

Bill No. 147 of 2018

THE PROTECTION OF HUMAN RIGHTS (AMENDMENT)
BILL, 2018

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BILL

further to amend the Protection of Human Rights Act, 1993.

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

1. (1) This Act may be called the Protection of Human Rights (Amendment) Act, 2018. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

10 of 1994. 2. In the Protection of Human Rights Act, 1993 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(i) after clause (b), the following clause shall be inserted, namely:—

10 (ba) “Chief Commissioner” means the Chief Commissioner for Persons with Disabilities referred to in sub-section (1) of section 74 of the Rights of
49 of 2016. Persons with Disabilities Act, 2016;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

‘(ga) “National Commission for Backward Classes” means the National Commission for Backward Classes constituted under section 3 of the National Commission for Backward Classes Act, 1993;’ 27 of 1993.

(iii) after clause (h), the following clause shall be inserted, namely:— 5

‘(ha) “National Commission for Protection of Child Rights” means the National Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005;’. 4 of 2006.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (2),— 10

(i) in clause (a), for the words “Chief Justice”, the words “Chief Justice of India or a Judge” shall be substituted;

(ii) in clause (d), for the words “two Members”, the words “three Members, out of which at least one shall be a woman,” shall be substituted;

(b) in sub-section (3),— 15

(i) for the words “the National Commission for Minorities”, the words “the National Commission for Backward Classes, the National Commission for Minorities, the National Commission for Protection of Child Rights” shall be substituted;

(ii) for the words “and the National Commission for Women”, the words “the National Commission for Women and the Chief Commissioner for Persons with Disabilities” shall be substituted; 20

(c) in sub-section (4), for the portion beginning with “shall exercise such powers and discharge such functions” and ending with “as the case may be”, the following shall be substituted, namely:— 25

“shall, subject to control of the Chairperson, exercise all administrative and financial powers [except judicial functions and the power to make regulations under section 40B]”.

Amendment
of section 6.

4. In section 6 of the principal Act,—

(i) in sub-section (1),— 30

(a) for the words “five years from the date”, the words “three years from the date” shall be substituted;

(b) after the words “whichever is earlier” occurring at the end, the words “and shall be eligible for re-appointment” shall be inserted;

(ii) in sub-section (2),— 35

(a) for the words “five years from the date”, the words “three years from the date” shall be substituted;

(b) the words “for another term of five years” occurring at the end, shall be omitted.

Amendment
of section 21.

5. In section 21 of the principal Act,— 40

(i) in sub-section (2), in clause (a), for the words “Chief Justice”, the words “Chief Justice or a Judge” shall be substituted;

(ii) in sub-section (3), for the words “shall exercise such powers and discharge such functions of the State Commission as it may delegate to him”, the words

“shall, subject to control of the Chairperson, exercise all administrative and financial powers of the State Commission” shall be substituted;

(iii) after sub-section (6), the following sub-sections shall be inserted, namely:—

5 “(7) Subject to the provisions of section 12, the Central Government may, by order, confer upon such State Commission the functions relating to human rights being discharged by the Union territories, other than the Union territory of Delhi.

(8) The functions relating to human rights in case of Union territory of Delhi shall be dealt with by the Commission.”.

10 **6.** In section 24 of the principal Act,—

Amendment
of section 24.

(i) in sub-section (1),—

(a) for the words “five years from the date”, the words “three years from the date” shall be substituted;

15 (b) after the words “whichever is earlier” occurring at the end, the words “and shall be eligible for re-appointment” shall be inserted;

(ii) in sub-section (2),—

(a) for the words “five years from the date”, the words “three years from the date” shall be substituted;

20 (b) the words “for another term of five years” occurring at the end, shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Protection of Human Rights Act, 1993 (the Act) was enacted to provide for the constitution of a National Human Rights Commission (the Commission), the State Human Rights Commission (the State Commission) and the Human Rights Courts for protection of human rights.

2. The National Human Rights Commission has proposed certain amendments to the Act to address the concerns raised by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions on the re-accreditation status of the said Commission. Besides this, certain State Governments have also proposed for amendment of the Act, as they have been facing difficulties in finding suitable candidates to the post of Chairperson of the respective State Commissions owing to the existing eligibility criteria to the said post.

3. In view of the above, it has become necessary to amend certain provisions of the said Act. The proposed amendments will enable both the Commission as well as the State Commissions to be more compliant with the Paris Principle concerning its autonomy, independence, pluralism and wide-ranging functions in order to effectively protect and promote human rights.

4. The Protection of Human Rights (Amendment) Bill, 2018, *inter alia*, provides for—

(i) amendment of clause (a) of sub-section (2) of section 3 of the Act so as to provide that a person who has been a Judge of the Supreme Court is also made eligible to be appointed as Chairperson of the Commission in addition to the person who has been the Chief Justice of India;

(ii) amendment of clause (d) of sub-section (2) of section 3 of the Act to increase the Members of the Commission from two to three of which, one shall be a woman;

(iii) amendment of sub-section (3) of section 3 of the Act so as to include Chairperson of the National Commission for Backward Classes, Chairperson of the National Commission for Protection of Child Rights and the Chief Commissioner for Persons with Disabilities as deemed Members of the Commission;

(iv) amendment of sub-sections (1) and (2) of section 6 and sub-sections (1) and (2) of section 24 of the Act so as to reduce the term of the Chairperson and Members of the Commission and the State Commissions from five to three years; and shall be eligible for re-appointment;

(v) amendment of section 21 of the Act so as to provide that a person who has been a Judge of a High Court is also made eligible to be appointed as Chairperson of the State Commission in addition to the person who has been the Chief Justice of the High Court; and

(vi) insertion of new sub-sections (7) and (8) in section 21 of the Act so as to confer upon State Commissions the functions relating to human rights being discharged by the Union territories, other than the Union territory of Delhi, which will be dealt with by the Commission.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 18th July, 2018.

RAJNATH SINGH

FINANCIAL MEMORANDUM

Sub-clause (2) of clause 3 of the Bill provides for increasing one Member of the National Human Rights Commission. In addition to this, for the office of Member, one post each of Principal Private Secretary, Personal Assistant, Staff Car Driver and three posts of Multi-Tasking Staff would be created. The expenditure during the initial year for the creation of one post of Member along with the staff for the office of such Member is estimated to be approximately two crore rupees which will mainly be of a recurring nature.

2. The Bill does not involve any other expenditure of a recurring or non-recurring nature.

ANNEXURE

EXTRACTS FROM THE PROTECTION OF HUMAN RIGHTS ACT, 1993

(10 OF 1994)

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CHAPTER II

THE NATIONAL HUMAN RIGHTS COMMISSION

3. (1) * * * * *

Constitution of a National Human Rights Commission.

(2) The Commission shall consist of—

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

* * * * *

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

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(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission (except judicial functions and the power to make regulations under section 40B) as may be delegated to him by the Commission or the Chairperson, as the case may be.

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6. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

Term of office of Chairperson and Members.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

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CHAPTER V

STATE HUMAN RIGHTS COMMISSIONS

21. (1) * * * * *

Constitution of State Human Rights Commission.

(2) The State Commission shall, with effect from such date as the State Government may by notification specify, consist of—

(a) a Chairperson who has been a Chief Justice of a High Court;

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(3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

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24. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

Term of office of Chairperson and Members of the State Commission.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

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further to amend the Protection of Human Rights Act, 1993.

(Shri Rajnath Singh, Minister of Home Affairs)

MGIPMRND—1494LS(E)—07.08.2018.