

**Bill No. XIX of 2012**

THE HIGH COURT OF HARYANA BILL, 2012

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**BILL**

*to provide for the establishment of a separate High Court for the State of Haryana and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

**1.** (1) This Act may be called the High Court of Haryana Act, 2012.

Short title.

**2.** In this Act, unless the context otherwise requires, the terms used in this Act and not defined but defined in the Punjab Reorganisation Act, 1966 shall have the meanings respectively assigned to them in that Act.

Definitions.

**3.** (1) Notwithstanding anything contained in Punjab Reorganisation Act, 1966 there shall be established a separate High Court for the State of Haryana known as the High Court of Haryana.

Establishment of a separate High Court for the State of Haryana.

(2) Such number of Judges of the common High Court of Punjab and Haryana shall,

unless they have elected otherwise, become the Judges of the High Court of Haryana as the President may, after consultation with the Chief Justice of the common High Court of Punjab and Haryana and the Governor of the State of Haryana, by order, determine.

(3) The expenditure in respect of salaries and allowances of the Judges of the High Court of Haryana shall be borne by the State Government of Haryana. 5

Jurisdiction of the High Court.

4. The High Court of Haryana shall have jurisdiction, powers and authority under the law for the time being in force in respect of the territories comprised in the State of Haryana and any territory which may be transferred to the State in future.

Bar Council and Advocates.

5. (1) Notwithstanding anything contained in Advocates Act, 1961, there shall be a separate Bar Council for the State of Haryana known as the Bar Council of Haryana and the Advocate-General of the State of Haryana shall be its *ex-officio* members. 25 of 1961. 10

(2) Any person hailing from the State of Haryana who at the time of the commencement of this Act is an Advocate entitled to practice in the Common High Court of Punjab and Haryana shall be entitled to practice as an Advocate in the High Court of Haryana.

(3) All persons hailing from the State of Haryana who at the time of the commencement of this Act are Advocates on the roll of the Bar Council of Punjab and Haryana shall become Advocates on the roll of the Bar Council of Haryana. 15

(4) The right of audience in the High Court of Haryana shall be regulated in accordance with the like principles as immediately before the commencement of this Act are in force with respect to the right of audience in the Common High Court of Punjab and Haryana. 20

Practice and Procedure in the High Court of Haryana.

6. Subject to the provisions of this Act, the law in force immediately before the commencement of this Act are in force with respect to the right of audience in the Common High Court of Punjab and Haryana.

Custody of seal of High Court of Haryana.

7. The law in force immediately before the commencement of this Act with respect to the custody of the seal of the Common High Court of Punjab and Haryana shall apply with respect to the custody of the seal of High Court of Haryana, *mutatis-mutandis*. 25

Form of writs and other processes.

8. The law in force immediately before the commencement of this Act with respect to the form of writs and other processes used, issued or awarded by the Common High Court of Punjab and Haryana shall, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Haryana *mutatis mutandis*. 30

Powers of Judges.

9. The law in force immediately before the commencement of this Act with respect to the powers of the Chief Justice, single Judges and division Courts of the Common High Court of Punjab and Haryana and with respect to all matters ancillary to the exercise of those powers shall, apply in relation to the High Court of Haryana *mutatis mutandis*.

Principal seat and other places of sitting of High Court of Haryana.

10. (1) The principal seat of the High Court of Haryana shall be at Chandigarh. 35

(2) Notwithstanding anything contained in sub-section (1) of Judges and division Courts of the High Court of Haryana may also sit at such other places in the State of Haryana as the Chief Justice may, with the approval of the Governor of the State of Haryana, appoint.

Procedure to appeals Supreme Court.

11. The law in force immediately before the commencement of this Act relating to appeals to the Supreme Court from the Common High Court of Punjab and Haryana and the Judges and division Courts thereof shall apply in relation to the High Court of Haryana *mutatis mutandis*. 40

Transfer of Pending proceedings.

12. All proceedings pertaining to or arising within the territorial jurisdiction of the State of Haryana pending in the Common High Court of Punjab and Haryana immediately before the commencement of this Act shall stand transferred to the High Court of Haryana. 45

5           **13.** (1) For the purposes of this Act, proceedings shall be deemed to be pending in the Common High Court of Punjab and Haryana until that Court has disposed of all issues between the parties including any issue with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petition for revision and petitions for writs. Interpretation.

(2) References to the High Court shall be construed as including references to a Judge or division Court thereof and references to an order made by a Court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that Court or Judge.

10           **14.** Nothing in this Act shall affect the application to the High Court of Haryana of any provisions of the Constitution and this Act shall have effect subject to any provisions that may be made after the commencement of this Act with respect to that High Court by any Legislative or other authority having power to make such provision. Savings.

15           **15.** If any difficulty arises in giving effect to the provisions of this Act, the President may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appears to him to be necessary or expedient for the purposes of removing the difficulty. Power to remove difficulties.

## STATEMENT OF OBJECTS AND REASONS

A common High Court of Punjab and Haryana was envisaged for Punjab, Haryana and Chandigarh. This system of Common High Court has caused consistent backwardness in the legal system in Haryana because there are only district level bar councils confined to the districts only. As such the legal system in the State has not developed to the desired levels. Similarly, it has also been observed that Haryana is not getting its adequate place in the benches of the Common High Court and also in the Secretariat of the Common High Court.

The State of Haryana was carved out in the ratio of 40:60 from the erstwhile Punjab State and Chandigarh was made a Union Territory. On this pattern, even the Assembly seats were divided and Haryana was given the Assembly building. On the similar analogy, the High Court of Punjab and Haryana be divided in the similar ratio in the same High Court premise in Chandigarh itself. The present High Court building is sufficient to accommodate two separate High Courts.

Every State has got its fundamental right to provide legal protection to every citizen and the litigants must get justice at the earliest possible. The separation of the High Court would not only fulfill the long pending demand of the State but serve the interest of the people of the State. Carving of Haryana would not be complete till the State be given its own High Court in Chandigarh. Hence, it is felt that there should be a separate High Court for the State of Haryana at Chandigarh. Moreover, under article 214 of the Constitution, it is compulsory that there should be a separate High Court for each State. This constitutional provision must be implemented by the Union Government. Chandigarh is the most suitable place for establishing the principal seat of the proposed High Court for the State of Haryana although benches may also be established at other places in the State.

Hence this Bill.

SHADI LAL BATRA

RAJYA SABHA

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for matters connected therewith and incidental thereto.

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*(Shri Shadi Lal Batra, M.P.)*