

Commission of Inquiry Act, 1952 : status and relevance

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This article is written by [Unnati Khajanchi](#), from the School of Law, Narsee Monjee Institute of Management Studies. This is an exhaustive article which deals with the Commissions of Inquiry Act, 1952, the article tells us about procedures and appointments that need to be followed to form a commission under the Act.

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Introduction

We board in a society in which pursuit of the general public good has meant that affairs of the individual citizens are increasingly suffering from the choice of the government departments. Demand for the commission of appointment of inquiry by political parties and other members of the society has become a demand of the day. The necessity of such an inquiry is mainly to gather the views of various groups of people who are likely to be suffering from the exercise of such administrative power by the authority concerned. Additionally, to the collection of views, the commission of inquiry serves the aim of gathering necessary data or facts regarding a specific subject of public

importance. The basic aim or purpose of the act is rulemaking, law enforcement, adjudication of dispute, supervision, licensing, collecting information and also taking action against the accused person. For example, the Railway Accident, Police authority, departmental inquiry, etc. The basic object is to explore and discover real facts, the investigation with a partial and unsatisfactory role of administrators.

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History and background

Before the ratification of the [Commission of Inquiry Act, 1952](#), the government used to order the public either by giving executive order or notice under the [Public Servants Inquiries Act, 1850](#) or by making ad hoc committees (committees made for a special purpose and after the purpose is fulfilled it gets dissolved). The Act is not specific to any kind of matter, in fact, it includes almost all kinds of matters. The Chagla Commission is the first inquiry of the independent India which created a bustling interest among the people and was set up by the government of India to examine whether the funds of the life insurance corporation of India have been properly utilized. The procedure that has been ratified by the government was found to be burdensome and faulty. So to satisfy the ever-growing need for the ever-increasing demand for public inquiries by the independent and impartial authority. Hence, the need was felt that a suitable Act is brought out on the subject, which results in the introduction of the Commissions of Inquiry Bill, 1952 in the Parliament.

Commission of Enquiry Act, 1952

This Act is made for the appointment of commissions to inquire into matters which are related or concerned or affects the public at large. This Act applies to the whole of India provided it shall also apply to the state of Jammu and Kashmir. When the central government may, by notification in the official gazette appoints a commission from that day only the act shall come into force. Under [Section 2](#) of the commission of inquiry Act,

it has provided certain definitions for reference which are further used in this act like "appropriate Government" which means only Central and State governments has the right to appoint a commission to make an inquiry related to any of the entries which are mentioned in [List I or List II or List III in the Seventh Schedule of the Constitution](#). It has also explained the meaning of commission which means a commission of inquiry appointed under [Section 3](#), "prescribed" means that rules which are made under this act should only be referred. Appointment of the commission was there in section 3 of the Act, [Section 4](#) defines the powers of the commission. [Section 5](#) has additional powers which are been given to the commission. [Section 6](#) deals with the provisions of the statements made by the person to the commission in this section it also mentions that commission cannot force any person to disclose the secret process of manufacture of goods except in some cases. [Section 7](#) says that commission can cease to exist whenever it is notified. [Section 8](#) deals with the procedure that needs to be followed by the commission. [Section 9](#) deals with the protection of action that should be taken against the person who acted in a good faith. [Section 10](#) says that any member of the commission appointed should necessarily be a public servant. [Section 11](#) says that this act is applicable to other inquiring authorities also in exceptional cases or wherever the need is found. Lastly, [Section 12](#) of the Act which gives power to the commission to make rules to carry out the purposes of this Act.

Main provisions

There are almost 12 provisions which are defined under the Commission of Inquiry Act, 1952 but only some of the provisions are main:

Section 3

This [Section](#) deals with the appointment of commission and says that an appropriate government by giving notification in the official gazette can appoint a commission of inquiry to look into the matters of public importance within a specified period of time as given in the notification. Also, no state government can appoint another commission to inquire into the same matter. The commission can have more than one member appointed by the appropriate government also when the commission has more than one or more members then one of them should be appointed as the Chairman of the commission. The commission also has to submit the report of inquiry along with a memorandum of the action taken within a period of six months of the capitulation of the report.

Section 4

Under this [Section](#), powers of the commission has been defined which says that the commission has the power of a civil court under the Code of Civil Procedure, 1908 with respect to the following matters:

1. Asking and prosecuting the attendance of any person from any part of the country and examining him on the day of the oath.
2. Matters which requires any discovery or production of any document.
3. Matters which are receiving matters on affidavits.
4. Matters related to any requisitioning of public record or copy thereof from any court or office.
5. Issues related to the examination of witnesses and documents.
6. Or any other matter which may be prescribed.

Section 5

Additional powers of the commission have been described in this section which says:

1. The commission has the power to require any person or individual, or subject to dispense information on such matters which in the opinion of the commission might be useful or relevant to the subject matter of inquiry.
2. No officer below the rank of a Gazetted Officer is not authorized to enter any building for inquiry. but those who are above in the hierarchy can on the behalf of the commission enter any building or place where they believe that any document or the book of accounts which are relevant to the subject matter of the inquiry and can also seize under [Section 102](#) and [Section 103](#) of the Code of Criminal Procedure, 1898.
3. Any offence under [Section 175](#), [Section 178](#), [Section 179](#), [Section 180](#), or [Section 228](#) of the Indian Penal Code and after the recording of any facts or the statement of the accused was taken the case should be forwarded to the magistrate who has the jurisdiction to try the same.
4. Any proceedings shall be deemed to be a judicial proceeding under [Section 193](#) and [Section 228](#) of the Indian Penal Code.

Section 8

[Section 8](#) deals with the procedure that needs to be followed by the commission. Though the commission has the power to regulate or make its own procedures but still are bound by certain provisions:

1. The inquiry should not get interrupted by the reason for any vacancy in the commission or any sort of changes that occur in the constitution of the commission.
2. At any stage of the inquiry, if the commission wants that it is necessary to inquire into the conduct of the person or the commission is of the opinion that the reputation of any person will get injured because of the injury, then the commission should give a reasonable amount of time to the person to produce evidence and also the person should get an opportunity of being heard. All this can be done only when it doesn't discredit the witness of the case.
3. The appropriate government, or any other person, with the acknowledgement of the commission, whose evidence is being recorded has the right

1. to cross-examine a witness other than a witness that has been produced by the commission before.
2. Can address the commission, and
3. Also, it should be represented by a legal practitioner.

Amendments

Due to the loopholes in the original Act, there was a need to amend this act quite a few times and due to the flexibility in the constitution of our country, it was made possible. In the meantime of 68 years, this Act has been amended over five times:

1. The Commissions of Inquiry (Amendment) Act, 1971 (79 of 1971)
2. The Delegated Legislation Provisions (Amendment) Act, 1985 (4 of 1986)
3. The Commission of Inquiry (Amendment) Act, 1986 (36 of 1986)
4. The Commissions of Inquiry (Amendment) Act, 1988 (63 of 1988)
5. The Commissions of Inquiry (Amendment) Act, 1990 (19 of 1990)

Status and relevance

A commission of inquiry is not a judicature. The commission has the power to investigate, make laws, can record the evidence and can make recommendations but without having any superior authority who can properly enforce them. Even the reports or the inquiry cannot be looked at as a judicial or administrative inquiry rather it is being exercised as a so-called administrative function. The members of the commission don't have immunities to claim for otherwise, immunities are available to an officer governing over a court of law. There was a famous case of *Biju Patnaik (P. V. Jagannath Rao & Ors vs State Of Orissa & Ors.)* which made us clear the fact that a court of inquiry can be set up even if certain matters were pending in the courts. The commission of inquiry in the case had nothing to impede or interfere with the powers of the court by acting in good faith and ejecting statutory functions under the Commission of Inquiry Act. The commission of inquiry is also not competent enough to penalize anyone for the distaste of his proceedings or for infringing its orders. The commissions are for an interim time period and also their sittings are not even on a regular basis.

Conclusion

As we have seen that how the Commission of Inquiries Act, 1958 works, its purpose of formation, powers, procedure, appointments, current status its amendment, etc. but even after amending it for five-time the loopholes were not eradicated till now because of the possibility that we still don't have any established permanent body. In order to dodge multiplicity of commissions and to have a uniform structure or procedure, it seems necessary that there should be a permanent body or organization should be there to integrate all the activities of the commissions like it is there in England when they enacted the inquiries act in 1958 they created a permanent body called Councils of Tribunals. Also to maintain uniformity in the laws it is suggested that instead of authorizing central government or state governments to fabricate rules for the procedure

to be ratified by the commissions, the Government of India should make an extensive set of rules which are applicable to all the commissions present also it will help in reducing or eradicating chaos among members and will develop a sense of belongingness in the system. Also, there is no specific definition of public importance was given in the act which should be there because this is so subjective in nature for someone a particular issue might not be of public importance but for some, it may be an issue of public importance so there is a need to provide a specific definition of public importance through which we can easily determine whether the issue is of public importance or not. If we see France and Italy they both had special courts for administrative issues thus it clear away the need for a special commission of inquiry. As we all know that we live in a growing and developing country where changes are common, so sometimes the laws need to be stricter and sometimes it needs to be lenient so as to accord with this change. Therefore due to the flexibility present in our system, this need is somehow achieved. But the surveys regarding the ground level implementation of these acts points the other way. After implementing these changes as mentioned above, there might be a possibility that the proper functioning of the system can be accomplished.

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