

CHAPTER II

Emigration Authorities

3. Protector of Emigrants. – (1) The Central Government may, by notification, appoint a Protector – General of Emigrants and as many Protectors of Emigrants, as it deems fit, for the purposes of this Act.

(2) The Central Government may, by general or special order, define the area to which the authority of a Protector of Emigrants so appointed shall extend and, where two or more Protectors of Emigrants are appointed for the same area, also provide, by such order, for the distribution and allocation of the work to be performed under this Act, in relation to such area.

(3) The Protectors of Emigrants shall perform the functions assigned to them by or under this Act under the general superintendence and control of the Protector-General of Emigrants.

(4) **General duties of Protectors of Emigrants.** – Subject to the other provisions of this Act, every Protector of Emigrants shall, in addition to the special duties assigned to him by or under this Act –

(a) protect and aid with his advice all intending emigrants and emigrants;
(b) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with;

(c) inspect, to such extent and in such manner as may be prescribed-

(i) any emigrant conveyance, or

(ii) if he has reason to believe that any intending emigrant or emigrants are proceeding from or returning to, India to or from a place outside India by such other conveyance;

(d) inquire into the treatment received by emigrants during their voyage or journey to, and during the period of their residence in the country to which they emigrated and also during the return voyage or journey to India and report thereon to the Protector – General of Emigrants or such other authority as may be prescribed;

(e) aid and advise, so far as he reasonably can, emigrants who have returned to India.

This section prescribes the general duties of Protectors of Emigrants.

5. Power to authorize persons to exercise functions of a Protector. – The Central government may, if satisfied that it is necessary so to do in the interest of emigrants or intending emigrants, authorize any person to perform all or any of the functions of a Protector of Emigrants under this Act.

Comment

This section empowers the Central Government to authorize any person to exercise the function of a protector, in case of need.

6. Emigration check – posts. – (1) Where the Central Government considers that, with a view to preventing or checking the contravention of the provisions of this Act, it is necessary so to do, it may, by notification, set up such number of emigration check posts at such places as may be specified.

(2) The Central Government may, by general or special order made in this behalf, appoint an officer of the central Government or a State Government to be an officer in charge of an emigration check post set up under sub-section (1).

(3) An officer in charge of an emigration check post shall be subject to the general control and supervision of the Protector of Emigrants within the local limits of whose jurisdiction that emigration check post is situated.

7. Other emigration officers and staff. – The Central Government may appoint such other officers and employees (hereinafter referred to as the emigration officers and emigration employees), as it may think fit. To assist the Protector – General of Emigrants, and the Protectors of Emigrants, in the performance of their duties under this Act.

8. Emigration officers to be public servants. – The Protector General of Emigrants, Protectors of Emigrants, the officer in charge of emigration officers and emigration employees appointed under this Act shall be public Servants within the meaning of Sec. 21 of the Indian Penal Code (45 of 1860)

Comment

“Shall. - When the Legislature employs the expression “shall” it must normally be construed to mean “shall” and not “may”.

“Shall” cannot be interpreted as “may”.

“Shall” or “Must”. – Statutory duties, if they are intended to be mandatory in character, are indicated by the use of the words “shall” and “must” have sometimes been interpreted as “may”.