

AS INTRODUCED IN THE RAJYA SABHA
ON THE 28TH JULY, 2006.

Bill No. LIII of 2006

THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS
(AMENDMENT) BILL, 2006

A

BILL

to amend the Commissions for Protection of Child Rights Act, 2005.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Commissions for Protection of Child Rights (Amendment) Act, 2006.

Short title
and
commence-
ment.

5 (2) It shall come into force with immediate effect.

4 of 2006. **2.** In section 3 of the Commissions for Protection of Child Rights Act, 2005 (herein after referred to as the Principal Act), in sub-section (2),—

Amendment
of section 3.

(i) in clause (a), for the word “person”, the word “woman” shall be substituted;

10 (ii) in clause (b), for the words “at least two shall be women”, the words “at least four shall be women” shall be substituted;

(iii) in clause (b), the following proviso shall be inserted, namely:—

“Provided that each member shall have at least ten years of experience in the prescribed field.”

- Amendment of Section 4. **3.** In section 4 of the principal Act, for the existing proviso the following proviso shall be substituted, namely:—
- "Provided that the Chairperson and the members of the Commission shall be appointed on the recommendations of a Committee consisting of the Prime Minister, Leaders of the Opposition in the Rajya Sabha and Lok Sabha and the Ministers of Home Affairs and Human Resource Development."
- Amendment of Section 13. **4.** In section 13 of the principal Act, in sub-section (1), after clause (e) the following clause shall be inserted, namely:—
- "(ee) look into the matters relating to children in need of special education and health care particularly the mentally and physically challenged children."
- Amendment of Section 17. **5.** In section 17 of the principal Act,—
- (i) in sub-section (1) for the word 'may', the word 'shall' shall be substituted
- (ii) in sub-section (2),—
- (a) in clause (a) for the word 'person', the word 'woman' shall be substituted;
- (b) in clause (b) for the words "at least, two shall be women", the words "at least, four shall be women" shall be substituted.
- (iii) in clause (b), the following proviso shall be inserted, namely:—
- "Provided that each member shall have at least ten years of experience in the prescribed field."
- Amendment of Section 18. **6.** In section 18 of the principal Act, for the existing proviso, the following proviso shall be substituted, namely:—
- "Provided that the Chairperson and members of the Commission shall be appointed on the recommendations of a committee consisting of the Chief Minister, Leader of Opposition in the Legislative Assembly and the Ministers in charge of Departments of Home and Child Welfare."

STATEMENT OF OBJECTS AND REASONS

The Commissions for Protection of Child Rights Act, 2005 was enacted by Parliament in December, 2005. The Act deals with the constitution of a National Commission and State Commissions for protection of child rights and children's courts for providing speedy trial of offences against children or of violation of child rights. It is a well known fact that it is the mother who understands the child better than anyone else. But, the women have not been given adequate and desired representation in the scheme of the Commissions for Protection of Child Rights Act, so much so that even the post of Chairperson of the Commission has not been reserved for a woman. It has been felt by the public at large that women should be given a major and significant role in the functioning of the Commission. For this, at least, four of the six members of the commission should be women besides the chairperson who should always be a woman. Further, the Act does not prescribe for any experience to become a member of the Commission. It is also desirable that the members of a Commission should not be appointed without possessing adequate experience in the prescribed field. Hence, it is proposed that the members to be appointed to the Commission must have, at least, ten years of experience in the respective field. Further, apprehensions have also been expressed regarding independence of the Commission in view of the provisions in the Act for appointment of the Chairperson and the members of the Commission. In order to make the Commission more independent, it would be appropriate if the Chairperson and members are appointed on the recommendation of a Committee consisting of the Prime Minister, Leaders of Opposition in Rajya Sabha and Lok Sabha and the Ministers of Home Affairs and Human Resource Development. Similar provisions have been proposed in the Bill for State Commissions also.

Section 17 of the Bill empowers the State Governments to constitute State Commissions for protection of child rights. The word used in this section is 'may' which gives a wide discretion to the State Governments which may or may not constitute the Commission. The experience in this regard is not very encouraging, as many of the State Governments did not constitute the Commissions under different enactments where similar provisions exist. Therefore, it is felt that there should be a mandatory provision for the States to constitute State Commissions for the welfare and development of the children all over the country. An amendment has been proposed in the Act accordingly. Concerns have also been expressed with regard to matters pertaining to educational and health care of the children, particularly the mentally and physically challenged children. Therefore, it is proposed that the Commission should also look after these issues.

The Bill seeks to achieve the above objective by amending the relevant provisions of the Act.

VIJAY J. DARDA

ANNEXURE

EXTRACTS FROM THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

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THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

Constitution
of National
Commission
for
Protection of
Child Rights.

3. (1) The Central Government shall, by notification, constitute a body to be known as the National Commission for Protection of Child Rights to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of the following Members, namely:—

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in,—

(i) education;

(ii) child health, care, welfare or child development;

(iii) juvenile justice or care of neglected or marginalized children or children with disabilities;

(iv) elimination of child labour or children in distress;

(v) child psychology or sociology; and

(vi) laws relating to children.

Appointment
of
Chairperson
and Members.

(3) The office of the Commission shall be at Delhi.

4. The Central Government shall, by notification, appoint the Chairperson and other Members:

Provided that the Chairperson shall be appointed on the recommendation of a three member Selection committee constituted by the Central Government under the Chairmanship of the Minister in-charge of the Ministry of Human Resource Development.

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CHAPTER III

Functions of
Commission.

FUNCTIONS AND POWERS OF THE COMMISSION

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

(a) examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;

(b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;

(c) inquire into violation of child rights and recommend initiation of proceedings in such cases;

(d) examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;

(e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;

(f) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;

(g) undertake and promote research in the field of child rights;

(h) spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;

(i) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;

(j) inquire into complaints and take *suo motu* notice of matters relating to,—

(i) deprivation and violation of child rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children,

or take up the issues arising out of such matters with appropriate authorities; and

(k) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

(2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

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17. (1) A State Government may constitute a body to be known as the.....
(name of the State) Commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

Constitution
of State
Commission
for
Protection of
Child Rights.

(2) The State Commission shall consist of the following members, namely:—

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the State Government from amongst persons of eminence, ability, integrity, standing and experience in,—

(i) education;

(ii) child health, care, welfare or child development;

(iii) juvenile justice or care of neglected or marginalized children or children with disabilities;

- (iv) elimination of child labour or children in distress;
- (v) child psychology or sociology; and
- (vi) laws relating to children.

(3) The headquarter of the State Commission shall be at such place as the State Government may, by notification, specify.

Appointment
of
Chairperson
and other
Members.

18. The State Government shall, by notification, appoint the Chairperson and other Members:

Provided that the Chairperson shall be appointed on the recommendation of a three Member Selection Committee constituted by the State Government under the Chairmanship of the Minister in-charge of the Department dealing with children.

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RAJYA SABHA

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BILL

to amend the Commissions for Protection of Child Rights Act, 2005

(Shri Vijay J. Darda, M.P.)