Atten. Dr. Gautam Guha
Deputy Secretary
Dept of Youth Affairs

~~(12 Pages)~~

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GOVERNMENT OF INDIA
MINISTRY OF EDUCATION & SOCIAL WELFARE
(DEPTT. OF EDUCATION)

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NEW DELHI, THE 3RD JANUARY, 1978.

NOTIFICATION

No.12-10/75-NSY_II. The Secretary to the Government of India in the Ministry of Education & Social Welfare (Department of Education)-In exercise of the powers conferred by Section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), the Central Government hereby declares that the provisions of Section 18 of Article V of the Schedule to the said Act shall apply, mutatis mutandis, to the" Commonwealth Asia-Pacific Youth Development Centre, Chandigarh" a Centre established by the Commonwealth Secretariat and to the Indian Director, recruited on an International basis, of the Commonwealth Asia-Pacific Youth Development Centre, Chandigarh, subject to the following modifications, namely :-

For clauses of Section 18, the following clauses shall be substituted, namely :-

(A) Commonwealth Asia-Pacific Youth Development Centre, Chandigarh.

(i) The Centre will have a legal personality and the legal capacity necessary for the exercise of its functions. It shall have immunity from suit and legal process except to the extent provided hereunder :-

(a) When expressly waived, as the privileges and immunities are granted to the staff of the Centre in the interests of functions and not for the personal benefit of individuals themselves. The Secretary General of the Commonwealth Secretariat or any person for the time being exercising his functions shall have the right and duty to waive the immunity of any member of the staff in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the purpose for which the immunity is accorded.

Further, if in any proceedings any question arises whether or not any person is entitled to any privileges or immunity under this Agreement, a certificate issued by or under

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the authority of the Secretary to the Government of India in the Ministry of Education & S.W. stating any fact relating to that question shall be conclusive evidence of that fact.

Also the Centre shall co-operate at all times with the appropriate authorities of the Government of India to facilitate the proper administration of Justice, secure the observance of police regulations, and prevent any abuse of privileges, immunities , exemptions and facilities mentioned in this Agreement.

(b) In respect of motor accidents and motor traffic offences.

(c) When arbitration proceedings are taken in relation to written contracts for which a compulsory arbitration clause shall be inserted in all contracts entered into by the Centre, and the specific reference to the capacity to contract shall be mentioned in the Agreement with Commonwealth Secretariat.

(ii) Goods, including books and publications, furniture and furnishings, stationery and office equipment, vehicles and electrical gadgets etc. imported by the Centre for its official purposes shall be exempt from all custom dues, provided that articles imported under such exemptions will not be sold in India except under conditions agreed with the Government of India. Vehicles purchased in India by the Centre for official purposes shall also be exempt from purchase tax and other duties.

(iii) The Centre will have exemption from direct taxes. The Centre will not, however, get exemption from taxes which are, in fact, no more than charges for public utility services.

(iv) The Centre may have bank accounts and may hold funds and foreign exchange to the extent permissible under the relevant rules.

(B) The Indian Director :

(i) To have immunity from jurisdiction and inviolability in respect of official acts performed in the exercise of his functions except in respect of motor accidents and motor traffic offences.

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(ii) He will be exempted from Indian Income tax on the perquisities and other allowances provided to him by the Centre, and will be liable to pay such taxes only on his salary and pension.

(iii) He will be permitted duty free import of liquor and food stuff for entertainment purposes to the extent of 50% of the amount earmarked for entertainment by the Director.

(C) Profcssional staff, including consultants, Registrar, and other teaching staff not being the citizens of India recruited on an International basis shall :-

(i) be exempt from taxation on the salaries and emoluments paid to them by the Commonwealth Secretariat.

(ii) be immune from suit and legal process only in relation to their official acts. This official immunity will not extend to motor car accidents or motor traffic offences.

(iii) be immune from national service obligations.

(iv) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration.

(v) Enjoy first arrival customs privileges, i.e. the right to import duty-free their furniture and personal effects at the time of first taking up their post at the Commonwealth Asia-Pacific Youth Development Centre in Chandigarh, provided that the goods are imported within the time limit of six months fixed under the Baggage Rules made under the Sea Customs Act, and are meant for their use and for the use of the members of their families forming part of their household.

EXPLANATION :

In this clause "Duty" includes taxes and related charges other than charges for storage, cartage and similar services.

(vi) Be accorded the following currency and exchange facilities :-

(a) Foreign currency accounts abroad.

(b) Foreign exchange account with the Parliament Street Branch of the State Bank of India.

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(c) Permission to operate an Indian rupee account for day to day expenses with any scheduled Bank in India. Reasonable amounts standing to their credit in these accounts can be repatriated with the approval of the Ministry of Finance when the official is transferred from India.

(vii) Be given together with their spouses and relatives dependent on them, the same repatriation facilities in time of the international crisis as diplomatic envoys.

(D) The Professional staff, including Consultants, Teaching staff who are the citizens of India :

To enjoy immunity from suit and legal process only in relation to their official acts. This official immunity will not extend to motor car accidents or motor traffic offences.

(E) The Trainees, whether they are citizens of India or otherwise :

They will have no special privileges and immunities nor exemption from custom dues, first arrival privileges etc.

(Anil Bordia)
Joint Secretary to the Government of India.

To

The Manager,
Govt. of India Press,
Mayapuri, Ring Road,
New Delhi.

Copy to :-

1. The Ministry of External Affairs, New Delhi.
2. The Secretary General, Commonwealth Secretariat, Marlborough House, Pall Mall, London SWIY 5.HX.
3. The Ministry of Finance, New Delhi.
4. The Director, Commonwealth Asia-Pacific Youth Development Centre, Chandigarh.

(Anil Bordia)
Joint Secretary to the Government of India.

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