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**Thirteenth Kerala Legislative Assembly**

**Bill No. 374**

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**THE KERALA STATE COMMISSION FOR FORWARD  
COMMUNITIES BILL, 2015**

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BILL, 2015**

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THE KERALA STATE COMMISSION FOR  
FORWARD COMMUNITIES BILL, 2015

A

BILL

*to constitute a State Commission for Forward Communities and to provide for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to constitute a Commission for the Forward Communities and to provide 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 State Commission for Forward Communities Act, 2015.

(2) It shall be deemed to have come into force on the 16th day of May, 2015.

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

(a) “Commission” means the Kerala State Commission for Forward Communities constituted under section 3;

(b) “Forward Community” means any community included in the list of forward communities identified by the Commission under clause (a) of section 9 which is published by the Government by notification in the Gazette;

- (c) "Government" means the Government of Kerala;
- (d) "Member" means a member of the Commission and includes the Chairperson;
- (e) "prescribed" means prescribed by rules made under this Act.

## CHAPTER II

### KERALA STATE COMMISSION FOR FORWARD COMMUNITIES

3. *Constitution of the Kerala State Commission for Forward Communities.*—(1) The Government shall, as soon as may be, after the commencement of this Act, by notification in the Gazette, constitute a body to be known as the "Kerala State Commission for Forward Communities" to exercise the powers conferred on it and to perform the functions under this Act.

(2) The Commission shall consist of the following members, nominated by the Government, namely:—

(a) a person who is or has been a Judge of the Supreme Court or High Court, he shall be the Chairperson of the Commission;

(b) two members belonging to forward community having special knowledge in matters relating to forward community, nominated by the Government;

(c) an Additional Secretary to Government or a person who had served as an Additional Secretary to Government for not less than three years, he shall be the Member-Secretary of the Commission.

4. *Term of office and conditions of service of Chairperson and Members.*—(1) Each member may continue in office for a term of three years from the date on which he assumes office.

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

(3) The Government shall remove a person from the office of the Chairperson or of a member, if that person,—

(a) becomes an undischarged insolvent;

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

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

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

(e) without obtaining leave of absence from the Commission, does not attend three consecutive meetings of the Commission;

(f) in the opinion of the Government, has so abused the official position of Chairperson or Member as to render that person's continuance in office detrimental to the interest of forward communities or public interest:

Provided that no person shall be removed under this sub-section unless that person has been given an opportunity of being heard in the matter.

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

(5) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

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

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

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

(c) such other officers and employees as may be prescribed and considered necessary for assisting the Commission to exercise the powers and perform the functions under this Act.

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

(3) Appointment of officers and employees may be made by Government provisionally through deputation when the Commission is constituted and starts functioning.

(4) 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 Commission.

6. *Salary, allowances and administrative expenses to be paid out of grant.*—The salary and allowances payable to the Chairperson and Members, and the administrative expenses, including salary, allowances and pension payable to the officers and other employees referred to in section 5, shall be paid out of grant referred to in sub-section (1) of section 15.

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

8. *Procedure to be regulated by the Commission.*—(1) The Commission shall meet as and when necessary at such time and place as the Chairperson thinks fit:

Provided that such meeting shall be held at least once in three months.

(2) The Commission shall have the power to regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised in writing in this behalf by the Member-Secretary.

### CHAPTER III

#### POWERS AND FUNCTIONS OF THE COMMISSION

9. *Functions of the Commission.*—The Commission shall perform the following functions, namely:—

(a) to identify the forward communities in the State of Kerala, to prepare a list thereof and submit it to the Government;

(b) to study and analyse the issues of those who are economically backward in the forward communities and recommend welfare measures;

(c) to examine the requests of any community to be included as forward community, to hear complaints thereon and to give advices, as it may think appropriate, to the Government;

(d) to participate in, and advise on, the planning proceedings for the socio-economic development of the forward communities and evaluate the progress of their development in the State;

(e) to make recommendations as to the measures to be taken by the Government for the effective implementation of provisions and other measures necessary for the welfare and socio-economic development of the forward communities and to submit report to the Government annually or at such time, as the Commission may deem fit;

(f) to conduct studies, research and analysis on the issues relating to social, economic and educational progress of forward communities;

(g) to suggest appropriate measures to be adopted by the Government in respect of forward communities;

(h) to submit report to the Government periodically or specially, on any matter pertaining to forward communities, particularly in respect of difficulties being faced by them;

(i) to discharge such other functions in relation to the protection, welfare, development and advancement of the forward communities, as may be prescribed; and

(j) to do any other matter pertaining to forward communities, entrusted by the Government.

10. *Certificate.*—The Government shall, on the recommendation of the State Commission for forward communities, issue forward community certificate to those belonging to forward communities, residing in the State in the manner and form as may be prescribed.

11. *Laying of Report.*—The Government shall cause the reports referred to in clause (e) of section 9, to be laid before the Legislative Assembly explaining the action taken or proposed to be taken thereon and also the reasons, if any, for non-acceptance of the recommendations.

12. *Powers of the Commission.*—(1) The Commission, while performing its functions under section 9, shall have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of the State and examining him on oath;

(b) requiring the discovery and production of any document;

- (c) receiving evidence on affidavits;
- (d) demanding any public record or copy thereof from any court or office;
- (e) the examination of witnesses and inspection of records; and
- (f) any other matter as may be prescribed.

(2) The Commission may, for the purpose of taking evidence in connect on with enquiries, utilise the services of any officer of the Government or investigation agency.

(3) The officer or investigation agency, whose services have been utilised under sub-section (2), shall take evidence after making enquiry regarding it and the report thereon shall be submitted to the Commission within the period fixed by the Commission in this behalf.

(4) The Commission shall satisfy itself regarding the correctness of any inferences arrived at in the report or facts in the report submitted under sub-section (3) and for this purpose it may conduct enquiry as it deems fit, including the examination of the person who had taken the evidence or assisted for the same.

13. *Statements given by individuals to the Commission.*—The statement given by a person about himself at the time of giving evidence before the Commission, shall not be used against the said person in the proceedings before any civil court or criminal court, except in prosecution proceedings for giving false evidence by such statement:

Provided that such statement shall be,—

- (a) given as a reply to a question which is required by the Commission to be answered by that person;
- (b) relevant to the subject matter in which the evidence is taken by the Commission.

14. *Individuals likely to be affected prejudicially to be heard.*—At any stage of taking evidence, if the Commission,—

- (a) is of the opinion that it is necessary to enquire into the conduct of any individual; or
- (b) is of the opinion that taking of evidence will prejudicially affect the reputation of any individual;

such person shall be given a reasonable opportunity of being heard and to produce evidence to defend, in the enquiry.



## CHAPTER IV

## FINANCE, ACCOUNTS AND AUDIT

15. *Grants by the Government.*—(1) The Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission, by way of grants, such sums of money, which is considered to be necessary for being utilised for the purposes of this Act.

(2) The Commission may spend such sums, out of grants, as it thinks fit, for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

16. *Accounts and Audit.*—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Commission shall be audited annually by the auditor entrusted by the Comptroller and Auditor General in this behalf.

(3) All the accounts and other records of the Commission shall be made available to the auditor for the purpose of the audit.

17. *Annual Report.*—The Commission shall, for each financial year, prepare annual report giving complete information of its activities in the previous financial year in the prescribed form and time and shall also forward a copy of it to the Government directly.

18. *Audit report to be laid before the Legislature.*—The Government shall cause the audit reports to be laid, as soon as may be, after they are received, before the Legislative Assembly.

## CHAPTER V

## MISCELLANEOUS

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

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

(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) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;

(b) the manner and form of issuing forward community certificate by the Government under section 10;

(c) any other matter under clause (f) of section 12;

(d) the form of annual statement of accounts to be prepared under sub-section (1) of section 16;

(e) the form in, and time at which the annual report shall be prepared under section 17;

(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.

21. *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 the 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.

22. *Repeal and Savings.*—(1) The Kerala State Commission for Forward Communities Ordinance, 2015 (9 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

The forward communities, which constitute almost 26% of the population in the State are not included in the reservation policies or projects of the Central-State Governments. Due to historical and social reasons, a considerable percentage of the said communities are belonging to economically backward classes. The reservation availed by the Scheduled Caste/Scheduled Tribe, Backward and minority communities are limiting the educational and employment opportunities of the youths of the forward communities. Moreover the persons belonging to forward communities are unable to find their livelihood or utilise opportunities, due to other historical, social and cultural reasons. For the purpose of solving these problems and to ensure the overall development of the various classes of people the Government find it expedient to constitute a Commission to identify the forward communities of the State and to recommend various welfare measures for them. In order to achieve this object, the Government have decided to constitute a four member Kerala State Commission for Forward Communities headed by a serving or retired judge of the Supreme Court or the High Court.

2. Though a Bill to bring an Act of the State Legislative Assembly on this subject was published as Bill No. 254 of the Thirteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by the Legislative Assembly.

3. As the Kerala Legislative Assembly was not in session and the above proposal had to be given effect to immediately, the Kerala State Commission for Forward Communities Ordinance, 2015 (8 of 2015) was promulgated by the Governor of Kerala on the 16th day of May, 2015 and the same was published in the Kerala Gazette Extraordinary No. 1178 dated 16th May, 2015.

4. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 352 of the Thirteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on 8th day of June, 2015 and ended on 30th day of July, 2015.

5. In order to keep alive the provisions of the said Ordinance, the Kerala State Commission for Forward Communities Ordinance, 2015 (9 of 2015) was promulgated by the Governor of Kerala on the 22nd day of August, 2015 and the same was published in the Kerala Gazette Extraordinary No. 1966 dated 22nd day of August, 2015.

6. The Bill is intended to replace Ordinance No. 9 of 2015 by an Act of the State Legislature.

## FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that the salary and allowances payable to the Chairperson and the Members of the Kerala State Commission for Forward Communities and the administrative expenses including salary, allowances and pension payable to the officers and other employees of the Commission referred to in clause 5 shall be paid out of the grant referred to in sub-clause (1) of clause 15. Sub-clause (2) of clause 16 of the Bill provides that the accounts of the Commission 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 for meeting the above expenses for the effective functioning of the Commission has to be given by the Government by way of grant. Under this item, the minimum recurring expenditure of Rs.150 lakhs and non-recurring expenditure of Rs. 50 lakhs are expected from the consolidated Fund of the State.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 3 of the Bill seeks to empower the Government to constitute a Kerala State Commission for Forward Communities, by notification in the Gazette.

2. Sub-clause (5) of clause 4 and sub-clause (2) of clause 5 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 Commission and the other terms and conditions of their service, respectively.

3. Item (c) of sub-clause (1) of clause 5 of the Bill seeks to empower the Government to prescribe such other officers and employees considered necessary for assisting the Commission to exercise the powers and perform the functions of the Commission.

4. Sub-clause (i) of clause 9 of the Bill seeks to empower the Government to prescribe by rules other duties regarding protection, welfare, development and progress of the Forward Communities.

5. Clause 10 of the Bill seeks to empower the Government to prescribe the form and manner of issuing the Forward Community Certificate, by the State Government.

6. Item (f) of sub-clause (1) of clause 12 of the Bill seeks to empower the Government to prescribe any other matter in which the Commission shall have the power of a civil court.

7. Sub-clause (1) of clause 16 of the Bill seeks to empower the Government to prescribe the form in which the annual statement of accounts is to be prepared.

8. Clause 17 of the Bill seeks to empower the Government to prescribe the form and time to prepare annual report of the Commission.

9. Sub-clause (1) of clause 20 of the Bill seeks to empower the Government to make rules, by notification in the Gazette, to implement the provisions of the Act.

10. Item (f) of sub-clause (2) of clause 20 of the Bill seeks to empower the Government to prescribe any other matters for which rules are to be made.

11. Sub-clause (1) of clause 21 of the Bill seeks to empower the Government to issue orders not inconsistent with the provisions of this Act, for the purpose of removing any difficulty arising in implementing the provisions of the Act.

12. The matters in respect of which 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 of the Legislative Assembly. Hence, the delegation of legislative power is of a normal character.

OOMMEN CHANDY.