

West Bengal Act XXIV of 1973¹

THE DEPARTMENTAL PROCEEDINGS (ENFORCEMENT OF ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS) ACT, 1973.

[7th May, 1973.]

An Act to provide for the enforcement of attendance of witnesses and production of documents in certain departmental proceedings and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the enforcement of attendance of witnesses and production of documents in certain departmental proceedings and for matters connected therewith or incidental thereto;

It is hereby enacted in the twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Departmental Proceedings (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1973.

Short title and
extern.

(2) It extends to the whole of West Bengal.

2. The provisions of this Act shall apply to every departmental proceedings made in relation to—

Departmental
proceedings to
which the Act
shall apply.

(a) persons appointed to public services or posts in connection with the affairs of the State;

(b) persons who, having been appointed to any public service or post in connection with the affairs of the State, are in service or pay of,—

(i) any local authority,

(ii) any corporation owned or controlled by the State Government,

(iii) any Government company within the meaning of section 617 or the Companies Act, 1956, in which not less than fifty-one *per cent*, of the paid-up share capital is held by the State Government or any company which is a subsidiary of such-Government company,

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(iv) any society registered under the West Bengal Societies Registration Act, 1961, which is subject to the control of the State Government.

¹For Statement of Objects and Reasons, *see* the *Calcutta Gazette, Extraordinary*. Part IVA of the 12th March, 1973, page 651; for proceedings of the West Bengal Legislative Assembly, *see* the proceedings of meeting of the Assembly held on 17th April, 1973.

(Sections 3-5.)

Definitions.

3. For the purposes of [his Act,—

- (a) "departmental proceedings" mean proceedings held under and in accordance with—
 - (i) any law made by Parliament or by the State Legislature or any rule made under any such law, or
 - (ii) any rule made under the proviso to article 309, or continued under article 313, of the Constitution of India,
 into any allegation of lack of integrity, insubordination or dereliction of duty in any manner whatsoever, against any person to whom this Act applies;
- (b) "inquiring authority" means an officer or authority appointed by the State Government or by any officer or authority subordinate to that Government to hold departmental proceedings and includes any officer or authority who is empowered by or under any law or rule for the time being in force to hold such inquiry;
- (c) "lack of integrity" includes bribery or corruption.

4. (1) Where the State Government is of opinion that for the purposes of any departmental proceedings it is necessary to summon as witnesses, or call for any document from, any class or category of persons, it may, by notification in the *Official Gazette*, authorise the inquiring authority to exercise the power specified in section 5 in relation to any person within such class or category and thereupon the inquiring authority may exercise such power at any stage of the departmental proceedings.

Power of State Government to authorise the exercise of powers specified in section 5.

(2) The power conferred on the State Government by sub-section (1) may also be exercised by such authority, not being an authority inferior to the appointing authority in relation to the person against whom the departmental proceedings are being held, as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

5. (1) Every inquiring authority authorised under section 4 (hereinafter referred to as the "authorised inquiring authority") shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

Power of authorised inquiring authority to enforce attendance of witnesses and production of documents.

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) requiring the discovery and production of any document or other material which is producible as evidence;
- (c) the requisitioning of any public record from any court or office,

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(Section 6.)

(2) Every process issued by an authorised inquiring authority for the ⁹⁻ attendance of any witness or for the production of any document shall be served and executed through the Chief Presidency Magistrate in Calcutta or through the District Judge in a district, within the local limits of whose jurisdiction the witness or other person on whom the process is to be served or executed, voluntarily resides or carries on business or personally works for gain, and, for the purpose of taking any action for the disobedience of any such process, every such process shall be deemed to be a process issued by the Chief Presidency Magistrate or the District Judge, as the case may be,

(3) Every authorised inquiring authority making any departmental proceedings under this Act shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

6. The State Government may, by notification in the *Official Gazette*, power to make rules for carrying out the purposes of this Act. ^{to make}
rules. _{make}