

**THE COMMISSIONS OF INQUIRY (SECOND)
ORDINANCE, 1958**

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**THE COMMISSIONS OF INQUIRY (SECOND)
ORDINANCE, 1958**

ORDINANCE NO. LI OF 1958

[22nd July, 1958]

* WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by, the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (1), dated the 4th July, 1958, published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the power vested in or exercisable by the Governor under the Constitution shall be exercised by the Governor;

AND WHEREAS it is expedient to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the power conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:-

1. (1) This Ordinance may be called the ¹[* * *] Commissions of Inquiry (Second) Ordinance, 1958.

Short title,
extent and
commencement

* Throughout this Ordinance, the word "Government" was substituted for the words "Provincial Government" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973).

¹ The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

(2) It extends to the whole of ¹[Bangladesh].

(3) It shall come into force at once.

2. In this Ordinance unless there is anything repugnant in the subject or context,-

Definitions

- (a) "Commission" means a Commission of Inquiry appointed or deemed to have been appointed under section 3;
- (b) "prescribed" means prescribed by rules made under section 12; and
- (c) "President" means the President of the Commission.

3. (1) The Government may, if it is of opinion that it is necessary so to do, by notification in the *official Gazette*, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly.

Appointment of Commission

(2) The Commission may consist of one or more members appointed by the Government, and where the Commission consists of more than one member, one of them may be appointed as the President thereof.

4. The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

Powers of Commission

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents.

¹ The word "Bangladesh" was substituted for the words "East Pakistan" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973).

Additional
powers of
Commission

5. (1) Where the Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (4) or sub-section (5) or sub-section (6) of this section should be made applicable to a Commission, the Government may, by notification in the *official Gazette*, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject-matter of the inquiry.

(3) The President or any officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the President, may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject-matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.

(4) The Commission shall be deemed to be a Civil Court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the ¹[* * *] Penal Code, is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898.

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the ¹[* * *] Penal Code.

(6) The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of requisitioning any public record or copy thereof from any court or office.

6. No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Statement made by the persons to the Commission

Provided that the statement-

- (a) is made in reply to a question which he is required by the Commission to answer; or
- (b) is relevant to the subject-matter of inquiry.

7. The Government may, if it is of opinion that the continued existence of a Commission is unnecessary, by notification in the *official Gazette*, declare that the Commission shall cease to exist from such date as may be specified in this behalf in such notification, and thereupon, the Commission shall cease to exist.

Commission to cease to exist when notified

8. The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.

Procedure to be followed by the Commission

9. No suit or other legal proceedings shall lie against the Government, the Commission or any member thereof, or any person acting under the direction either of the Government or of

Protection of action taken in good faith

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or orders made thereunder or in respect of the publication, by or under the authority of the Government or the Commission, of any report, paper or proceedings.

Members, etc.,
to be public
servants

10. Every member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the ¹[* * *] Penal Code.

Ordinance to
apply to Inquiry
Commissions
set up before the
promulgation of
the Ordinance

11. Where any Commission has been appointed under any Resolution of the Government for the purpose of making an inquiry into any definite matter of public importance before the coming into force of this Ordinance, such Commission shall be deemed to be a Commission appointed under section 3 and the provision of this Ordinance shall apply accordingly.

Power to make
rules

12. The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Ordinance.

13. [*Repealed by Section 3 and the Second Schedule of The East Pakistan Repealing and Amending Ordinance, 1966 (East Pakistan Ordinance No. XIII of 1966.)*]

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¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).