

**THE JAMMU AND KASHMIR STATE FINANCE
COMMISSION FOR PANCHAYATS AND
MUNICIPALITIES ACT, 2011.**

(Act No. XVI of 2011)

[23rd April, 2011]

An Act to provide for constitution of a State Finance Commission to review the financial position of the Panchayats, Municipalities and suggesting measures thereof and matters connected therewith or incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title and commencement. – (1) This Act may be called the Jammu and Kashmir State Finance Commission for Panchayats and Municipalities Act, 2011.

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

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

- (a) “Act” means the Jammu and Kashmir State Finance Commission for Panchayats and Municipalities Act, 2011;
- (b) “Commission” means the State Finance Commission for Panchayats and Municipalities constituted under section 3 of the Act;
- (c) “Chairperson” means the Chairperson of the Commission;
- (d) “Government” means the Government of Jammu and Kashmir;
- (e) “Member” means a Member of the Commission and includes the Chairperson;
- (f) “Municipality” means the Municipal Corporation, Municipal Committee or a Municipal Council constituted under the Jammu and Kashmir

Municipal Corporation Act, 2000 or the Jammu and Kashmir Municipal Act, 2000, as the case may be;

- (g) “Notification” means a notification published in the Government Gazette;
- (h) “Panchayats” means Panchayati Raj Institutions constituted under the Jammu and Kashmir Panchayati Raj Act, 1989;
- (i) “Panchayati Raj Institution” means an institution by whatever name called, constituted under the Jammu and Kashmir Panchayati Raj Act, 1989;
- (j) “Prescribed” means prescribed by rules made under the Act.

CHAPTER II

Constitution

3. Constitution of the State Finance Commission for Panchayats and Municipalities. – (1) The Government shall, as soon as may be from the commencement of the Act, and thereafter at the expiration of every fifth year, constitute a “State Finance Commission for Panchayats and Municipalities” to review the financial position of Panchayats and Municipalities and to exercise the powers conferred upon and to perform the functions assigned to it, under the Act.

(2) The Commission shall consist of,—

- (a) a Chairperson who shall be an eminent economist with expertise in State finance, planning, rural development, panchayats and local bodies; and
- (b) such other members, not exceeding two, as the Government may appoint from amongst persons of repute having excelled in administration, planning, panchayats, municipalities, legal or academic fields.

(3) The Chairperson and the Members shall be appointed by the Government by notification.

(4) There shall be a Secretary to the Commission who shall be the Chief Executive Officer of the Commission to be appointed by the Government.

(5) The Secretary shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(6) The headquarters of the Commission shall be at such place as the Government may determine.

4. Term of office of Chairperson and Members. — (1) The Chairperson and Members shall hold office as such for a term of one year from the date on which they enter upon their office or until they submit the report to the Government or attain the age of sixty-five years, whichever is earlier:

Provided that the Government may for reasons to be recorded in writing, extend the term of the Commission for a period not exceeding six months:

Provided further that any member may, by writing under his hand, addressed to the Government, resign from the office.

(2) The salary, allowances and other conditions of service of Chairperson and a Member shall be such as may be prescribed from time to time:

Provided that if the Chairperson or a Member is at the time of his appointment eligible for, or in respect of, a pension in respect of any previous service, his salary in respect of service of Chairperson or a Member shall be reduced, —

- (a) by the amount of that pension; and
- (b) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

5. Member to act as Chairperson or to discharge his functions in certain circumstances. — (1) In the event of 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 to fill such vacancy for the remainder of the period.

(2) When the Chairperson is unable to discharge his functions owing to absence on 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 the Chairperson resumes his duties.

6. Removal of Chairperson and Members. — The Chairperson or any Member may be removed from the office on the

ground of proved misbehaviour or incapacity by the Government in the prescribed manner.

7. Vacancies etc. not to invalidate the proceedings of the Commission. — No act or proceedings of the Commission shall be questioned, or shall be invalidated, merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

8. Procedures to be regulated by the Commission. — (1) The Commission shall meet at such time and place as the Chairperson may deem fit.

(2) The Commission shall regulate its own procedure.

(3) The recommendations of the Commission shall be authenticated by the Secretary of the Commission.

9. Office and other staff of the Commission. — (1) The Government shall make available to the Commission an officer not below the rank of Additional Secretary to Government having cumulative experience of working in Panchayats, local bodies or any other such institution, as may be prescribed by the Government, who shall be the Secretary of the Commission.

(2) The Government shall provide such other administrative or technical staff to the Commission, as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff of the Commission shall be such as may be prescribed.

(4) Officers and staff of the Commission shall be under the administrative control of the Chairperson and shall not be transferred from the Commission without consulting the Commission.

CHAPTER III

Power and Functions of the Commission

10. The Commission shall perform all or any of the following functions and shall make recommendations to the Government as to:—

- (i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Panchayats at all levels of their respective shares of such proceeds;
- (ii) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;
- (iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

- (iv) the measures needed to improve the financial position of the Panchayats;
- (v) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
- (vi) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
- (vii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- (viii) the measures needed to improve the financial position of the Municipalities;
- (ix) any other matter referred to the Finance Commission by the Government in the interests of sound finance of Panchayats or Municipalities;
- (x) any other matter as may be referred to the Commission by the Government from time to time;
- (xi) any other matter as may be ancillary or incidental to any of the aforesaid functions.

11. Power to call for information and documents. — (1) The Commission may require any public servant or any other person who, in its opinion is able to furnish information or produce documents, relevant to the functions of the Commission, to furnish any such information or produce any such documents.

(2) Notwithstanding anything contained in the foregoing subsection, no person shall be required or authorized by virtue of the Act to furnish any such information or answer any such question or produce so much of any document as might, —

- (a) prejudice the security of the State; or
- (b) involve the disclosure of proceedings of the Cabinet of the State Government or any Committee of the Cabinet:

Provided that the privilege to this effect is claimed by the concerned person or functionary in accordance with the law.

12. Report of the Commission. — The Commission shall submit its report to the Government within the time prescribed.

CHAPTER IV

Finance, Accounts and Audit

13. Grants by the Government. — (1) The 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 Government may think fit for being utilized for the purposes of the Act.

(2) The Commission may spend such sums as it thinks fit for performing its functions under the Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

14. Accounts and audit of the Commission. — (1) The Commission shall maintain proper accounts and other relevant records and prepare statement of accounts in such form as may be prescribed.

(2) The accounts of the Commission shall be audited in the prescribed manner.

CHAPTER V

Miscellaneous

15. 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 the Act, shall be deemed to be public servant within the meaning of section 21 of the Ranbir Penal Code.

16. Protection of action taken in good faith. — No suit or legal proceeding shall lie against the Government, 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 of any rules or any order made thereunder.

17. Powers of the Government to make rules. — (1) The Government may, by notification, make rules for the purpose of carrying into effect the provisions of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

- (i) the other terms and conditions of service of the Members under sub-section (2) of section 4;
- (ii) the procedure for removal of Chairperson and Members under section 6;
- (iii) the form in which the statement of accounts is to be prepared under sub-section (1) of section 14;

- (iv) the manner of auditing the accounts of the Commission;
- (v) any other matter as is, or may be, required to be prescribed.

18. Power to remove difficulties. — If any difficulty arises in giving effect to the provisions of the Act, the Government may, by order published in the Government Gazette, make such provisions, not inconsistent with the provisions of the Act and the rules, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of the Act.
