Court or of a High Court or a retired government servant or retired servant of any other institution or autonomous body and in receipt of a pension in respect of any previous service is appointed as a Chairperson, Vice-Chairperson or a Member, the salary admissible to him under these rules shall be reduced by the amount of that pension and if he had received in lieu of a portion of the pension the commuted value thereof, by the amount of that portion of the pension.

10. Resignation and Removal—(1) The Chairperson and Vice-Chairperson and any other Member may, by notice in writing under his hand addressed to President, resign his post.

(2) (a) The Chairperson shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed by in sub-clause (j) of clause (1) of article 145 of the Constitution, reported that the Chairperson ought on any such ground to be removed.

(b) The President may suspend from office the Chairperson in respect of whom a reference has been made to the Supreme Court under this sub-rule until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(c) Notwithstanding anything in clause (a) the President may by order remove from office the Chairperson if the Chairperson,

- (i) is adjudged an insolvent: or
- (ii) engaged during his term of office in any paid employment outside the duties of his office ; or
- (iii) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body :

Provided that the Chairperson shall not be removed under this clause until he has been given a reasonable opportunity of being heard in the matter.

(d) If the Chairperson is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (a) be deemed to be guilty of misbehaviour,

- (3) The President shall remove a person from the office of Vice-Chairperson or Member if that person—
- (a) becomes an undischarged insolvent:
 - (b) gets convicted and sentenced to imprisonment for an offence which on the opinion of the President involves a moral turpitude.
 - (c) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body ;
 - (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 President, has so abused the position of Vice-Chairperson or Member as to render that person's continuance in office detrimental to the interests of the Scheduled Castes or Scheduled Tribes :

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

[F. No. 13012/2/90-SCD. VI]

T. MUNIVENKATAPPA, Jt. Secy.