



The Nagaland Communitisation of Public Institutions and Services Act, 2002

Act 2 of 2002

Keyword(s):

Appellate Authority, Authorities, Fund, Rules

Amendment appended: 5 of 2004

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The Nagaland Communitisation of Public Institutions and Service Act, 2002 (Act No. 2 of 2002)

[Received the assent of the Governor of Nagaland on the 27th March, 2002 and published in the Nagaland Gazette Extraordinary dated 15th April, 2002.]

An Act whereas it is expedient to provide for empowerment of the community and delegation of the powers and functions of the State Government to the local authorities by way of participation of the Community in matters connected with the management of local public utilities, public services and the activities of the State Government connected with education, water supply, roads, forests, power, sanitation, health and other welfare and development schemes and also to provide for promotion of community based schemes incidental thereto.

It is hereby enacted in the Fiftysecond year of the Republic of India as follows :-

- (1) This Act may be called the Nagaland Communitisation of Public Institutions and Service Act, 2002.
- (2) It shall extend to the whole of Nagaland.
- (3) It shall come into force on such date or dates as the State Government, may by notification, appoint for different parts of the State and for different sectors of public services

2. **Definitions**
 - (1) Appellate authority means the appellate authority prescribed under section 8.
3. **Constitution**
 - (2) Authorities means the authorities as may be called Board or Committee or any other nomenclature Constituted or declared under section 3.
 - (3) Fund means a fund established for the authorities under section 7.
 - (4) Rules means the rules made under section 11.

The S authorities as nomenclature established under or an area covering two or more villages to exercise the powers and to discharge the functions as provided under this Act.

4. Delegation of Powers and Functions :

- (1) The State Government or its authorities may, by notification, delegate the powers and functions of the State Government or its authorities, as may be specified, with respect to the management and operation of any of the public utilities and public services or the activities of the State Government connected with education, water supply, roads, forests, power, sanitation, health and other welfare and development schemes to the authorities constituted or declared under section 3 of this Act.
- (2) The State Government or its authorities may also issue directions to the authorities constituted or declared under section 3 of this Act for implementing any specific scheme and policy that may be formulated with respect to any particular service or activities.
- (3) The authorities so constituted or declared under section 3 of this Act may also undertake any other social, cultural and educational activities not inconsistent with the provisions of this Act with due regard to the public interest and the requirement of innovative approach as well as optimum utilisation of resources.

5. Transfer of assets :

Wherever required and in such manner as may be specified by the State Government the assets in relation to the public utilities and public services or the activities connected with the matters specified under section 4 vested in the State Government shall be transferred to the authorities constituted or declared under Section 3 of this Act and the same shall be managed by such authorities in such manner as may be specified by special or general order made in this behalf.

6. Officers and employees of authorities :

- (1) The State Government may, by special or general order, direct that the officers and employees appointed by the appropriate authorities of the State Government on regular and substantive capacities and employed in connection with the services of activities specified under Section 4 of this Act be placed under the control of the authorities so constituted or declared under Section 3 of this Act to the extent specified by the State Government in this behalf.
- (2) The conditions of service of the officers and employees so placed under sub section (1) above shall not be varied except in accordance with any rules that may be made by the State Government in this behalf or an rules that may be made governing similar category of officers and employees at the commencement of this Act.
- (3) The Rules and Regulations applicable to the officers and employees so placed under sub-section (1) above shall continue to apply until repealed or amended.
- (4) The salaries and allowances of the officers and employees so placed under sub-section (1) shall be borne by the State Government.
- (5) The authorities under Section 3 of this Act may engage such further employees as may be considered expedient and as may be permitted by the fund available at their disposal.

Provided that the employees so engaged under this sub section shall not be deemed to be the employees of the State Government.

- (6) The authorities so constituted or declared under Section 3 of this Act, subject to the directions of the State Government as may be specified by a special or general order, shall have the power to review the appointment of any employee including work-charged employee already employed at the commencement of this Act but not appointed on regular and substantive capacity in connection with any public utilities and public services or activities in respect of which the powers and functions had been delegated under section 4 of this Act.

7. Fund :

- (1) There shall be established a fund for the authorities so constituted or declared under Section 3 of this Act.
- (2) The fund so established under sub-section (1) above shall include the grants that may be made by the State Government in connection with the discharge of function so delegated with respect to a specific service or activity and any other fund that may be raised as may further be prescribed in this behalf.
- (3) The fund so established under sub-section (1) above shall be operated subject to the special or general directions that may be issued by the State Government in this behalf.

8. Appeal/Revision:

- (1) An appeal against the decision of the authorities constituted or declared under Section 3 of this Act shall lie before the appropriate authority that may be prescribed in this behalf.
- (2) The State Government or the authorities as may be authorised in this behalf may at any time call for and examine the records relating to any order passed or proceeding taken this Act by the authorities constituted or declared under Section 3 of this Act.

Provided that no order shall be modified, amended or reserved unless a notice has been served on the parties interested and opportunity given to them for being heard.

9. Power to inspect :

An officer of the State Government, as may be authorised in this behalf, may enter upon or into and inspect or for the purpose of his own inspection cause any other person upon or into any immovable property, or any work in progress under the orders, or any institution under the control and administration of the

authorities under Section 3 of this Act and call for and inspect any book or document which may be, for the purpose of this Act, in the possession or under the control of the above said authorities.

10. Power to supersede :

If in the opinion of the State Government, an authority under Section 3 is not competent to perform or persistently makes default in the performance of duties imposed on it or under this Act or exceeds or abuses its powers, the State Government may, by order, stating the reasons for so doing, declare such authority to be incompetent or in default or to have exceeded or abused its powers, as the case may be and supersede it for a period to be specified in the order or dissolve the authority and order fresh constitution of the authority or direct that any other authority shall carry out the function of such authority so superseded to the extent as may be specified in this behalf.

11. Power to make Rules :

The State Government may, by notification, make rules for the purpose of carrying out the provisions of this Act.

12. Power to remove difficulties :

- (1) If difficulty or doubt arises in giving effect to the provisions of this Act, the State Government may, by order published in official Gazette, make any provision, not inconsistent with the purpose of this Act as appears to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of this Act.

- (2) Every order made under sub-section (1) above shall, as soon as may be, after it is made, be laid before the Legislative Assembly of the State.

**THE NAGALAND COMMUNITISATION OF
PUBLIC INSTITUTIONS AND SERVICES
(AMENDMENT) Act, 2004**

(Act No.5 of 2004)

Received the assent of the Governor on 29.06.2004.and published in the Nagaland Gazette Extra-Ordinary date 28.09. 2004.

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Whereas it is expedient to extend the empowerment of Community and delegation of the powers and functions of the State Government to the local authorities beyond the village or an area covering two or more villages to other area or areas or part or parts thereof to exercise the powers and to discharge the functions provided under the Nagaland Communication of Public Institution And Services Act 2002 (Act of No.2 of 2002).

Be it enacted in the fiftyfifth year of the Republic of India as follows:

1. Short title, extend and commencement :

- (i) This Act shall be called the Nagaland Communitisation of Public Institutions And Services (Amendment) Act of 2004.
- (ii) It shall extend to the whole of Nagaland.
- (iii) It shall come into force on such date as the State Government may direct by notification.

2. The following words "or other area or areas or part or parts thereof" shall be inserted after the words "two or more villages" as appearing at section 3 of the Principal Act No. 2 of 2002.