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Thirteenth Kerala Legislative Assembly

Bill No. 354

**THE KERALA DEVASWOM RECRUITMENT BOARD
BILL, 2015**

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THE KERALA DEVASWOM RECRUITMENT BOARD BILL, 2015

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BILL

to provide for the constitution of an autonomous Devaswom Recruitment Board for preparing select list of candidates for the appointments in various posts other than hereditary posts and the posts in aided educational institutions in Devaswom Boards of the State of Kerala and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the constitution of an autonomous Devaswom Recruitment Board for preparing select list of candidates for the appointments in various posts other than hereditary posts and the posts in aided educational institutions in Devaswom Boards of the State of Kerala and for matters connected therewith or incidental thereto;

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

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Kerala Devaswom Recruitment Board Act, 2015.

(2) It shall be deemed to have come into force on the 1st day of March, 2014.

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

(a) “Board” means the Kerala Devaswom Recruitment Board constituted under section 3;

(b) “Devaswom Board” means the Travancore Devaswom Board or Cochin Devaswom Board or Malabar Devaswom Board or Guruvayoor Devaswom Managing Committee or Koodalmanickam Devaswom Managing Committee;

(c) “Government” means the Government of Kerala;

(d) "hereditary posts" means such posts as may be prescribed by the rules made under this Act;

(e) "Member" means a member of the Board and includes the Chairperson;

(f) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

CONSTITUTION OF THE BOARD

3. *Constitution of the Board.*—(1) The Government shall, as soon as may be, after the commencement of this Act, by notification in the Gazette, constitute a Board to be known as the 'Kerala Devaswom Recruitment Board' to exercise the powers conferred on it and to perform the functions under this Act.

(2) The Board shall be an independent and autonomous body corporate in the name aforesaid, having perpetual succession and common seal and shall in the said name, sue and be sued.

(3) The Board shall consist of five members nominated by the Government, who belongs to Hindu religion and having faith in God and temple rituals. One person who is or has been holding a post not below the rank of Secretary to Government shall be the Chairperson and among other members one shall be a woman and one shall be a member belonging to Scheduled Caste or Scheduled Tribe.

(4) The Government may appoint a person holding the post of Additional Secretary to Government as the Secretary to the Board. He shall be the Chief Executive Officer of the Board and shall exercise such powers and discharge such functions as may be authorised by the Board.

(5) The headquarters of the Board shall be at Thiruvananthapuram.

4. *Disqualification for Membership.*—Any person shall be disqualified to be a member of the Board by nomination, if he,—

(i) is of unsound mind; or

(ii) is an undischarged insolvent; or

(iii) is an office-bearer or an employee of a Local Self Government Institution or a Devaswom Board; or

(iv) is interested in an existing contract in which the Board is involved or is engaged in any work on behalf of the Board; or

(v) has been convicted by a criminal court for any offence involving moral turpitude; or

(vi) is a Member of the Parliament or of the Legislature of any State or of a Local Self Government Institution; or

(vii) has been removed from holding any office in pursuance of a court order; or

(viii) is or has been engaged in the production or sale of liquor.

5. *Term of office and conditions of service of the Chairperson and Members.*—(1) The Chairperson and other members may continue in office till the completion of a period of five years from the date on which they assume office or till they attain the age of 65 years, whichever is earlier.

(2) The Chairperson or Member of the Board may, at any time, resign his office by giving a notice in writing to the Government under his hand.

(3) The term of office of a member nominated to fill a temporary vacancy shall be only for the period during which that member in whose vacancy he was nominated, would have held office.

(4) The Government may, by order, remove the Chairperson or any Member from office, if that person,—

(a) becomes an undischarged insolvent; or

(b) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(c) becomes of unsound mind and stands so declared by a competent court; or

(d) refuses to work or becomes incapable of doing work; or

(e) does not attend three consecutive meetings of the Board without the permission of the Board; or

(f) has, in the opinion of the Government, abused his official position so as to render his continuance in that post detrimental to the interest of the Board or public:

Provided that no person shall be removed under this sub-section unless that person has been given a reasonable opportunity of being heard.

(5) A vacancy occurred under sub-section (2) or otherwise shall be filled by fresh nomination.

(6) A person once appointed as Chairperson or Member is not eligible for re-appointment.

(7) The Chairperson and Members shall be fulltime officers and shall be eligible to such salary and allowances as may be prescribed.

6. *Appointment of officers and employees of the Board.*—(1) The Government may, appoint the following officers and employees necessary for the proper management of the Board, namely:—

(a) a Law Officer not below the rank of Joint Secretary to Government in the Law Department;

(b) a Finance Officer not below the rank of Joint Secretary to Government in the Finance Department; and

(c) such other officers and employees as may be prescribed and considered necessary for assisting the Board in the exercise of its powers and performance of its functions under this Act.

(2) The officers and employees of the Board shall belong to Hindu religion and shall have faith in God and temple rituals.

(3) The salary and allowances payable to, and other terms and conditions of service of, the officers and employees of the Board shall be such as may be prescribed.

(4) When the Board is constituted and starts functioning the Government may appoint the officers and employees temporarily through deputation.

(5) The rules applicable to the Government employees in respect of the method of appointment, salary and allowances, discipline and other conditions of service shall be applicable to the officers and employees of the Board.

7. *Vacancies etc. not to invalidate proceedings of the Board.*—No act or proceeding of the Board shall become invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Board.

8. *Meetings of the Board.*—(1) The Board shall meet whenever necessary, at such place and time, as the Chairperson may deem fit.

(2) The meeting of the Board shall be convened by the Secretary of the Board on the recommendation of the Chairperson.

(3) Meetings of the Board shall be presided over by the Chairperson and in his absence by a Member chosen by the Members present from among themselves.

(4) The quorum for a meeting shall be three including the Chairperson.

(5) The Secretary shall keep the minutes of the proceedings of each meeting in a book maintained for the purpose, which shall be signed by the Chairperson or the person presiding and all the members present at such meeting.

CHAPTER III

FUNCTIONS AND POWERS OF THE BOARD

9. *Functions of the Board.*—(1) The Board shall have the following functions, namely:—

(i) notwithstanding anything contained in any other existing Act or Rules or Regulations or orders or judgment or decree in respect of the appointment of candidates to the posts in the Devaswom Board, the Board shall prepare select list for the appointment of candidates to various posts other than the hereditary posts and posts in the aided educational institutions in the Devaswom Boards as per the provisions of this Act, Rules and Regulations;

(ii) to invite applications, to conduct written examination and interview of candidates and to prepare the select list for selection to the various posts other than the hereditary posts under the Devaswom Board, as may be prescribed, as and when the requisition for such examination is received from the concerned Devaswom Board;

(iii) to make all required arrangements in connection with the examination including the preparation of question papers, supervision of examinations and valuation, conduct of interview and preparation of the select list;

(iv) to conduct any other examination relating to Devaswom Board as entrusted by the Government;

(v) to call for and obtain details regarding the examination from the concerned Devaswom Boards.

(2) The Board shall be responsible for the proper conduct of the examination, to maintain the secrecy in the preparation of question paper, valuation, preparation of the list of candidates to be interviewed and preparation of the final select list to be furnished to the Devaswom Board and other connected matters and for the safe custody of the records pertaining to the examinations.

(3) (i) The Board shall conduct written examination to the candidates who had submitted applications and, if necessary, prepare lists after conducting interview;

(ii) Examination may be conducted for any Devaswom Board or for all the Devaswom Boards in a suitable manner for the said purpose;

(iii) An applicant, who applies for more than one post or to more than one Devaswom Boards, shall not be denied the right to appear in more than one examination.

(4) The procedure to be followed by the Board, in respect of the invitation of applications, conduct of written examination, preparation of list of candidates to be interviewed, conduct of interview and preparation of the select list to various posts in the Devaswom Board, shall be such as may be prescribed.

(5) The Board may issue general directions to the Devaswom Boards incidental to the functions of the Board and as are necessary for the conduct of the examinations.

(6) It shall be the duty of the Board to furnish the select list to the Devaswom Board prepared in the prescribed manner.

CHAPTER IV

EXPENDITURE, BUDGET, ACCOUNTS AND AUDIT OF THE BOARD

10. *Expenditure of the Board.*—The expenditure of the Board including the salary, allowances and pension payable to the Chairperson, members and officers of the Board shall be met from the Consolidated Fund of the State.

11. *Appropriation to the Board.*—The Government shall, after due appropriation made by law for this purpose in the State Legislative Assembly, grant such amount to the Board as deemed necessary for utilisation for the purposes of this Act.

12. *Budget.*—The Board shall prepare in each financial year a budget containing anticipated income and expenditure for the next financial year and shall submit the same to the Government within two months from the commencement of each financial year, with such number of copies of the budget so prepared, as may be required by the Government.

13. *Accounts and Audit.*—(1) The Board shall maintain proper accounts and other relevant records and prepare the annual statement of accounts in such form as may be prescribed, in consultation with the Accountant General.

(2) The accounts of the Board shall be audited annually by the Accountant General and expenditure incurred in respect of such audit shall be payable by the Board to the Accountant General.

(3) The Accountant General and any person appointed by him in connection with the audit of accounts of the Board under this Act shall have the same rights and privileges as the Accountant General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any office of the Board.

(4) The accounts of the Board, as certified by the Accountant General or any other person engaged by him in this behalf, together with the audit report thereon shall be forwarded annually to the Government by the Board and the Government shall cause the report to be laid before the Legislative Assembly within a period of six months from the date of its receipt.

14. *Annual Report.*—The Board shall, for each financial year, prepare annual report containing the complete details of its activities in the previous financial year in such form and time as may be prescribed and shall also forward a copy of it directly to the Government.

CHAPTER V

MISCELLANEOUS

15. *Chairperson, Members and Employees of the Board to be public servants.*—The Chairperson, Members and Employees of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

16. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make provisions not inconsistent with the provisions of this Act which appear to it to be necessary or expedient, for removing such difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

17. *Power to make regulations.*—The Board may, with prior approval of the Government, issue necessary regulations for the proper conduct of the examination.

18. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules, either prospectively or retrospectively, for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the hereditary posts under clause (d) of section 2;

(b) salaries and allowances payable to the Chairperson and Members under sub-section (7) of section 5, and the officers and other employees under clause (c) of sub-section (1) and sub-section (3) of section 6 and other terms and conditions in respect of their service;

(c) the procedure for the proper conduct of examination under sub-section (4) of section 9;

(d) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 13;

(e) the form in which, and the time at which the annual report shall be prepared under section 14;

(f) any other matter which is to be or may be prescribed.

(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.

19. *Repeal and saving.*—(1) The Kerala Devaswom Recruitment Board Ordinance, 2015 (5 of 2015) 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 said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

Appointments to the various posts under the Travancore Devaswom Board, Malabar Devaswom Board, Cochin Devaswom Board, Guruvayoor Devaswom Managing Committee and Koodalmanickam Devaswom Managing Committee are at present governed by the provisions in the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Act 15 of 1950), Madras Hindu Religious

and Charitable Endowments Act, 1951 (Madras Act 19 of 1951), Guruvayoor Devaswom Act, 1978 (14 of 1978) and Koodalmanickam Devaswom Act, 2005 (2 of 2007). Justice Paripoornan Commission appointed by the Hon'ble High Court of Kerala in 2007 to enquire on the irregularities existed in the Travancore Devaswom Board recommended to constitute a Common Recruitment Board for all Devaswom Boards in the State and the Hon'ble High Court approved the said recommendations. On the basis of that, Government have decided to constitute an autonomous body called the Kerala Devaswom Recruitment Board to prepare the select list of candidates for appointments to the various posts other than the hereditary posts and the posts in the aided educational institutions in Devaswom Boards of the State of Kerala for the purpose of unifying the selection procedure.

2. As the Legislative Assembly of the State of Kerala was not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action, the Kerala Devaswom Recruitment Board Ordinance, 2014 was promulgated by the Governor of Kerala on the 1st day of March, 2014 and the same was published as Ordinance No. 10 of 2014 in the Kerala Gazette Extraordinary No. 773 dated 1st March, 2014.

3. A Bill to replace the said Ordinance 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 9th day of June, 2014 and ended on the 17th day of July, 2014. In order to keep alive the provisions of the said Ordinance, the Kerala Devaswom Recruitment Board Ordinance, 2014 was promulgated by the Governor of Kerala on the 20th day of July, 2014 and the same was published as Ordinance No. 14 of 2014 in the Kerala Gazette Extraordinary No. 1865 dated the 20th day of July, 2014.

4. A Bill to replace the said Ordinance 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 December, 2014 and ended on the 18th day of December, 2014. In order to keep alive the provisions of the said Ordinance, the Kerala Devaswom Recruitment Board Ordinance, 2015 was promulgated by the Governor of Kerala on the 9th day of January, 2015 and the same was published as Ordinance No. 1 of 2015 in the Kerala Gazette Extraordinary No. 69 dated the 9th day of January, 2015.

5. A Bill to replace the said Ordinance 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 6th day of March, 2015 and ended on the 23rd day of March, 2015. In order to keep alive the provisions of the

said Ordinance, the Kerala Devaswom Recruitment Board Ordinance, 2015 was promulgated by the Governor of Kerala on the 10th day of April, 2015 and the same was published as Ordinance No. 5 of 2015 in the Kerala Gazette Extraordinary No. 816 dated the 10th day of April, 2015.

6. The Bill is intended to replace Ordinance No. 5 of 2015 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

Sub-clause (7) of clause 5 of the Bill provides that the salary and allowances payable to the Chairperson and the members of the Kerala Devaswom Recruitment Board shall be such as may be prescribed. Sub-clause (3) of clause 6 of the Bill provides that the salary and allowances payable to the officers and other employees appointed for the Board shall be in such manner as may be prescribed. Clause 10 of the Bill provides that the expenditure of the Board including the salary, allowances and pension payable to the Chairperson, Members and Officers shall be met from the Consolidated Fund of the State. Sub-clause (2) of clause 13 of the Bill provides that the accounts of the Board shall be audited annually by the auditor entrusted by the Comptroller and Auditor General in this behalf.

2. If the Bill is enacted and brought into operation, the fund required to meet the above expenses for the effective functioning of the Board have to be given by the Government by way of grant. Under this item, a minimum recurring expenditure of Rupees Ten Crores and a non-recurring expenditure of Rupees Five Crores is expected to be expended from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to empower the Government to constitute the Kerala Devaswom Recruitment Board, by notification in the Gazette.

2. Sub-clause (7) of clause 5 and sub-clause (3) of clause 6 of the Bill seeks to empower the Government to prescribe the salary and allowances payable to the Chairperson and the Members, officers and other employees of the Board and the other terms and conditions of their service.

3. Item (ii) of sub-clause (1) of clause 9 of the Bill seeks to empower the Government to prescribe the manner of inviting applications, to conduct the written examination and interview of the candidates and to prepare the select list for selection to the various posts other than the hereditary posts under the Devaswom Board.

4. Sub-clause (4) of clause 9 of the Bill seeks to empower the Government to prescribe the procedure to be followed by the Board in respect of the examination.

5. Sub-clause (6) of clause 9 of the Bill seeks to empower the Government to prescribe the manner in which the select list to be given to the Devaswom Board.

6. Sub-clause (1) of clause 13 of the Bill seeks to empower the Government to prescribe the form in which the annual statement of accounts is to be prepared.

7. Clause 14 of the Bill seeks to empower the Government to prescribe the form and the time to prepare annual report of the Board.

8. Sub-clause (1) of clause 18 of the Bill seeks to empower the Government to make rules, by notification in the Gazette, for implementing the provisions of the Act.

9. Item (f) of sub-clause (2) of clause 18 of the Bill seeks to empower the Government to prescribe any other matters for which rules are to be made.

10. The matters in respect of which the notifications are to be issued or rules are to be made or orders are to be issued are matters of procedure and are of routine or administrative nature. Further, such rules and orders are subject to the scrutiny by the Legislative Assembly. Hence, the delegation of legislative power is of a normal character.

V. S. SIVAKUMAR.