

THE RIGHTS OF GOA PERSON OF GOAN ORIGIN BILL 2022

BILL NO. _____ OF 2022

An Act to protect the rights of The Persons of Goan Origin in respect of employment, benefits of government schemes, lease, transfer of comunidade land, acquired by the Government land for commercial purposes, their right to change their names and surnames and to make certain other provisions connected therewith.

Whereas it is necessary to give better and more protection to the Persons of Goan Origin in view of the late independence of Goa, limited educational and employment opportunities for Goans, distinct culture, language, traditions, geographical area, peculiar socio- political and economic circumstances in the state affecting Goans, and changing demography vis-a-vis the small size of the state and its population,

Be it enacted by the Legislative Assembly of Goa in the seventy third year of republic of India as follows:

- a. This act may be called The Rights of Goa Person of Goan Origin Act.
- b. It extends to the whole of the state of Goa.
- c. It shall come into force on such date as the State Government may by notification in the official gazette appoint.

2. **Definitions-** In this act unless the context otherwise requires:

- a. “Administrative Tribunal” means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965;
- b. “Appellate authority” means an authority of the State Government not below the rank or equivalence of Labour Commissioner, as may be designated by notification in the Official Gazette, by the State Government for the purpose of section 10;

c. “Authorised Officer” means an officer of the State Government not below the rank or equivalence of Sub-Divisional Officer, as may be designated by notification in the Official Gazette, by the State Government for the purpose of section 8;

d. “Central Government” shall mean government of the Union of India;

e. “Collector” means the Collector of the District and includes any officer appointed by the Government to exercise and perform all or any of the powers and functions of a Collector;

f. “Designated Officer” means, an officer of the State Government not below the rank or equivalence of District Magistrate as may be designated by notification in the Official Gazette, by the State Government for the purpose of section 6;

g. “Designated Portal” means a portal specifically designed and designated for the purpose of registration of Persons of Goan Origin and employees under sections 4 and 5;

h. “District Court” means the District Court constituted under The Goa Civil Courts Act, 1965;

i. “employee” means any person employed by an employer to do any type of work including skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work, whether the terms of employment be express or implied, for hire, reward, salary, wages, or other remuneration;

j. “employer” means and includes:

i) a Company registered under the Companies Act, 2013 (Central Act 18 of 2013) or Companies Act, 1956 (Act No. 1 of 1956) or Companies Act, 1913 (Act No. VII of 1913),

ii) a Society registered under the Societies Registration Act, 1860 (Central Act 21 of 1860),

iii) a Limited Liability Partnership Firm defined under the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009),

iv) a Trust as defined under the Indian Trust Act, 1882 (Central Act 2 of 1882),

v) a Partnership Firm as defined under the Indian Partnership Act, 1932 (Central Act 9 of 1932),

vi) any person employing ten or more persons on salary, wages or other remuneration for the purpose of manufacturing or providing any service or such entity as may be notified by the State Government from time to time but shall not include the Central Government, State Government, local authority, or any other authority owned or controlled by the State Government or Central Government;

k. "Establishment" including any Government undertakings, Society registered under Societies Registration Act, 1860, Charitable Trust Extension Counters, Collaborative units, Joint Ventures, ancillary units, ports, docks, warfs, Jetty and any other services owned/jointly owned by the State Government.

l. "local authority" means a municipal corporation or a municipal council or a panchayat;

m. "Notification" means a notification in the Official gazette.

n. "Prescribed" means prescribed under rules framed under this act.

o. "Person of Goan Origins" means:

(i) A person who, prior to the 20th day of December, 1961, was governed by the provisions of the Civil Code of 1867 as in force in erstwhile Portuguese regime over Goa and which continued in force by virtue of sub-section (1) of section 5 of the Goa, Daman and Diu (Administration) Act, 1962 (1 of 1962), as adapted by the Military Governor of Goa, Daman and Diu vide Order No. 175/2/MG dated 31st May, 1962;

(ii) any person born in Goa of parents who are governed by the provisions of the Civil Code of 1867 which is at present in force in Goa and which was in force prior to the 20th day of December, 1961;

(iii) any person born outside the State of Goa of parents who were or are governed by the provisions of the said Civil Code of 1867, unless such person declares that he does not desire to be governed by the provisions of this Act at any time before the expiry of three years from the date he attains majority or before the expiry of three years from the date he comes from outside the State of Goa, before the Special Notary having office in the sub-district where such person resides;

Provided that no person shall be a Person of Goan Origin unless he has knowledge of Konkani.

p. “Special Notary” means a Special Notary (Ex-Officio) appointed under The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016);

q. “State Government” shall mean government of the State of Goa;

r. “sub-registrar” means the sub-registrar appointed under The Indian Registration Act (Central Act 16 of 1908);

s. “workforce”, in relation to an employer, means the total number of posts, whether vacant or occupied, for employees in his establishment.

3. (a) Rights and privileges of Person of Goan Origin in relation to Employment:

No person other than Person of Goan Origin shall be eligible for any Employment in;

- i) Government or Semi Government Employment/Jobs within the State of Goa ;
- ii) Establishment owned by the State Government, which are registered/operative in other states of India.

3.(b) Rights and privileges of Person of Goan Origin in relation to schemes:

No person other than Person of Goan Origin shall be eligible for any scheme:

- i) launched or implemented by the State Government,’
- ii) which shall be launched or implemented by the State Government from the date of commencement of this Act.
- iii) Launched by Goa Housing Board on allotment of tenements, plots, apartments, houses, shops, premises, contracts, temporary association, any building schemes, land development , improvements or any other work related to Goa Housing Board.
- iv) Tenders/contracts/allotment of work including service contracts up to 10 crores.

Explanation: For the purpose of this section, any scheme launched or implemented by the State Government in collaboration with the Central Government or any local authority or any authority owned or controlled by the State Government or Central Government shall be deemed to have been launched or implemented by the State Government.

4. Compulsory registration: Every employer shall register the persons employed by him on the designated portal within three months of coming into force of this Act:

Provided that no person shall be employed or engaged by any employer till the registration of all such employees is completed on the designated portal.

Explanation – For the purpose of section 4 and section 5 of this Act, process for registration on designated portal shall be prescribed under the rules notified by the State Government, from time to time.

5. Recruitment of Persons of Goan Origin: After the commencement of this Act, every employer shall employ seventy-five percent of his workforce from Persons of Goan Origin.

Provided further that no Person of Goan Origin shall be eligible to avail the benefits under this Act unless he registers himself on the designated portal.

6. Exemption:

(1) The employer may claim exemption from the requirement of Section 5, where adequate number of Persons of Goan Origin of the desired skill, qualification or proficiency are not available, by applying to the Designated Officer in such form and manner, as may be prescribed.

(2) The Designated Officer shall, after such inquiry, as he deems fit and after evaluating the attempt made by the employer to recruit Persons of Goan Origin of the desired skill, qualification or proficiency, may either-

(i) accept the claim of the employer for exemption from the provisions of section 5; or

(ii) reject the claim of the employer for exemption for reasons to be recorded in writing; or

(iii) direct the employer to train Persons of Goan Origin to achieve the desired skill, qualification or proficiency if he or she has the aptitude for the same.

Provided that when an order is made by the Designated Officer under clause (iii) of sub-section (2), the State Government shall take steps to actively collaborate with the employer to train and engage Persons of Goan Origin in such manner as may be prescribed.

(3) Every order made by the Designated Officer under sub-section (2), shall be placed on the website of the State Government.

7. Employer to furnish report - Every employer shall furnish a quarterly report, by such date, as may be notified by the State Government in the Official Gazette, of the Persons of Goan Origin employed and appointed during that quarter on the designated portal in such form, as may be prescribed.

8. Power to access, verify records and documents -

- (1) The reports furnished by the employer under section 7 shall be examined by the Authorised Officer.
- (2) The Authorised Officer shall have powers to call for any record, information or document in the possession of any employer for the purposes of verifying the report furnished under section 7.
- (3) The Authorised Officer, after examination of the report, may pass any order, as may be necessary for complying with the objectives of this Act.
- (4) Every such order issued under sub-section (3) shall be placed on the website of State Government.

9. Power to enter premises and inspection thereof -

- (1) Subject to the provisions of this section, the Authorised Officer shall have a right to enter, at all reasonable times with such assistance, as he considers necessary, any place-
 - (a) for the purpose of performing any of the functions entrusted to him under this Act
 - (b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made there under are being or have been complied with;

- (c) for the purpose of examining any record, register, document when he has reason to believe that an offence under this Act or the rules made there under has been or is being committed.
- (2) Every employer shall render all assistance to the Authorised Officer under sub-section (1) and in case he fails to do so without any reasonable cause, he shall be guilty of an offence under this Act.
- (3) If any person wilfully delays or obstructs the Authorised Officer under sub-section (1) in the performance of his functions, he shall be guilty of an offence under this Act:

Provided that no entry shall be made except between the hours of 6:00 and 18:00 and notice of the intention to enter is given at least one day prior to the date on which the entry is proposed to be made.

10. Appeals:

- (1) Any employer aggrieved by an order passed by the Designated Officer under section 6 or the Authorised Officer under section 8, may within sixty days, prefer an appeal to such Appellate Authority, in such form and in such manner, as may be prescribed.
- (2) Every appeal preferred under sub-section (1) shall be accompanied by such fees, as may be prescribed.
- (3) After the receipt of appeal under sub-section (1), the Appellate Authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal expeditiously, and as far as practicable, within three months.
- (4) The appellate authority may rescind, confirm or modify such order.
- (5) The appellate authority shall follow such procedure, as may be prescribed.

11. Exemptions: Nothing in sections 4, 5, 6, 7, 8, 9 and 10 of this Act shall apply to an employer who does not receive any benefit from the State Government in the form of:

- i) financial aid;
- ii) exemptions, incentives, holidays and benefits in relation to taxation;
- iii) allotment of land at a subsidised rate;
- iv) any subsidy or scheme;
- v) any other manner as may be prescribed.

12. Restrictions on transfer of comunidade land:

- (1) Notwithstanding anything to the contrary in the Code of Comunidades (Legislative Enactment No. 2070 dated 15th April, 1961) or any amendments thereto, no comunidade shall grant on aforamento (emphyteusis) or otherwise alienate any or all of its land or transfer any or all of its land by way of sale, gift, exchange, lease, or in any other manner to any person other than a Person of Goan Origin.
- (2) All grants of aforamento (emphyteusis) or transfers of comunidade land made in contravention of sub-section (1) shall be void ab initio.
- (3) All grants of aforamento (emphyteusis) or transfers of comunidade land by way of sale, gift, exchange, lease, or in any other manner to be made in favour of a Person of Goan Origin shall be registered in the office of the sub-registrar in such manner as may be prescribed.
- (4) No sub-registrar or any other registering authority shall register any document which is in contravention of sub-section (1).
- (5) Where the sub-registrar before whom any document pertaining to grant of aforamento (emphyteusis) or transfer of comunidade land is presented for registration or any other authority appointed under the Registration Act (Central Act 16 of 1908) comes to know or has reason to believe that the grant of aforamento (emphyteusis) or transfer of comunidade land is in contravention of sub-section (1), such sub-registrar or other authority appointed under the Registration Act (Central Act 16 of 1908), as the case may be, shall make reference to the Collector of the District in which the land or any part thereof is situated.

(6) If the Collector,

(i) on receipt of such reference under sub-section (5), or

(ii) on an application made to him, or

(iii) on receipt of any information from any source,

comes to know or has reason to believe that any aforamento (emphyteusis) has been granted or is being granted or any comunidade land has been transferred or is being transferred in contravention of the provisions of sub-section (1), the Collector shall after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry in such manner as may be prescribed, determine whether the grant of aforamento (emphyteusis) or transfer of comunidade land is, or is not in contravention of sub-section (1).

(7) The person aggrieved by the order of the Collector made under sub-section (6) may within a period of 30 days from the date on which the order is made, file an appeal to the Administrative Tribunal and the Administrative Tribunal may, after giving the parties an opportunity of being heard, reverse, alter or confirm the order made by the Collector and the order made by the Administrative Tribunal shall be final and conclusive.

(8) Where the Collector under sub-section (6) in case an appeal is not made within the prescribed period, or the Administrative Tribunal in appeal under sub-section (7) decides that the grant of aforamento (emphyteusis) or transfer of comunidade land is in contravention of the provisions of sub-section (1), such grant of aforamento (emphyteusis) or transfer of comunidade land shall be void ab initio and the land involved in such transfer together with trees, crops, structures, buildings or other attachments, if any, shall in the prescribed manner, vest in the State Government free from all encumbrances;

(9) It shall be lawful for the State Government to make use of the land vested in it under sub-section (8) for such purposes as it may deem fit to do so.

(10) No document purporting to be a transfer of land of the comunidad in contravention of this section shall be advisable as a proof of such transfer recorded therein.

13. Applicability of The Goa Change of Name and Surname Act, 1990 – The Goa Change of Name and Surname Act, 1990 (Goa Act No. 8 of 1990) and its provisions shall not be applicable to any person other than a Person of Goan Origin.

14. Question whether a Person is of Goan Origin

- (1) If a question arises as to whether or not any person is of Goan origin, in relation to any matter dealt with by this Act, then the question shall be referred to the respective Collector of the District in which his parents or grandparents born, who shall decide the question on conducting an inquiry in such manner as may be prescribed.
- (2) Upon the conclusion of the inquiry, if the Collector is satisfied that the person in relation to whom the reference under sub-section (1) has been made is a Person of Goan Origin, he shall pass an order to that effect and grant a Certificate of Originship to the person which shall be conclusive proof that the person in relation to whom the reference has been made under sub-section is a Person of Goan Origin.
- (3) If it comes to the notice of the Collector that the Certificate of Goan Originship has been obtained by furnishing any information which is false, the Collector shall conduct an inquiry in the prescribed manner and after giving an opportunity of hearing to the affected person, upon satisfaction that the Certificate has been obtained by furnishing any information which is false, the Collector shall pass an order cancelling the Certificate of Goan Originship.
- (4) Any inquiry initiated by the Collector under sub-section (1) and sub-section (3) shall, as far as practicable, be disposed off within three months of its commencement.
- (5) An appeal shall lie against any order made by the Collector under this section to the District Court which shall, as far as practicable, be disposed off within one year from the date of filing of the appeal.

- (6) The order made by the District Court under sub-section (5), when an appeal is preferred, and the order made by the Collector under sub-section (1), sub-section (2), and sub-section (3) when no appeal has been preferred, shall be final.
- (7) A person who has been denied a Certificate of Goan Originship or a person who holds a cancelled Certificate of Goan Originship shall not be entitled to any of the rights, benefits, and privileges conferred by this Act.

15. The Register of Persons of Goan Origin:

- (1) For the purposes of this Act, a record called the Register of Persons of Goan Origin shall be kept at the office of the Collector, wherein shall be entered the names, permanent addresses, and occupations of every Person of Goan Origin and such other matters relating to Persons of Goan Origin as may be prescribed.
- (2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Collector to keep the records wholly on computer as well as in physical form subject to such safeguards as may be prescribed.
- (3) Where such register is maintained wholly on computer as well as in physical form under sub-section (2), any reference in this section to entry in the Register shall be construed as the reference to any entry as maintained on computer and physical register.
- (4) The register shall be kept under the control and management of the Collector.
- (5) There shall be kept at each office of the Collector a copy of the register which shall be open to public inspection.

Provided that when such register or copy thereof is maintained wholly or partly on computer, the inspection of such register under this section shall be made by inspecting the computer printout of the relevant entry in the register so maintained on computer.

(6) Any person may, on an application to the Collector and on payment of such fees as may be prescribed, obtain a certified copy of any entry in the register referred to in sub-section (1).

16. Offences: Whoever knowingly furnishes any false information or suppresses any material information with a view to obtain any of the benefits, rights, and privileges conferred by this Act or whenever required to furnish information by any authority under this Act fails to do so or furnishes false information or suppresses material information, or otherwise contravenes any of the provisions of this Act or any rules framed there under or disobeys any order passed by any authority under this Act shall be punishable with imprisonment for a term which shall extend to one year and with fine which may extend to one lakh rupees or with both.

17. Officer holding enquiries to have powers of Civil Courts for enforcing attendance, etc. - Any officer or authority holding an enquiry or hearing an appeal under this Act shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 in respect of-

- (a) enforcing attendance of any person and his examination on oath,
- (b) compelling production of documents, and
- (c) issue of commission.

18. Power to make rules. - The State Government may, by notification in the Official Gazette make rules for carrying out the provision of this Act.

19. Power to remove the difficulties. - If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, take steps or make provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

20. Protection of action taken in good faith. - No suit, prosecution or any other legal proceedings shall lie against the State Government or any officer or employee of the State Government or any person authorised by the Government for anything which is done, or intended to be done, in good faith under this Act.

21. Overriding effect. – The provision of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other state law for the time being in force.

22. Bar of Jurisdiction. – No Court shall have jurisdiction to entertain, decide or deal with any question which is to be decided by the Collector, Administrative Tribunal or any other authority under this Act.