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NOTIFICATION

No.H.12018/211/10-LJD/Pt, the 12th November, 2010. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Finance Commission Act, 2010 (Act No. 17 of 2010)

(Received the assent of the Governor of Mizoram on 26.10.2010.)

P. Chakraborty,

Commissioner/Secretary to the Govt. of Mizoram.

AN
ACT

to constitute a State Finance Commission and, to determine the qualifications requisite for appointment as members of the Finance Commission and the manner in which they shall be selected, and to prescribe their powers.

Whereas it is expedient to make all the local bodies of the state to have financial autonomy to further democratic decentralization for which constitution of a state finance commission to consider and recommend the principle which will govern the distribution of revenue between the state government and the local bodies is necessary;

And whereas Part IX exempted the state of Mizoram from its purview, and whereas Part IX-A of the Constitution of India exempted the tribal areas of the state of Mizoram from its purview;

And whereas it is expedient to constitute a single State Finance Commission for all the local bodies which will also be suitable to local bodies exempted by the afore mentioned provisions of the Constitution on the basis of the existing administrative arrangements to enable all the local bodies to have financial autonomy to perform functions analogous to the functions of other local bodies constituted under Constitution Part IX and Part IX-A while retaining the distinctive tribal identity protected by the Sixth Schedule to the Constitution of India which is foundational to the local bodies of the state;

It is enacted by the Legislature of the State of Mizoram in the Sixty first Year of the Republic of India as follows:-

1. **Short title.** (1) This Act may be called the Mizoram Finance Commission Act, 2010.

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

2. **Definitions;**

(a) "Commission" means the Mizoram Finance Commission constituted by the Governor pursuant to sub-section (1) of section 3 of this Act.

(b) "Governor" means the Governor of Mizoram;

(c) "members" of the Commission means members of the Mizoram Finance Commission including the chairperson, other members, and include the member-secretary appointed by the Governor pursuant to sub-section (1) of section 3 of this Act;

(d) "State" means the state of Mizoram;

(e) "State Government" means the Government of Mizoram;

(f) "State Legislative" means the Mizoram State Legislative Assembly;

3. Constitution of a State Finance Commission. (1) The Governor of Mizoram shall, as soon as may be within one year from the commencement of this Act, and thereafter at the expiry of every fifth year, constitute a body to be known as the Mizoram Finance Commission to review the financial position of the Village Councils, Municipalities or Municipal Boards notwithstanding any term by which urban local bodies are called in the state, and also the autonomous district councils as the Governor may deem it necessary and to make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the state and the Village Council/Municipalities/Municipal Boards/ the Autonomous district councils of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them to enable these bodies to perform the functions assigned, and which may be assigned, to it under any laws in force or orders, and the allocation between the Village Councils, municipalities and the autonomous district councils at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Village Councils, the municipalities, and the autonomous district councils;

(iii) the grant-in-aid to the Village Councils, the municipalities and, the autonomous district councils from the Consolidated Fund of Mizoram;

(b) the measures needed to improve the financial position of the Village Councils, the municipalities, and the autonomous district councils;

(c) any other matter referred to the Commission by the Governor in the interests of sound finances of the Village Councils, municipalities, and the autonomous district councils.

(2) The Governor shall cause every recommendation made by the Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the State Legislature.

4. The composition and qualifications for appointment as, and the manner of selection of, members of the commission. The Commission shall consist of-

(a) a Chairperson who shall be selected from among persons who have had experience in public affairs;

(b) and the members not exceeding four in numbers who shall be selected from among persons who-

(i) have special knowledge of the finances and accounts of Government; or

(ii) have had wide experience in financial matters and in administration; or

(iii) have special knowledge of economics.

5. **Personal interest to disqualify members.** Before appointing a person to be a member of the Commission, the Governor shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission; and the Governor shall also satisfy himself from time to time with respect to every member of the Commission that he has no such interest and any person who is, or whom the Governor proposes to appoint to be, a member of the Commission shall, whenever required by the Governor so to do, furnish to him such information as the Governor considers necessary for the performance by him of his duties under this section.

6. **Disqualifications for being a member of the Commission.** A person shall be disqualified for being appointed as, or for being, a member of the Commission,-

- (a) if he is of unsound mind;
- (b) if he is an undischarged insolvent;
- (c) if he has been convicted of an offence involving moral turpitude;
- (d) if he has such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission.

7. **Term of office of members and eligibility for reappointment.** Every member of the Commission shall hold office for such period as may be specified in the order of the Governor appointing him, but shall be eligible for reappointment;

Provided that he may, by letter addressed to the Governor, resign his office.

8. **Conditions of service and salaries and allowances of members.** The members of the Commission shall render whole-time or part-time service to the Commission as the Governor may in each case specify, and there shall be paid to the members of the Commission such fees or salaries and such allowances as the State Government may, by rules, determine.

9. **Procedures and powers of the Commission.**

(1) The Commission shall determine their procedure-

Provided that the Commission may consider for its adoption the template for reports of the State Finance Commissions recommended by the Thirteenth Finance Commission of India.

(2) The Commission, in the performance of their functions, shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the production of any document;
- (c) requisitioning any public record from any court or office;

(3) The Commission shall have power to require any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission and any person so required shall, notwithstanding anything contained in any law for the time being in force, be deemed to be legally bound to furnish such information within the meaning of the provisions of the Indian Penal Code (45 of 1860).