

Thirteenth Kerala Legislative Assembly
Bill No. 205

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS (AMENDMENT) BILL, 2013**

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further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951.

Preamble.—WHEREAS, it is expedient further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951 for the purposes hereinafter appearing;

BE it enacted in the Sixty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2013.

(2) It shall be deemed to have come into force on the 10th day of November, 2012.

2. *Amendment of section 7.*—In the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951) (hereinafter referred to as the principal Act), in section 7,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Board referred to in sub-section (1) shall consist of nine Hindu members of whom one shall be a woman, one shall be a person belonging to Scheduled Castes and one shall be a person belonging to Scheduled Tribes.

Explanation.—For the purpose of this section, “Scheduled Castes” and “Scheduled Tribes” shall have the same meaning as assigned to them in clauses (24) and (25), respectively, of article 366 of the Constitution of India”.

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(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Of the nine members specified in sub-section (3), seven members including the woman member, the member belonging to the Scheduled Castes and the member belonging to the Scheduled Tribes, shall be nominated by the Hindus among the Council of Ministers and the other two members shall be elected by the Hindus among the Members of the Legislative Assembly of the State of Kerala as provided in section 7L.”.

3. *Amendment of section 7B.*—In section 7B of the principal Act, in clause (iv), for the words “fifty years”, the words “forty-five years” shall be substituted.

4. *Amendment of section 7L.*—For section 7L of the principal Act, the following section shall be substituted, namely:—

“7L. *Duties of the Board.*— The Board shall perform the following duties and functions, namely:—

(i) to ensure proper maintenance and upliftment of Hindu Religious Institutions;

(ii) to establish and maintain proper facilities in the temples for the devotees;

(iii) to allocate all the divisions under the Board to the members by rotation, who shall perform such functions as may be authorised by the Board including the working of the Area Committee.”.

5. *Omission of section 8D.*—Section 8D of the principal Act shall be omitted.

6. *Amendment of section 13.*—In section 13 of the principal Act,—

(a) in sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every Area Committee shall consist of seven members appointed by the Government.”;

(b) in sub-section (2), for the words “three years”, the words “two years” shall be substituted.

7. *Amendment of section 39.*—In sub-section (3) of section 39 of the principal Act, for the words “five years” the words “two years” shall be substituted.

8. *Special provisions relating to the existing members of the Area Committee and non-hereditary trustees.*— Notwithstanding anything contained in the principal Act, the Chairman and the members of the Area Committee and the non-hereditary trustees in office as on 10th November 2012, the date of commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Ordinance, 2012 (59 of 2012), shall cease to hold office as such Chairman and members of the Area Committee or the non-hereditary trustees, as the case may be, on the said date.

9. *Repeal and saving.*—(1) The Madras Hindu Religious and Charitable Endowments (Amendment) Ordinance, 2013 (28 of 2013) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Malabar Devaswom Board was being administered under the provisions of the Madras Hindu Religious and Charitable Endowments Act, 1951. Since, the term of office of the existing members of the Board expired, Government have decided to introduce certain amendments to the said Act so that Government will have greater say in the constitution of the Malabar Devaswom Board.

2. The main amendments include an amendment to facilitate nomination of seven members including one woman member and one member each representing the Scheduled Castes and the Scheduled Tribes to be nominated by the Hindus among the Council of Ministers and the other two members to be elected by the Hindus among the members of the Legislative Assembly. The minimum age of a person to be nominated as a member is proposed to be reduced from 50 years to 45 years and the term of the Area Committees and the hereditary trustee under the Board is to be reduced to two years as in the case of the term of office members of the Board. Further, the decision to empower the Kerala Public Service Commission to advise candidates for appointment to the Board has to be rescinded in view of the policy decision already taken by the Government to constitute a Devaswom Recruitment Board for that purpose.

3. As the Legislative Assembly of the State of Kerala was not in session and the Governor of Kerala was satisfied that circumstances existed which render it necessary for him to take immediate action, the Madras Hindu Religious and Charitable Endowments Ordinance, 2012 was promulgated by the Governor of Kerala on the 9th day of November, 2012 and the same was published as Ordinance No. 59 of 2012 in the Kerala Gazette Extraordinary No.1151 dated, the 10th day of November, 2012.

A Bill to replace Ordinance No. 59 of 2012 by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 10th day of December, 2012 and ended on the 21st day of December, 2012. Therefore, in order to keep alive the provisions of the said Ordinance, the Madras Hindu Religious and Charitable Endowments (Amendment) Ordinance, 2013 was promulgated by the Governor on the 9th day of January, 2013 and the same was published as Ordinance No. 7 of 2013 in the Kerala Gazette Extraordinary No. 101 dated the 10th day of January, 2013.

A Bill to replace Ordinance No. 7 of 2013 by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 1st day of February, 2013 and ended on 19th day of February, 2013. Therefore, in order to keep alive the provisions of the said Ordinance, the Madras Hindu Religious and Charitable Endowments (Amendment) Ordinance, 2013 was promulgated by the Governor on the 26th day of February, 2013 and the same was published as Ordinance No. 28 of 2013 in the Kerala Gazette Extraordinary No. 567 dated the 27th day of February, 2013.

The Bill seeks to replace Ordinance No. 28 of 2013 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

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

V. S. SIVAKUMAR.

EXTRACT FROM THE RELEVANT PORTIONS OF THE MADRAS
HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS ACT, 1951
(MADRAS ACT XIX OF 1951)

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CHAPTER II

The Board and its Officers

7. *Constitution of the Malabar Devaswom Board.*—(1) As soon as after the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008, the Government shall, by notification in the Gazette, constitute a Board by name “the Malabar Devaswom Board”.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of both movable and immovable properties and to enter into contracts and may sue and be sued in the name of the Board.

(3) The Board shall consist of the following nine Hindu members, namely:—

- (a) one philosopher of Hindu religion;
- (b) one social reformer of Hindu religion;
- (c) one member from any of the Temple Advisory Committees constituted under section 14;
- (d) one woman, well versed in Hindu devotional songs;
- (e) one member from Scheduled Caste Communities;
- (f) one member from Schedule Tribe Communities;
- (g) one woman member;
- (h) two other members.

Explanation:— For the purpose of this section, “Scheduled Castes” and “Scheduled Tribes” shall have the same meaning as is assigned to them in clause (24) and (25) respectively of Article 366 of the Constitution of India.

(4) The members mentioned in clauses (a) to (f) shall be mentioned by the Hindus among the Council of Ministers of the State and the members mentioned in clauses (g) and (h) shall be elected by the Hindus among the Members of the Kerala Legislative Assembly as provided Section 7 I.

(5) The Hindus among the Council of Ministers of the State shall also nominate a member of the Board as its President.

(6) The head quarters office of the Board shall be at Kozhikode.

(7) In the absence of a duly constituted Board, the Government may, by notification in the Gazette, appoint a Secretary to Government, who is a Hindu, as the Chief Commissioner to exercise all powers and perform all duties of the Board under this Act.

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7B. *Qualification for membership.*—A person shall be qualified for nomination or election as a member of the Board only if he,—

(i) is a permanent resident of the Malabar area ;

(ii) professes the Hindu religion ;

(iii) is a believer of temple worship ; and

(iv) has completed the age of fifty years in the case of male members and sixty years in the case of female members.

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7L. *Standing Committees of the Board.*—(1) The Board shall constitute for its proper functioning, the following Standing Committees with 3 members each, namely:—

(i) Standing Committee on Finance and Resource Mobilization ;

(ii) Standing Committee on Works, Development and Environment ;

(iii) Standing Committee on Establishment, Temple Arts and Devotional Service ;

(2) The Board shall nominate one member of each Standing Committee as its Chairman who shall preside over its meetings.

(3) The Board shall specify the various duties and responsibilities of the Standing Committees.

(4) The Standing Committees shall meet at least once in a month.

(5) The recommendations of the Standing Committees shall be unanimous and in case of any difference of opinion among the members in respect of any subject it shall be placed before the Board for its decision.

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8D. *Appointment to be made through Kerala Public Service Commission.*— All appointments of officers and employees of the Board, except the Commissioner, for which direct recruitment is resorted to, shall be made from a select list of candidates belonging to Hindu religion furnished by The Kerala Public Service Commission in accordance with the law made for the exercise of this additional function by the Kerala Public Service Commission. A Hindu member/members of the Public Service Commission may discharge the function of conducting interview in the process of selection of candidates for appointments.

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13. *Strength of Area Committees and term of office and disqualifications of members.*— (1) Every Area Committee shall consist of the following members appointed by the Government namely:—

- (a) one philosopher of Hindu religion ;
- (b) one social reformer of Hindu religion ;
- (c) one member from any of the Temple Advisory Committees constituted under section 14 ;
- (d) one member from Scheduled Caste or Scheduled Tribe Communities ;
- (e) one woman member ;
- (f) two other members.

(1A) The Government shall nominate one of the members as its Chairman.

(2) Save as otherwise, expressly provided in this section, a member of an Area Committee shall be entitled to hold office for three years from the date on which his appointment is notified in the Kerala Government Gazette.

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39. *Trustees and their number and term of office.*—(1) Where a religious institution included in the list published under section 38 or over which no Area Committee has jurisdiction, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him.

Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him.

** ** **

(3) Every trustee appointed under sub-section (1) and subject to the result of an application, if any, filed under sub-section (4) every non-hereditary trustee appointed under sub-section (2) shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee.

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