

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY No. 2

GOVERNMENT OF GOA

Department of Women & Child Development

Notification

2-61(1)-97/ICDS/637(A)

The Goa State Commission for Children
Rules, 2004

In exercise of the powers conferred by section 37 read with sub-sections (1) to (6) (both inclusive) of section 13 and section 38 of the Goa Children's Act, 2003 (Goa Act 18 of 2003) and all other powers conferred by the said Act, the Government of Goa hereby makes the following rules, namely:—

CHAPTER - I

Preliminary

1. *Short title and commencement.*— (1) These rules may be called the Goa State Commission for Children Rules, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*— (1) In these rules, unless the context otherwise requires:

(a) "Act" means the Goa Children's Act, 2003 (Goa Act 18 of 2003);

(b) "Chairperson" means the Chairperson of the Commission and "Vice Chairperson" means the Vice Chairperson of the Commission;

(c) "Commission" means the Goa State Commission for Children;

(d) "Committee" means the Committee for administration of the Fund, established under rule 16;

(e) "Fund" means the Children's Fund established under rule 15;

(f) "section" means the section of the Act.

(2) Words and phrases used but not defined herein shall have the same meaning as assigned to them under the Act.

CHAPTER - II

The State Commission for Children

3. *Constitution of State Commission for Children.*— (1) The Government of Goa hereby constitutes a State Level Authority to be called the "State Commission for Children" to exercise the powers conferred upon, and to perform the functions assigned to the Commission under the Act;

(2) The Commission shall consist of:

(a) a Chairperson who is qualified with a degree and has a distinguished and eminent record of at least five years, in promoting the welfare and development of children;

(b) a Vice-Chairperson elected by the Members from amongst themselves;

(c) one Member, who is an eminent educationist specially in the field of school education;

(d) one Member, who is an eminent child specialist in the area of children's health;

(e) two Members with proven commitment and contribution in the area of child rights and child welfare, particularly in the area of child labour, child abuse and street children;

(f) one Member who is qualified and experienced in the field of law, in particular relating to children's issues, juvenile justice and welfare homes;

(g) one Member who is an experienced and qualified counsellor or psychologist having experience in child psychology;

(3) The Chairperson and the Members shall be appointed by the State Government;

(4) Members will elect a Vice-Chairperson from amongst themselves, who will exercise all the powers of the Chairperson in his or her absence.

(5) There shall be a Member-Secretary of the Commission to be nominated by the State Government who shall be an officer of the Civil Service of the State with appropriate experience, not below the rank of the Joint Secretary in the Government;

(6) As far as possible the majority of Members shall be women;

(7) The Headquarters of the Commission shall be in Panaji.

(4) *Removal of a Chairperson and Member of the Commission.*— The State Government may, by order, remove from the office the Chairperson, or any other Member if the Chairperson, or such other Member, as the case may be,—

(a) becomes an undischarged insolvent;

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

(c) becomes of unsound mind and stands so declared by a competent court; or

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

(e) is convicted and sentenced to imprisonment for an offence which in the

opinion of the State Government, involves moral turpitude; or

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

(g) in the opinion of the State Government has so abused the position of the Chairperson or Member so as to render that person's continuance in office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such Chairperson or Member:

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

5. *Term of office of the Chairperson, and Members of the Commission.*— (1) A Chairperson and every Member shall hold office for a term of three years from the date on which he assumes office.

(2) The Chairperson or Member may, at any time, in a communication in writing addressed to the Member-Secretary resign from office.

(3) Any vacancy that is caused shall be filled in by fresh appointment and the persons so appointed shall hold office for the remainder of the term of office of the person in whose vacancy such person has been appointed:

Provided that if the vacancy of a Member, other than that of the Chairperson, occurs within three months preceding the date on which the term of office of the Member expires, the vacancy shall not be filled in.

(4) A person appointed as a Member shall be eligible for re-appointment for another term of three years:

Provided no appointment is made if the Member is beyond 65 years of age.

6. *Vacancies etc. not to invalidate proceedings of the Commission.*— No act or proceedings of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the Constitution of the Commission.

7. *Procedure to be regulated by the Commission.*— (1) The Commission shall meet at such

time and place as the Chairperson or the Vice-Chairperson in the absence of Chairperson, may deem fit.

(2) The Commission shall meet at least once a month, in normal circumstances.

(3) The Commission shall regulate its own procedure.

(4) All orders of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorized by the Commission in this behalf.

8. *Officers and other staff of the Commission.*— The State Government shall make available to the Commission,—

(a) an officer not below the rank of Class I who shall be the Member-Secretary of the Commission; and

(b) such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

9. *Salaries and Allowances of Member Secretary and other staff.*— The administrative expenses including salaries, allowances and pensions, payable to the Member-Secretary and other officers and staff of the Commission shall be paid out of the grants placed at the disposal of the Commission by the State Government.

CHAPTER - III

Functions of the Commission

10. *Functions of the Commission.*— The Commission shall, in addition to the functions laid down in sub-section (5) of section 13 of the Act, perform all or any of the following functions:—

(a) review and monitor all services in the area of children's health, education, well-being and rehabilitation of child victims (be it in the area of child labour, trafficking, child abuse or any other inhuman treatment of children) in order to promote the fulfillment of children's rights to protection, survival and the full development in all areas physical, social and psychological;

(b) frame plan of action and schemes for more effective implementation of this Act and for the

promotion of the rights of children particularly street children, children in difficult circumstances, child victims of abuse, differently abled children, etc.;

(c) initiate and encourage study, research and documentation about child abuse and labour and offences committed by and against the child and make appropriate recommendations including legal processes to develop a child friendly jurisprudence which will respond to the best interest of the child;

(d) initiate and sustain representation and participation of all children, including street and other marginalized children, in its approach, formulation and execution of policies and programmes.

11. *Investigation.*— The Commission shall call for investigations into specific problems or situations arising out of discrimination and atrocities committed against children and identify the constraints, so as to recommend strategies for their removal.

CHAPTER IV

Procedure

12. *Inquiry into complaints against atrocities committed against children.*— (1) The Commission while inquiring into the complaints against atrocities committed against children or of violations of child rights may call for information or report from the State Government or any other authority or organization subordinate thereof within such reasonable time as may be specified by it:

Provided that—

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(2) Where the Commission is of the opinion that the atrocities committed against children

requires to be investigated it may initiate an inquiry.

13. *Powers relating to Inquiries.*— (1) The Commission shall, while inquiring into complaints under rule 12, have all the powers as that of a Civil Court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely:

(a) summoning and enforcing the attendance of witnesses and examining them upon oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; and

(e) issuing commissions for the examination of witnesses or documents.

(2) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(3) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilized under sub-rule (2) may, subject to the direction and control of the Commission—

(a) summon and enforce the attendance of any person and examine him;

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

(c) requisition any public record or copy thereof from any office;

(4) The officer or agency whose services are utilized under sub-rule (2) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-rule (4) and for this

purpose the Commission may make such inquiry as it thinks fit.

(6) No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in any civil or criminal proceeding except at the prosecution for giving false evidence by such statement:

Provided that the statement—

(a) is made in reply to the question which he is required by the Commission to answer; or

(b) is relevant to the subject matter of the inquiry.

(7) If, at any stage of the inquiry, the Commission—

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry; it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence.

14. *Steps after inquiry.*— (1) The Commission shall take following steps on the completion of an inquiry held under rule 13,—

(a) send a copy of its inquiry report with its recommendation to the Government or concerned authority and the Government or the concerned authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(b) the Commission shall publish its inquiry report together with the comments of the Government or concerned authority, if any, and the action taken or proposed to be taken by the Government or concerned authority on the recommendations of the Commission in the Official Gazette; and

(c) subject to the provisions of clause (b), provide a copy of the inquiry report to the complainant or his representative;

(2) Where the inquiry discloses commission of atrocities or a violation of child rights of a serious nature and in contravention of provisions of the Act the Commission may,—

(a) recommend to the Government or the concerned authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(b) grant such relief from the fund to the victim or the members of his family as the Commission may deem proper.

(c) recommend to the Government or concerned authority for the grant of such immediate relief to the victim or the members of his family as the Commission may consider appropriate.

CHAPTER V

The Children's Fund

15. *The Children's Fund.*— (1) There shall be established a Fund, to be called "the Children's Fund", and there shall be credited thereto,—

(a) grants or advances made by the Central Government;

(b) grants or advances made by the State Government;

(c) any sum received by way of penalties or fines realized under the Act;

(d) any grant received from international bodies like United Nations;

(e) any fee paid to the State Government under the provisions of the Act;

(f) voluntary donations, contributions, subscriptions received from members of the public or any organizations in Goa and

(g) income derived from investment.

(2) The Fund shall vest in the Commission.

16. *Committee for administration of the Fund.*—

(1) The Commission shall constitute a Committee to advise the Commission on the matters of administration of the Fund including matters relating to the application of the Fund. Member-Secretary of the Commission shall be the Member-Secretary of the Committee.

(2) The Chairperson of the Commission shall be the Chairperson of the Committee.

(3) The Commission shall appoint two members on the Committee from amongst the Members of the Commission by rotation.

(4) The term of the Chairperson and the members of the Committee shall be co-terminus with their term of office as the Chairperson and Members of the Commission.

(5) The Director, Directorate of Women & Child Development and the Joint Secretary to the Government in the Finance Department shall be the *Ex Officio* members of the Committee.

(6) The Committee may, at any time and for such period as it thinks fit, co-opt any person or persons for getting necessary input and information needed for deciding application of the Fund.

(7) The co-opted members shall attend the meeting, but shall not entitled to vote.

(8) The co-opted members shall be paid daily and travelling allowance as may be admissible to the Class I Officers of the State Government.

17. *Application of Fund.*— (1) Subject to the directions given by the Commission, the Committee shall administer the Fund for,—

(a) setting up of Children's Home and shelter;

(b) running of Children's Home and shelter;

(c) disbursement of the compensation to the child victim;

(d) conducting training programmes or any other programmes for meeting the objectives of the Act and these rules;

(e) conducting surveys and studies as directed by Commission; and

(f) any other expenditure that may be incurred for the purpose of the Act.

(2) The Member-Secretary of the Commission shall be the drawing and disbursing officer of the Fund and shall be responsible for keeping the proper accounts relating to income and expenditure out of the Fund.

18. *Mode of payment.*— (1) All payments from the Fund amounting to,

(a) rupees five hundred shall be made in cash;

(b) more than rupees five hundred shall be made by cheque:

Provided the Commission may in any particular case, for any special reasons, authorized the payment of an amount exceeding rupees five hundred in cash.

(2) All cheques shall be issued under the signature of the Member-Secretary of the Commission or such other officer as the Commission may by general or special order direct.

19. *Accounts of Fund.*— All money and receipts forming part of the Fund shall be deposited in the State Bank of India or any other Scheduled Bank as may be directed by the Commission.

CHAPTER VI

Funds — Accounts and Audit

20. *Grants by the State Government.*— (1) The State Government shall, after due appropriation made by Legislature 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 utilized by the Commission for carrying out its functions under the Act and these rules.

(2) The Commission may spend such sums as it thinks fit for performing its functions under the Act and Rules.

21. *Accounts and Audit.*— (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in the format laid down by the Director of Accounts.

(2) The annual accounts of the Commission shall be audited by the Director of Accounts 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 Director of Accounts.

(3) The Director of Accounts or any person appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and the authority in connection with such audit as the Director of Accounts has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, 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 Director of Accounts 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 and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

22. *Annual and special reports of the Commission.*— (1) The Commission shall submit an annual report on its activities and on the administration of the Fund to the State Government and may, at any time, submit special reports on any matter, which in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the Commission to be laid before the State Legislature, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

CHAPTER - VII

Miscellaneous

23. *Matters not subject to Jurisdiction of the Commission.*— The Commission shall not inquire into any matter which is pending before any other Commission duly constituted under any law for the time being in force.

24. *Protection of action taken in good faith.* — No suit or other legal proceeding shall lie against the Commission or any Member thereof or any person acting under the direction of the Commission in respect of anything which is, in good faith, done or intended to be done in pursuance of the Act or these rules or order made thereunder, or in respect of the publication by or under the authority of the Commission of any report, paper or proceedings.

25. *Members and officers to be public servants.*— Every Member of the Commission and every officer appointed or authorized by the Commission to exercise functions under these rules shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

By order and in the name of the Governor of Goa.

H. D. Mashelkar, Director (Women & Child Development)/ex officio Jt. Secretary.

Panaji, 7th July, 2004.

Notification

2-61(1)-97/I. C. D. S./637(B)

In exercise of the powers conferred by section 37 read with sub-sections (2) and (3) of section 29, section 32 and section 38 of the Goa Children's Act, 2003 (Goa Act 18 of 2003) and all other powers conferred by the said Act in this behalf, the Government of Goa hereby makes the following Rules, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Children's (Court) Rules, 2004.

(2) They shall come into force at once.

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

(a) "Act" means the Goa Children's Act, 2003 (Act 18 of 2003);

(b) "Jury" means Jury of the Court referred to in clause (b) of section 28;

(c) "Court" means the Children's Court constituted under sub-section (1) of section 27;

(d) "Section" means the section of the Act;

(e) "President" means the President of the Court appointed by the State Government under clause (a) of section 28.

Words and expressions used in these rules but not defined shall have the same meaning as assigned to them under the Act.

3. *Appointment of Members of Jury.*— (1) The State Government shall appoint not less than three members of the Jury.

(2) At least two members of the Jury shall be women.

(3) No member of the Jury shall be appointed unless he/she has been actively involved in health, education, child care or welfare activities pertaining to children for not less than seven years or has a special knowledge and training in child psychology.

4. *Term of office and other conditions of Members of Jury.*— (1) The term of office of member of the Jury shall be three years.

(2) The members of the Jury shall be entitled to an honorarium of Rs. 400/- per effective hearing of the Court daily and travelling allowances as applicable to Class I officers of the State Government.

(3) No person will be appointed as a member of the Jury for more than two terms.

5. *Salary, Allowances and Other conditions of Service of the President.*— Salary, allowances and other terms of conditions of service of the President shall be governed by service rules framed by the State Government for the members of the State Judiciary, from time to time.

6. *Termination of Appointment of Members of Jury.*— The appointment of any member of the Jury may be terminated after holding an inquiry, by the State Government, if—

(a) he has been found guilty of misuse of power vested under the Act;

(b) he has been convicted of an offence involving moral turpitude; and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(c) he fails to attend the proceedings of the Court for consecutive three months without any valid reason or he fails to attend atleast three-fourth of the sitting in a year.

7. *Procedure of the Court.*— (1) The Court shall be presided over by the President.

(2) The quorum for the proceedings of the Court shall be the President and one member of the Jury.

(3) The Court shall meet at such times and observe such rules of conduct as the President, in consultation with the High Court, lays down.

(4) A child victim or a child in conflict with law may be produced before an individual member of the Jury or the President, when the Court is not sitting.

(5) The Court may act notwithstanding the absence of any member of the Jury, and no order made by the Court shall be invalid by reason only of the absence of any member during any stage of proceedings:

Provided that there shall be at least two members including the President present at the time of final disposal of the case.

(6) In the event of any difference of opinion among the members of the Jury in the interim or final disposition, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the President shall prevail.

8. *Procedure to be followed by a Magistrate not empowered under the Act.*— (1) When any

Magistrate not empowered to exercise the powers of the Court under the Act is of the opinion that a person brought before him under any of the provisions of the Act (other than for the purpose of giving evidence), is a child, he shall without any delay record such opinion and forward the child and the record of the proceedings to any member of the Jury or to the President of the Court or to the Competent Authority under the Act.

(2) The Competent Authority to which the record of the proceedings is forwarded under sub-rule (1) shall hold the inquiry as if the child has been brought before him originally and if found fit refer the child to the Court for necessary action.

9. *Proceedings to be conducted in child friendly atmosphere.*— (1) The President shall follow a procedure which is child friendly and in the best interest of the child while examining any child who is a victim of any crime or accused of or a witness to any crime, and shall give such instructions to the members of the Jury and members of legal profession appearing before him, as he deems fit.

(2) The President may, where necessary, issue general instructions in this behalf and duly notify them in the Official Gazette.

By order and in the name of the Governor
of Goa.

H. D. Mashelkar, Director (Women & Child
Development)/ex officio Jt. Secretary.

Panaji, 7th July, 2004.