

Twelfth Kerala Legislative Assembly

Bill No. 292

**THE KERALA PUBLIC SERVICE COMMISSION (ADDITIONAL
FUNCTIONS AS RESPECTS THE SERVICES UNDER THE
KERALA STATE POLLUTION CONTROL
BOARD) BILL, 2009**

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BILL

to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Kerala State Pollution Control Board.

Preamble.—WHEREAS, it is expedient to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Kerala State Pollution Control Board.

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 Public Service Commission (Additional Functions as Respects the Services under the Kerala State Pollution Control Board) Act, 2009.

(2) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Board” means the Kerala State Pollution Control Board constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (Central Act No.6 of 1974) which is also deemed to be the State Board for the Prevention and Control of Air Pollution under section 4 of the Air (Prevention and Control of Pollution) Act, 1981 (Central Act No.14 of 1981);

(b) “Public Service Commission” means the Kerala Public Service Commission.

(c) “services” means the services under the Kerala State Pollution Control Board.

3. *Functions of the Public Service Commission in respect of the services under the Kerala State Pollution Control Board.*— (1) It shall be the duty of the Public Service Commission to prepare the select list of candidates for appointment by direct recruitment to the posts under the service of the Board.

(2) The Board shall consult the Public Service Commission,—

- (a) on all matters relating to direct recruitment to the posts under the services of the Board;
- (b) on the principles to be followed in making appointments by direct recruitment to the posts under the services of the Board and on the suitability of candidates for such appointments;

(3) It shall be the duty of Public Service Commission to advise on any matter so referred to them under sub-section (1) :

Provided that the Government may make rules specifying the matters in which either generally, or in any particular case or class of cases or in any particular circumstances, it shall not be necessary for the Public Service Commission to be consulted.

(4) In case of any difference of opinion between the Public Service Commission and the Board on any matter, the Board shall refer the matter to the Government and the decision of the Government thereon shall be final:

Provided that the Government, before taking a decision against the advice of the Public Service Commission, shall refer the matter to the Public Service Commission.

4. *Power to make rules.*—(1) The Government may, in consultation with the Public Service Commission and the Board, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the forgoing power, such rules may provide for,—

(a) the procedure to be followed by the Board for consultation with the Public Service Commission;

(b) the matters in which it shall not be necessary for the Public Service Commission to be consulted ;

(c) any matter which is incidental to, or necessary for, the purpose of consultation with the Public Service Commission.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid, or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Government have decided that all appointments by direct recruitment to posts in the Kerala State Pollution Control Board Services shall be made from the select list of candidates furnished by the Public Service Commission. The service of the Kerala State Pollution Control Board does not form part of the public services of the State. Hence the Public Service Commission has to be empowered to exercise additional functions as respects the Kerala State Pollution Control Board by appropriate legislative measure under Article 321 of the Constitution of India. Hence the Government considers it necessary to bring in a special legislation for the said purpose.

2. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

The proviso to sub-clause (3) of clause 3 of the Bill seeks to empower the Government to make rules specifying the matters in which, either generally or in any particular case or class of cases or in any particular circumstances, it shall not be necessary for the Public Service Commission to be consulted.

2. Clause 4 of the Bill seeks to empower the Government to make rules in consultation with Public Service Commission and the Kerala State Pollution Control Board for carrying out the purpose of the Act.