

THE KERALA LOK AYUKTA (AMENDMENT) BILL

A bill to further amend the Kerala Lok Ayukta Act, 1999 (8 of 1999) for the purposes hereafter appearing;

BE it enacted in the Fifty ninth Year of the Republic of India as follows:

1. *Short title and commencement of the Act.*—(1) This Act may be called Kerala Lok Ayukta (Amendment) Act _____

(2) It shall come into effect at once.

2. *Amendment to the long title.* —In the long title to the Kerala Lok Ayukta Act, 1999 (8 of 1999) (hereinafter referred to as the principal Act), after the words “enquiries”, the words “and adjudicate” shall be inserted.

3. *Amendment to the Preamble.*—In the preamble of the principal Act after the word “enquiries” the words “and adjudicate” shall be inserted.

4. *Amendment to Section 2.* —In sub item (D) of item (vii) of sub-section (o) of Section 2 of the principal Act, the words “and which is notified, in this behalf, in the Gazette” shall be deleted.

5. *Amendment to Section 3.* —In sub-section (1) of Section 3 of the principal Act, for the words “Lok Ayukta and two other persons” the words “Lok Ayukta and two persons as determined by the Government from time to time” shall be inserted.

6. *Amendment of Section 5.*—In sub-section (1) of Section 5 of the Principal Act, after the words “he enters upon his office” the words “or till he attains the age of 70 years which ever is earlier” shall be inserted.

7. *Special provision for the existing members.* —The existing members may continue in office for five years from the date on which they entered upon their office even if they attain the age of 70 years within that period.

8. After sub-section (3) of section 7 of the Principal Act the following sub-section shall be inserted, namely:—

“(3a) The Lok Ayukta and the Upa Lok Ayuktas shall have suo motu power to investigate any action:

Provided, that before initiating suo motu investigation, the Lok Ayukta and all the Upa Lok Ayuktas shall conduct a preliminary enquiry jointly and in case a decision is taken

unanimously it may proceed with the investigation. But if there is no unanimity in the decision, the proceedings initiated shall stand terminated.”

9. *Amendment to Section 12.*—In Section 12 of the Principal Act.— (i) the words ‘report’, ‘recommend to’, and “recommendations” wherever they occur shall be substituted by the words ‘order’ ‘direct’ and “directions” respectively;

(ii) Sub-section (2) shall be substituted by the following, namely:—

(2) “On receipt of an order under sub-section (1), the competent authority shall execute the order and send a report to the Lok Ayukta or Upa Lok Ayukta as the case may be to the effect that order has been fully executed or that it has not been possible to execute the order for the reasons stated in the report”;

(iii) Sub-sections (4) and (5) shall be substituted by the following, namely:—

“(4) On receipt of an order under sub-section (3), the competent authority shall execute the order and send a report to that effect or if for any reason the order is not executed, stating reason for non-execution of the order.

(5) On receipt of the report from the competent authority under sub-section (2) or (4), the Lok Ayukta or Upa Lok Ayukta as the case may be shall issue an order closing the complaint in cases where the order has been executed. In cases where the competent authority reports that the order has not been executed, the Lok Ayukta or Upa Lok Ayukta may for reasons recorded in writing, without prejudice to the powers under Section 19 of the Act, pass appropriate orders against the persons who had knowingly resisted the execution, imposing punishment of a fine upto Rs. 20,000 or imprisonment for a period not exceeding 3 months and forward the same to any Judicial Magistrate of the Ist class to execute the order in accordance with law and forward a report to the Lok Ayukta or Upa Lok Ayukta”;

(iv) Sub-section (7) shall be deleted.

(v) Sub-section (8) may be renumbered as sub-section (7).

Statement of Objects and Reasons

Amendments proposed to the Kerala Lok Ayukta Act is mainly intended to confer on Lok Ayukta and Upa Lok Ayuktas power to initiate proceedings under the act suo motu subject to certain conditions specified in the Act. As retired Chief Justices of the Supreme Court or the High Courts and the judges of the above courts are only to be appointed as Lok Ayuktas and Upa Lok Ayuktas, Commission is of the view that it is only reasonable and proper that they are given suo motu power to take up and investigate cases coming

within the purview of the act with a view to remove mal-administration and corruption which are now considered as prevalent on a large scale in all spheres of administration. The other amendments are sought to be introduced is to confer jurisdiction for the Lok Ayukta and Upa Lok Ayuktas to pass orders and directions enforceable by themselves instead of issuing recommendatory reports to the competent authorities notified under the Act in their discretion.

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