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PART I

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

Notification

The 29th November, 2011

No. 46-Leg./2011:—The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 21st November, 2011, is hereby published for general information :—

THE PUNJAB STATE COMMISSION FOR NON-RESIDENT
INDIANS ACT, 2011

(Punjab Act No. 33 of 2011)

AN

ACT

to provide for the Constitution of a Commission for Non-resident Indians with a view to protecting and safeguarding the interests of the Non-resident Indians in the State of Punjab, and to recommend remedial measures for their welfare and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Sixty-second Year of the Republic of India, as follows :—

1. (1) This Act may be called the Punjab State Commission for Non-resident Indians Act, 2011. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

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

Definitions.

- (a) "Chairperson" means the Chairperson of the Commission ;
- (b) "Commission" means the Punjab State Commission for Non-resident Indians constituted under section 3 ;
- (c) "complaint" means all petitions or communications received in the Commission from a Non-resident Indian or from any other person on his behalf, in person or by post or by telegram or by fax or by any other means whatsoever, alleging, disputes or violations or abetment thereof or negligence in the prevention of such dispute or violation, by a public servant or a private person or providing material on the basis of which the Commission takes *suo-motu* cognizance ;

- (d) "Government" means the Government of the State of Punjab in the Department of Non-resident Indians Affairs ;
- (e) "Member" means a member of the Commission and includes the Chairperson and the Secretary ;
- (f) "Non-resident Indians" means a person of Indian origin, who is either permanently or temporarily settled outside India, in either case—
- (i) for or on taking up employment outside India; or
 - (ii) for carrying on a business or vocation outside India; or
 - (iii) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for an uncertain period; and
- (g) "prescribed" means prescribed by rules made under this Act.

Constitution
of the
Commission.

3. (1) The Government shall, by notification, constitute a body to be known as the Punjab State Commission for Non-resident Indians to exercise the powers conferred upon and perform the functions assigned to it under this Act.

(2) The Commission shall consist of—

- (a) a Chairperson, who shall be a retired judge of the High Court ;
- (b) one Member who is, or has been an IAS Officer, not below the rank of Principal Secretary or Financial Commissioner to be appointed by the Government ;
- (c) one Member who is, or has been an IPS Officer, not below the rank of Additional Director General of Police to be appointed by the Government ;
- (d) two members shall be nominated by the Government from amongst the persons having knowledge of, or practical experience in matters and issues relating to Non-resident Indians; and
- (e) there shall be a Secretary (ex-cadre from PCS Executive), who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission.

4. The Headquarters of the Commission shall be located at Chandigarh. Headquarter of the Commission.

5. The Chairperson and other Members shall be appointed by the Government. Appointment of Chairperson and other Members of the Commission.

6. The Chairperson and Members shall hold office for a term of three years from the date on which they enter upon their office or until they attain the age of seventy years, whichever is earlier : Term of office of Chairperson and Members.

Provided that the Government may extend the term of office of the Chairperson or the Members for a further period of two years, but, the term shall not be extended beyond a period of five years.

7. (1) The Chairperson or Member may, by way of notice in writing under his hand addressed to the Government, resign his office. Resignation and removal of Chairperson or Member.

(2) Notwithstanding anything contained in sub-section (1), the Government may by order remove from the office of the Chairperson or any other Member, as the case may be, if he—

(a) is adjudged an insolvent ; or

(b) engages during his term of office in any paid employment outside the duties of his office ; or

(c) is unfit to continue in office by reason of infirmity of mind or body ; or

(d) is of unsound mind and stands so declared by a competent court ; or

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

8. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Government may, by notification, authorize one of the Members to act as the Chairperson until the appointment of a new Chairperson. Member to act as Chairperson or to discharge his functions in certain circumstances.

(2) When the Chairperson is unable to discharge his functions owing to absence or leave or otherwise, such one of the Members as the Government may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of service of Chairperson and Members.

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

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or Member shall be varied to his disadvantage after his appointment.

Officers and other staff of Commission

10. (1) The Government shall make available to the Commission an officer of PCS (Executive) cadre, who shall be the Secretary of the Commission.

(2) Subject to such rules as may be made by the Government in this behalf, the Commission may appoint such other administrative and technical staff, as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2), shall be such as may be prescribed.

Vacancies etc. not to invalidate proceedings of the Commission.

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

Powers and functions of the Commission.

12. (1) The Commission shall, while investigating any matter under this Act, 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 and examining him on oath ;
- (b) requiring the discovery and production of any documents ;
- (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.

(2) The Commission shall perform its functions by holding "sittings" and "meetings" at any place within the State of Punjab.

(3) The Members of the Commission including the Chairperson shall function in accordance with the rules framed under this Act.

13. The Government shall consult the Commission on all major policy matters affecting Non-resident Indians.

Government to consult the Commission.

14. The Commission may conduct inquiry or investigation into the matters falling within its authority :—

Power of the Commission to utilize the services of certain officers and investigating agencies for conducting investigation.

- (a) either directly ; or
- (b) through an investigating team constituted by the Commission; or
- (c) through the Deputy Commissioner of the district concerned ; or
- (d) through the Government.

15. No statement made by a person in the course of giving evidence before the Commission, shall be used against him in any civil or criminal proceedings, except for prosecuting him for giving false evidence :

Statement made by persons to the Commission.

Provided that the statement,—

- (a) is made in reply to a question, which is required by the Commission to answer, or
- (b) is relevant to the subject matter of the inquiry.

16. No suit, prosecution or other legal proceedings shall lie against any Member 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 or order made there under.

Protection of acts done in good faith.

Grants by
the State
Government.

17. (1) The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants from the Consolidated Fund of the State, such sums of money, as the State Government may consider appropriate for being utilized for the purposes of this Act.

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

Accounts and
Audit.

18. (1) The Commission shall maintain proper accounts and other relevant record and prepare annual statement of accounts in such form, as may be prescribed.

(2) The accounts of the Commission shall be audited by the Local Funds Examiner, Punjab, within three months after the close of each financial year and any expenditure in connection with such audit, shall be payable by the Commission to the Local Funds Examiner, Punjab.

(3) The accounts of the Commission, as certified by the Local Fund Examiner, Punjab, together with the audit report thereon, shall be forwarded annually to the Government by the Commission.

Annual
Report.

19. 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
and Audit
report to be
laid before
the State
Legislature.

20. 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 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 State Legislature.

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

21. The Chairperson, 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.

Penalty.

22. Whoever being legally bound to obey any order of the Commission under section 12 or the order of an officer or investigating agency referred to in section 14, intentionally omits to do so or furnishes false information, shall, on conviction, be punished under sections 174, 175, 176, 177, 178, 179 and 180 of the Indian Penal Code, as the case may be.

23. No court shall take cognizance of an offence specified in section 22, except on a complaint in writing of the Chairperson or a Member or an officer, authorized by the Chairperson in this behalf.

Cognizance
of the
offences.

24. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every rule made under this section, shall be laid, as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten 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 successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees 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, however any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

25. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make such provision including an adoption or modification of any provision of this Act, as appears to the Government to be necessary or expedient for the purpose of removing the difficulty :

Power to
remove
difficulties.

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

GOBINDER SINGH,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.