

Twelfth Kerala Legislative Assembly
Bill No. 257

**THE KERALA PANCHAYAT RAJ (AMENDMENT)
BILL, 2009**

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THE KERALA PANCHAYAT RAJ (AMENDMENT) BILL, 2009

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further to amend the Kerala Panchayat Raj Act, 1994

Preamble.—WHEREAS, it is expedient further to amend the Kerala Panchayat Raj Act, 1994 for the purposes hereinafter appearing ;

BE it enacted in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Panchayat Raj (Amendment) Act, 2009.

(2) It shall come in to force at once.

2. *Amendment of section 34.*—In the Kerala Panchayat Raj Act, 1994 (hereinafter referred to as the principal Act), after clause (a) of sub-section (1) of section 34, the following clause shall be substituted, namely:—

“(aa) has been proved and declared at any later time, that the caste certificate produced before the returning officer or the declaration submitted along with the nomination paper under sub-section (2) of section 52 was false or bogus or that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force as such for contesting to a seat reserved for Scheduled Castes or Scheduled Tribes and six years have not elapsed from the date of such declaration; or”.

3. *Amendment of section 35.*—In the principal Act, after clause (a) of section 35, the following clause shall be added, namely:—

“(aa) has been proved and declared that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, under the Kerala (Scheduled

Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force as such in the case of a member, who has been elected to a seat, reserved for Scheduled Caste or Scheduled Tribe; or”.

4. *Amendment of section 52.*—In the principal Act, in sub-clause (2) of section 52, for the words, “unless his nomination paper contains a declaration by him specifying” the words “unless he has produced along with the nomination paper a community certificate issued by the authorised officer, recording the same and his nomination paper contains a declaration of caste regarding” shall be substituted.

5. *Amendment of section 153.*—In the principal Act, after clause (d) of sub-section (4) of section 153, the following clauses shall be inserted, namely:—

“(e) In the case of an election to the office of the President reserved for Scheduled Castes or Scheduled Tribes, a member, if he has not been elected to a seat reserved for Scheduled Castes or Scheduled Tribes, as the case may be, he will become ineligible for electing to the office of the President, unless he has produced community certificate issued by an authorised officer before the returning officer recording that he is a member of the Scheduled Caste or Scheduled Tribe ;

(f) A member who has been elected to the office of the President which is a seat reserved for Scheduled Castes or Scheduled Tribes, as the case may be, has been proved and declared that he does not belong to Scheduled Caste or Scheduled Tribe, under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force, as such, the State Election Commission shall declare that from the date of such declaration he became ineligible for continuing in the office of the President and that the office of the President became vacant.”.

STATEMENT OF OBJECTS AND REASONS

Sections 34, 35, 52 and 153 of the Kerala Panchayat Raj Act, 1994 provide for the matters regarding the disqualification of candidates, regarding the presentation of nomination paper and regarding the election of the President, Vice President etc., in the Panchayat election. In order to disqualify those who have been elected to the reservation seats by producing bogus community certificates, Government have decided to bring amendments in the said sections of the Kerala Panchayat Raj Act. 1994.

The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

This Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

PALOLI MOHAMMED KUTTY

EXTRACTS FROM THE RELEVANT PORTIONS OF THE KERALA
PANCHAYAT RAJ ACT, 1994 (13 OF 1994)

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34. *Disqualification of candidates.*—(1) A person shall be disqualified for being chosen as and for being a member of a panchayat at any level, if he,—

(a) is so disqualified by or under any law, for the time being in force, for the purposes of elections to the Legislative Assembly ; or

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35. *Disqualification of members.*—Subject to the provisions of section 36, or section 102, a member shall cease to hold office as such, if he,—

(a) is found guilty as described under clause (b) of sub-section (1) of section 34 or is sentenced for such an offence ; or

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52. *Presentation of nomination paper and requirements for a valid nomination.*—(1) On or before the date appointed under clause (a) of section 49, each candidate shall, either in person or by his proposer between the hours of eleven O' clock in the forenoon and three O' clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 50, a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

(2) In a constituency where the seat is reserved for Scheduled Caste or Scheduled Tribe a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member.

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153. *Election of President and Vice-President.*—(1) In every Panchayat there shall be a President and a Vice-President elected from among the elected members of that Panchayat in accordance with the provisions of this Act and the president shall be full time functionary of the Panchayat.

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