

THE KERALA PRESERVATION OF SECULAR ETHOS AND PREVENTION OF ANTI-SECULAR ACTIVITIES BILL

A BILL

to preserve and strengthen the secular ethos among the people and to prevent all forms of Anti-secular activities and for other connected purposes hereinafter referred to.

Whereas the Constitution mandates as per Article 51A (E) that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and Whereas in spite of the above constitutional mandate, in various parts of the country including State of Kerala several kinds of activities derogatory to secular ethos are being committed on a large or small scale which destroy or threaten to destroy harmony and the spirit of brotherhood among the people and create an atmosphere of violence, fear and hatred, religious disharmony and disturbances leading to personal injury, loss of life and damage to property of the people and Whereas it is thought expedient to enact a law containing provisions to make it an enforceable duty of the State to carry out various programmes which would promote harmony and the spirit of brotherhood among the people of Kerala transcending religious, sectarian, regional and other diversities and Whereas it is necessary to prevent by law the attempt to commit or actual commission of anti-secular activities which are against the spirit of brotherhood and harmony among the people of Kerala

BE it enacted in the Fifty-ninth Year of the Republic.

1. *Short title, extent and commencement.*—(1) This Act may be called The Kerala Preservation of Secular Ethos and Prevention of Anti-Secular Activities Act, ____.
2. It shall extend to the whole of the State of Kerala.
3. It shall come into force on such date as the Government may notify in the official Gazette.

2. *Definitions.*—(1) “Anti-Secular Activities” means any act or omission, the effects of which directly or indirectly goes against the constitutionally recognized principle of secularism as defined in clause (3) of this section and includes
 - (a) Any action or omission causing breach of peace, disharmony or hatred among people belonging to different religions, faith, sects, castes or communities within the same religion or otherwise, and
 - (b) Training, organizing or encouraging any person to act against the harmony and common brotherhood of the people of the State generally or in any particular locality or localities, and

(c) Any activities causing destruction or damage to any institutions, establishments and properties owned or controlled by religious, denominations, sects, castes or majority or minority communities and objects of worship, statues, idols, or symbols considered as sacred by them which may lead to breach of peace and harmony among the people; and
(d) Act of conversion from one religion to another in any manner other than free and voluntary adoption by a person belonging to one religion, of any another religion and
(e) Malicious outraging of religious feelings of any group of people by any act or omission

(2) 'Person' includes an individual or body of individuals incorporated or not or companies private or public

(3) 'Secularism' means moral-mental philosophical disposition which transcends infiltration of religiosity into temporal affairs and material concerns.

3. *Government shall take all necessary steps to promote, preserve and strengthen secular ethos among the people.*—(a) It shall be the primary duty of the Government to take all necessary steps to preserve and strengthen the secular ethos among the people of the State by encouraging the people to imbibe the spirit of common brotherhood and effectively preventing the commission of or attempt to commit anti-secular activities and preserve harmony among the people.

(b) To perform the duty of the Government under clause (a) above, the Government may.

(i) Conduct awareness programmes to make the people realize the absolute necessity of maintaining and strengthening harmony and brotherhood among the people irrespective of the religious, sectarian, caste and communal diversity existing between them.

(ii) Government may constitute or recognize at State level and District levels appropriate organizations to spread the message of brotherhood or oneness of human being belonging to different religions, regions, caste, creed, etc., by holding seminars in which scholars of all religions and cults are invited to participate for an open discussion to bring out the truth about the ultimate aim of all religions, namely, the ultimate goodness or welfare of human beings whatever may be the difference in the customs and practices followed by the different religions, sects, castes and communities.

(iii) While constituting or recognizing the organization under clause (ii) of this section, every care shall be taken to select persons who firmly believe in secularism and work for promoting harmony and brotherhood among people.

(iv) District level organization shall function under the State level organization and shall perform the prescribed functions following the guidelines issued by the State organization.

(v) State Level Organisation shall submit an annual report to the Government containing details of the activities conducted during the year by itself and the District Level Organisations after obtaining reports from the District Organisation.

(vi) Such report submitted to the Government shall be placed before the legislature without any delay.

4. *Prevention of Anti-Secular Activities.*—(i) Government may take all precautionary steps as well as follow up actions to prevent any anti-secular activities being committed and in cases where it is committed to punish the perpetrators and to assist the victims of the activities as occasion demands.

(ii) Government may constitute a Special Wing of the police preferably by choosing officers from the Vigilance Wing of the State to closely monitor the condition of harmony and brotherhood prevailing among the people in the State as a whole and in every District as far as possible with a view to prevent any attempt to commit any anti-secular activities as defined in the Act.

(iii) The special wing constituted as per clause (ii) above shall take all necessary steps to prevent anti-secular activities from being committed on the basis of any information obtained by them or received by them from any source whatsoever.

(iv) Government may frame appropriate rules prescribing the procedure to be followed in the matter of constitution of the Special Wing as provided in clause (ii) of this section, and the manner in which the wing shall function and such other matters connected with the special wing.

5. *Duty of communicating informations regarding the commission of Antisecular activities.*—It shall be the duty of every person who gets any reliable information regarding either the likelihood of committing anti-secular activities or about the fact of commission of any such activity to any officer of the ‘Special Wing’ or of the nearest police station without causing undue delay.

6. *Offence, abetment of offence and Punishment.*—(1) It shall be an offence to commit any anti-secular activities as defined in section 2 of the Act punishable with imprisonment upto a period of three years with or without fine which may extend to Rupees One lakh.

(2) Any person abetting the commission of an offence under section 6 shall also be punished with the same punishment provided under section 6 of the Act.

7. *Right to Compensation.*—(1) Persons suffering any injury to the body and/or property as a direct or indirect result of commission of any Anti-secular activity are entitled to get reasonable compensation as determined under this Act.

Provided that in case any person opts to claim the compensation under this Act, he will not be entitled to claim any compensation under any other law for the time being in force.

(2) Any claim for compensation under this section shall be filed before the District and Sessions court within whose jurisdiction the cause of action has arisen.

(3) While entertaining and disposing of the claims filed under this Act, the District and Sessions Judge shall be treated as a Special Court.

(4) A claim may be filed before the concerned Special Court in the prescribed form within 30 days from the date of cause of action affixing a fixed court fee of Rs.25

irrespective of the quantum of compensation claimed in the petition. On the filing of the petition, the Special Court shall entertain and dispose of the same following the procedure prescribed in the Civil Procedure Code as far as possible. The Special Court shall at the outset itself make an earnest attempt to dispose of the claim applying the provisions in Section 89 of the Civil Procedure Code.

(5) The claim petition may be filed impleading the persons who have committed the offence under section 6 if any identified by the Special Wing. In case it has not been possible for the Special Wing or any other investigating agency to identify the name or names of the perpetrators of the offence, the claim may be made against the State. Special Wing for Anti Secular Activities may also be made a party to the claim proceedings so that they can also make available all relevant materials before the Special Court and assist the court in the discharge of its functions duly.

(6) In appropriate cases if the claimant applies for legal assistance in the conduct of the claim, the Special Court may allow such prayer and pass appropriate orders.

(7) The Special Court shall finally dispose of the claim quantifying the amount due if any and stating the name and details of the person or persons from whom the amount is realizable etc., On the disposal of the claim, a copy of the order passed by the court shall be furnished to the parties free of charge.

(8) Parties aggrieved by the decision of the Special Court may file an appeal to the High Court within 30 days from the date of receipt of copy of the order with the seal of the court under sub-section (7) of this section.

(9) The order passed by the Special Court or the order passed by the High Court in Appeal shall be final and shall be deemed to be a decree of a civil court and executable as such.

(10) Government may frame necessary rules for effectively implementing the provisions of this Act by issuing notification in the official Gazette.

Statement of Objects and Reasons

The Constitution of India in its preamble and provisions contained in the Directive Principles of State Policy have emphasized the need for promoting harmony and spirit of brotherhood among the people and establishing unity in divinity which is the hallmark of our ancient culture. Of late, however, there have been several reports of communal disturbances endangering the unity of the people in different parts of the State. It is therefore expedient and necessary to curb such mischievous tendencies at the earliest stages itself and to promote a sense of respect for each other which is the essence of secularism, a basic structure of the Constitution. The Act also provides an effective machinery for making a claim for compensation in the event of injury, loss of life and property due to communal disturbances.