

©
Government of Kerala
കേരള സർക്കാർ
2007



Reg. No. ഓഫീ. നമ്പർ
KL/TV(N)/12/2006-2008

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

Vol. LII വാല്യം 52	Thiruvananthapuram, Thursday തിരുവനന്തപുരം, വ്യാഴം	1st February 2007 2007 ഫെബ്രുവരി 1 12th Magha 1928 1928 മാഘം 12	No. നമ്പർ	} 174

GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 1485/Leg.A1/2007/Law. Dated, Thiruvananthapuram, 1st February, 2007
12th Magha, 1928.

The following Ordinance promulgated by the Governor on the 31st day of January, 2007 is hereby published for general information.

By order of the Governor,

GEORGE JAMES,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE SUPERINTENDENT OF GOVERNMENT PRESSES
AT THE GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM, 2007.

33/422/2007/ DTP.

ORDINANCE No. 4 OF 2007

**THE KERALA (SCHEDULED CASTES AND SCHEDULED TRIBES)
REGULATION OF ISSUE OF COMMUNITY CERTIFICATES
(AMENDMENT) ORDINANCE, 2007**

Promulgated by the Governor of Kerala in the Fifty-eighth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates (Amendment) Ordinance, 2007;

(2) It shall come into force at once.

2. *Act 11 of 1996 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996), (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 11.

3. *Amendment of section 2.*—In section 2 of the principal Act, for clause (g), the following clause shall be substituted, namely:—

“(g) ‘Expert Agency’ means an officer or team of officers belonging to the Anthropological Wing in the Kerala Institute for Research, Training and Development Studies for Scheduled Castes and Scheduled Tribes (KIRTADS) of the Scheduled Castes and Scheduled Tribes Development Department of the Government, entrusted with the research, training and developmental studies of the Scheduled Castes and Scheduled Tribes under the control of the Deputy Director (Anthropology) who shall function as the Vigilance Officer of the Vigilance Cell and exercise the powers conferred under sub-section (1) of section 9 and perform such other duties.”

4. *Insertion of new section 6A.*—After section 6 of the principal Act, the following section shall be inserted, namely:—

“6A. *Cancellation of Community Certificate issued earlier.*—Notwithstanding anything contained in any other provisions of this Act or in any judgment, decree or order of any court, the rejection of an application for caste certificate by the competent authority under sub-section (1) of section 5 and the rejection of an application under sub-section (2) of section 6 by the Screening Committee shall be treated as cancellation of the certificate, if any, issued earlier by any authority and where any authority mentioned in section 7, on verification finds that the certificate has been obtained falsely, wrongly or fraudulently and consequently the Scheduled Castes and Scheduled Tribes claim of the individual is rejected, such rejection shall also be treated as cancellation of the certificate.”

5. *Insertion of new section 8A.*—After section 8 of the principal Act, the following section shall be inserted, namely:—

“8A. *Community Certificates, if found bogus, to be cancelled.*—
(1) Where on verification, the Scrutiny Committee finds that the community certificate issued in support of the Scheduled Castes or Scheduled Tribes claim

of the individual is not genuine, it shall cancel the same and intimate such cancellation to the appointing authority or local authority or head of the educational institution, as the case may be, together with a request to cancel the appointment or admission, as the case may be.

(2) Whenever an intimation is received under sub-section (1), the appointing authority or local authority or head of the educational institution, as the case may be, shall cancel the appointment or admission, without any further notice to the individual concerned and debar him from continuing in office or studying further.”

6. *Amendment of section 9.*—In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The report of the Expert Agency shall be conclusive proof for or against the Scheduled Castes or Scheduled Tribes claim, as the case may be, of the person reported upon, unless found contrary by the Scrutiny Committee after due procedure.”

7. *Amendment of section 11.*—In section 11 of the principal Act,—

(i) in sub-section (1) after the word “fraudulently” the words “or falsely or wrongly” shall be inserted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) An order passed by the Scrutiny Committee shall be final and conclusive. No suit or appeal shall lie against the order passed by the Scrutiny Committee.”

8. *Amendment of section 12.*—In section 12 of the principal Act, sub-section (3) shall be omitted.

9. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. *Penalty for obtaining a false community certificate by a Scheduled Caste member as Scheduled Tribe and vice versa.*—Whoever belonging to any of the Scheduled Castes obtains falsely a community certificate that he belongs to any of the Scheduled Tribes or whoever belonging to any of the Scheduled Tribes obtains falsely a community certificate that he belongs to any of the Scheduled Castes, shall on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees."

10. *Insertion of new section 16A.*—After section 16 of the principal Act, the following section shall be inserted, namely:—

"16A. *Deferment of pensionary benefits.*—Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force or in any judgment, decree or order of any court, where a person secures any appointment in the Government or any Government Undertaking or local authority or any other Authority against a post reserved for Scheduled Caste or Scheduled Tribe, by producing a false Community Certificate, and if on an enquiry by the Expert Agency it is found that his claim is not genuine and if the incumbent retires while the enquiry by the Government or the Scrutiny Committee is pending, the Government or the Government Undertaking or local authority or any other authority, as the case may be, shall have the power to defer and withhold the pensionary benefits of the incumbent, pending decision by the Government or the Scrutiny Committee."

11. *Validation.*—Notwithstanding anything contained in the principal Act, or in any other law for the time being in force or in any judgment, decree or order of any court, any order passed by the Scrutiny Committee constituted by notification G. O. (P) No. 16/95/SCSTDD dated the 8th May, 1995 consequent to the judgment dated the 2nd September, 1994 of the Supreme Court of India in

33/422/07

Civil Appeal No. 5854/1994, during the period from 8th day of May, 1995 to the 24th day of April, 2002 shall be deemed to have been issued under the provisions of the principal Act, as amended by this Ordinance and accordingly anything done or any action taken by the Scrutiny Committee constituted on the 8th May, 1995 in the purported exercise of the powers conferred by or under the principal Act shall not be deemed to be invalid on the ground that the Scrutiny Committee had not been constituted under the provisions of the principal Act.

R. L. BHATIA,
GOVERNOR.