

## b. Statutory Powers of NCM : An Explanatory Note

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Since 17<sup>th</sup> May, 1993, the NCM is an autonomous statutory body and its powers are governed by the National Commission for Minorities Act, 1992. Parliamentary Legislation is supreme and supersedes all contrary practices, including those that might have been followed in the Commission's office before 17.5.1993.

Specific provisions of the NCM Act, 1992 relating to Commission's powers are as stated below:

### A. Administrative powers

1. As per Section 8(2) of the Act, the Commission has to "regulate its own procedure". This will include conduct of business at its meetings, preparations therefor and follow-up action, issuing of processes, working of and division of work in its office, and all other procedural matters.
2. As per Section 5(1) of the NCM Act, 1992, the "Secretary and other officers and employees" are provided by the Government to the Commission "for the efficient performance of the functions of the Commission under this Act." They are NOT to control, restrict or regulate the functions of the Commission.
3. As per Section 8(2) of the Act, it is for the Commission to issue and take "orders and decisions", and the Secretary of the Commission or any other authorised officer shall only authenticate such orders and decisions of the Commission.
4. As per Section 9(1), the Commission has to perform nine different functions specified in clauses (a) to (i) of Section 9(1). All procedural / administrative aspects of each of the said nine functions are to be determined by the Commission itself, as provided for in Section 8(2).

### B. Financial powers

1. As per Section 10(1), the Government has to pay to the Commission, by way of grants, "sums of money" to be "utilised for the purposes of this Act"- (i e., the NCM Act, 1992 and its provisions concerning the functions and powers of the Commission).
2. As per Section 10(2), the Commission can "spend such sums as it thinks fit". No conditions are imposed by the Act, or by the Statutory Rules framed thereunder, on this power of the Commission.

### C. Judicial powers

1. As per Section 9(4) of the Act, the Commission has "all the powers of a civil court" while performing three of its functions, viz.:
  - (i) evaluation of progress of development of Minorities under Union and States,

- (ii) monitoring of working of Constitutional and legal safeguards for the Minorities, and
  - (iii) looking into specific complaints regarding deprivation of rights and safeguards of Minorities and taking them up with appropriate authorities.
2. As per Clauses (a) to (h) of Section 9(4), the Commission has specific powers of summoning and examining on oath any person from any part of India, demanding affidavits, requisitioning documents and issuing Commissions of inquiry for examining witnesses and documents.

D. Public servant status

1. As per Section 14 of the Act, Commission's Chairperson / Members, and its officers / employees acting on its direction, are "public servants within the meaning of Section 21 of the Indian Penal Code".
  2. This means that any person disobeying / ignoring Commission's "orders and decisions", misleading it by false information, or obstructing it in the discharge of its lawful functions, shall be liable to the penalties laid down in Chapter X of the Indian Penal Code (Sections 172-190 : "Contempt of Lawful Authority of Public Servants").
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