



പതിമൂന്നാം കേരള നിയമസഭ

**സബോർഡിനേറ്റ് ലെജിസ്ലേഷൻ സമിതി
(2014-2016)**

മുപ്പത്തിരണ്ടാമത് റിപ്പോർട്ട്
(2015 ഡിസംബർ 15-ാം തീയതി സമർപ്പിച്ചത്)

**വിവിധ ആക്റ്റുകളിൻകീഴിൽ പുറപ്പെടുവിച്ച എസ്.ആർ.ഒ.കളുടെ
സൂക്ഷ്മപരിശോധന സംബന്ധിച്ച്**

കേരള നിയമസഭാ സെക്രട്ടേറിയറ്റ്
തിരുവനന്തപുരം
2015

പതിമൂന്നാം കേരള നിയമസഭ

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സബോർഡിനേറ്റ് ലെജിസ്ലേഷൻ സമിതി (2014-2016)

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അവതാരിക

സബോർഡിനേറ്റ് ലെജിസ്ലേഷൻ സമിതിയുടെ (2014-16) അദ്ധ്യക്ഷനായ ഞാൻ, സമിതി അധികാരപ്പെടുത്തിയതനുസരിച്ച് സമിതിയുടെ മുപ്പത്തിരണ്ടാമത് റിപ്പോർട്ട് സമർപ്പിക്കുന്നു.

വിവിധ ആക്റ്റുകളിൽകീഴിൽ പുറപ്പെടുവിച്ച എസ്. ആർ. ഒ.കൾ സമിതിയുടെ വിവിധ യോഗങ്ങളിൽ സൂക്ഷ്മപരിശോധനയ്ക്ക് വിധേയമാക്കുകയും ബന്ധപ്പെട്ട വകുപ്പുദ്യോഗസ്ഥരിൽ നിന്നും തെളിവെടുക്കുകയും ചെയ്തതിന്റെ അടിസ്ഥാനത്തിൽ സമിതി എത്തിച്ചേർന്ന നിഗമനങ്ങളും നിർദ്ദേശങ്ങളും ഉൾക്കൊള്ളിച്ചുകൊണ്ടുള്ളതാണ് ഈ റിപ്പോർട്ട്.

2015 ഡിസംബർ 14-ാം തീയതി ചേർന്ന യോഗത്തിൽ സമിതി ഈ റിപ്പോർട്ട് അംഗീകരിച്ചു.

തിരുവനന്തപുരം,
2015 ഡിസംബർ 15.

എം. ഉമ്മർ,
ചെയർമാൻ,
സബോർഡിനേറ്റ് ലെജിസ്ലേഷൻ സമിതി.

REPORT

THE KERALA PUBLIC SERVICES ACT, 1968 (ACT 19 OF 1968)

SRO No. 11/2008 dated 2-1-2008

[G.O. (P) No. 531/2007/GAD dated 13-12-2007]

This SRO is meant for amending the Special Rules for the Kerala Secretariat Subordinate Service, in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968) read with section 3 thereof.

2. Rule 1 (1) of the SRO states that "These rules may be called the Special Rules for the Kerala Secretariat Subordinate Service (Amendment) Rules, 2004". The Committee notices that the date of Government Order is 13-12-2007 and year of publication of this SRO is 2008. *Hence the Committee directs the Department to correct Rule 1 (1) as "These rules may be called the Kerala Secretariat Subordinate Service (Amendment) Special Rules, 2008"*.

3. The Committee notices that all the clauses of this SRO have been given date of effect from March 1, 1992 except clause (a) of sub-rule (1) and clause (a) of sub-rule (2) of rule 2 which is deemed to have come into force on March 1, 1997. From the explanatory note also, it is obvious that the amendments made in this SRO were done through executive orders issued since 1992. The Committee observes that there is a delay of more than 16 years in publishing statutory rules.

4. During witness examination, the Committee enquired how the promotions were given without statutory rules for such a long period. The witness replied that the promotions were carried out on the basis of various Government Orders issued from time to time and the delay occurred in issuing statutory rules were not intentional. The Committee feels offended by the light heartedness on the part of General Administration Department which ought to be a role model for other departments. *At this juncture, the Committee points out that an executive order would not come before the Legislature unless it is issued as statutory rules. The executive have the right to issue executive orders if it considers it expedient to do so. But it is a settled law that statutory rules cannot be superseded or amended by executive orders. The Committee is of the firm opinion that whenever a new post is created, the method of appointment and fixing of qualification can be done*

through SRO only. If in the case of expediency, the Government issue executive orders, necessary steps must be taken immediately to issue statutory rules and the delay which is noticed in this SRO is not justifiable. The Committee also feels that the Department through this act evades Legislature.

5. The witness also replied that the delay occurred since consultation of P.S.C. was required. As regards the delay in procedural formalities and in getting the concurrence of the P.S.C., the Committee is of the view that the Government should take necessary steps to minimise the delay in issuing statutory notifications. Hence the Committee directs the department to issue necessary instructions to all concerned to reduce the time lag between the date of issuance of executive orders requiring the issuance of the SROs and the actual date of publication of the SRO to a maximum of 90 days. The Committee wants the Government to convene a meeting of all those concerned and suitable instructions issued to adhere to the time limit mentioned above. The Committee wants to be furnished with copy of instructions issued in the matter.

6. While scrutinizing the SRO, the Committee notices that the post of Office Superintendent was abolished from the Secretariat Subordinate Service Rules and has been added to the Secretariat State Service Rules. The Committee enquired the details of the SRO in which the above mentioned post is included. The witness replied that the above mentioned post is deleted vide SRO No. 11/2008 and draft notification for adding the above mentioned post in State Service Rule is in consultation with the Kerala Public Service Commission. Hence the Committee directs the Department to take necessary steps for issuing the SRO.

7. Here the Committee is distressed to note that even after a lapse of more than 55 years of formation of Kerala State and the Secretariat Service which is the axis of administration, Special Rules for the Secretariat State Service has not been issued so far. The Committee views this seriously. During witness examination the Committee enquired the reason for not issuing Service Rules so far. To this, the witness replied that draft notification was sent to P.S.C. for consultation on May, 2015. The Committee intervened and asked whether any court orders on the matter is pending. The Additional Secretary, GAD informed that the draft notification is prepared in the light of Hon'ble High Court's Order. The Committee comments

that issuing SRO based on the executive order is mostly done either through a Court Order or through the intervention of the Committee. The Committee wants to issue the Service Rules within two months from the date of meeting i.e., 9-9-2015.

8. 3rd paragraph of the explanatory note states that "At present, Assistant Tamil Translator Grade II and Assistant Kannada Translator are enjoying promotion as Assistant Tamil Translator (Higher Grade) and Assistant Kannada Translator (Higher Grade), provisions for which is not available in the Special Rules". The Committee enquired how promotions were given to Assistant Tamil Translator and Assistant Kannada Translator without proper rules. The witness from Law Department replied that the matters related to promotion of Tamil & Kannada Assistant Translator of this Department were included in the Pay Revision Commission Order since 1978 and now these posts were included in this SRO as Category No. 13, 13A & 14. Hence the Committee directs the Department to take firm steps to issue notification giving retrospective effect to these posts from the date of above mentioned order.

9. The Committee directs the Department to correct the words "By promotion from Assistant" in Rule 2 (2) (c) 4 A and Rule 2 (2) (c) 4B as "By promotion from Assistants" and the word "note" in rule 2 (2) (e) as "notes".

10. The Committee directs the department to correct the word "Senior Grade Typist" after the word promotion in Rule 2 (2) (f) of 10B as "Senior Grade Typists", the word "Assistant" in the I line of note in Rule 2 (2) (e) and Rule 2 (1) (c) as "Assistants", the words "Legal Assistant Senior Grade" in Rule 2 (1) (b) and rule 2 (2) (b) as "Legal Assistants Senior Grade", the words "Legal Assistant Grade I" in Rule 2 (1) (b) as "Legal Assistants Grade I", the word "typist" in rule 2 (1) (d) and 2 (2) (f) as "Typists".

11. The Committee directs the department to insert the words "10A. Typists-Selection Grade", "10 B Typists Selection Grade-in Governor's Secretariat" after the rule 2 (1) (d) and rearrange the serial number accordingly.

12. The Committee directs the department to correct "Assistant Tamil Translator" as "Assistant Tamil Translators" in Rule 2 (2) (g).

13. The Committee noticed the following while scrutinizing the SRO. Rule 2 (1) (e) of the amended rule states that "for category number 13 and 14, the following shall be substituted:

"13. Assistant Tamil Translators - Higher Grade

13A. Assistant Tamil Translators - Grade II

14. Assistant Kannada Translators - Higher Grade

14A. Assistant Kannada Translators - Grade II".

But Rule 2 (2) (g) states that "after Serial No. 12 and the entry against it the following rule shall be substituted..... ". *The Committee directs the department to correct the category numbers, "12A" as "13" in rule 2 (2) (g), "13" in rule 2 (2) (h) as "13A", "13A" in rule 2 (2) (i) as "14", "14" in rule 2 (2) (j) as "14A" and insert a comma in between the words "substituted" and "namely" in rule 2 (2) (j).*

14. The Committee observes that the Category number of "Assistant Tamil Translators-Grade II" is "13A" as per rule 2 (4) (e) and "Assistant Kannada Translators-Grade II" is "14A" as per Rule 2 (4) (f). *The Committee directs the department to correct category number "13" as "13A" in rule 2 (4) (e) and category number "14" as "14A".*

SRO No. 188/2011 dated 3-3-2011

[G.O. (P) No. 65/2011/GAD dated 28-2-2011]

15. This SRO is meant for amending the Special Rules for the Kerala Secretariat Subordinate Service, in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968, read with section 3 thereof.

16. The Committee notices that in the preamble of the SRO, the name of the rule is wrongly written as "the Kerala Public Service Act, 1968". *Hence the Committee recommends the department to correct the name of the rule in the preamble as "the Kerala Public Services Act, 1968".*

17. The Committee observes that date of effect for rule 2 (2) (a) is 25-5-2005, rule 2 (2) (b) is 25-1-2006, rule 2 (2) (c) is 25-3-2006, rule 2 (2) (d) is 30-11-2006, rule 2 (2) (e) is 9-1-2007 and rule 2 (2) (f) is 17-3-2007. The Committee enquired the reasons for not including these amendments in SRO No. 11/2008, published in 2008. The witness replied that the draft notification was sent to PSC for advice and the same was not received till that date. *The Committee suggests that if the statutory orders were timely issued, the date of effect given to various clauses with different dates could have been avoided. Hence the Committee recommends the Department to issue the amendment notification as soon as an executive order is issued. The Committee offers the same remarks as in para 5 of SRO No. 11/2008.*

18. The Committee observed that even though the Government Order, G.O. (P) No. 169/2010/GAD, had been given prospective effect from 1-4-2011 for the selection of Legal Assistants through PSC, the SRO related to this order has not been notified till date. *Hence the Committee directs the department to publish the SRO within 2 months.*

19. *The Committee directs the department to correct "5. Assistant Senior Grade" as "5. Assistants Senior Grade" in item (iii) of clause (A) of sub-rule (3) and the word "or" is inserted after the words (i) "Direct Recruitment" in item viii of clause (A) of sub-rule (3).*

20. The Committee observes that in the 2nd note of item (viii) of sub-rule (3) of clause (A), the method of by transfer conversion of Typists and Confidential Assistants in service prior to 25-3-2006 is not seen mentioned in this SRO even though it is mentioned in the explanatory note as Government Order G.O.(P) No. 199/2007/GAD dated 17-3-2007. *The Committee is of the opinion that statutory orders shall not be amended by Government Orders and if done so, it has to be included in statutory orders published immediately after it. Hence the Committee recommends to issue SRO making necessary amendments within two months from the date of meeting of the Committee i.e., 9-9-2015.*

21. *The Committee directs the department to correct the word "Assistant" as "Assistants" in note 2 of rule 2 (3) (A) (viii) and "Typist Grade II" as "Typists Grade II" in rule 2 (3) (A) (x).*

22. *The Committee recommends the department to insert a word "or" in between the words "(i) Direct Recruitment" and (ii) Appointment from Typists and Confidential Assistants of the Secretariat" in Rule 2 (5) (c).*

23. *The Committee directs the department to insert the words "By transfer" before the words "(i.e.,) Appointment from the low paid employees of the Secretariat" and "(iii) By transfer appointment from Typists and Confidential Assistants of the Secretariat in the 2nd column of Rule 2 (5) (c)".*

24. *The Committee directs the department to correct the word "Typist" as "Typists" in rule 2 (5) (c) and the word "Assistant" as "Assistants" in the 2nd, 3rd, 4th, 5th para of the explanatory note.*

25. *The Committee also wants the Government to give statutory validity for all the executive orders issued so far by issuing necessary amendments. The Committee wants to be furnished with the amendment SROs within two months.*

SRO No. 30/2015 dated 14-1-2015

[G.O.(P) No. 12/2015/Fin. dated 9-1-2015]

26. This notification is issued to amend the Kerala Treasury Subordinate Service Rules.

27. The Committee notices that this SRO is intended to amend the existing Subordinate Service Rules incorporating the Government Order dated 25-3-2006 and there was an inordinate delay of 9 years in giving statutory effect. The Committee also observes that the effect of this amendment is given from the date of this notification. From the witness examination the Committee understands that in the pay revision Order dated 25-3-2006 separate scale of pay for Treasurers was dispensed with and the Selection Grade Accountants/Senior Grade Accountants has been posted as Treasurers with effect from the date of Government Order.

28. The Committee is of the opinion that since Selection Grade Accountants/Senior Grade Accountants were posted as 'Treasurers' with effect from 25-3-2006 this notification need to be given retrospective effect from that date itself. Hence the Committee urges the Government to give statutory effect to this notification with retrospective effect from 25-3-2006. The Committee also wants to be furnished with the statement mentioning the reasons for the delay in giving statutory validity to the Government Order mentioned above.

29. The Committee while scrutinising this notification came over an embarrassing situation of noticing 2 SROs with the same number of which one is the corrected notification of the earlier one.

30. The Committee understands that as soon as the printed SROs were received in the administrative department, the mistakes crept in the notification were noticed by the then officers in the department and had taken immediate steps to destroy all the SROs that has been distributed. But the Legislature Secretariat had received the notifications in advance directly from the press. *The Committee understands the steps taken by the department in this regard, but desires to inform the administrative department that the correct steps to be taken in such a situation is to cancel the first notification as soon as the mistakes were noticed and to issue an erratum or amendment notification immediately afterwards.*

31. *Hence the Committee recommends the Government to cancel this notification and issue the statutory notification with the correction already mentioned above. The Committee also hopes that instructions be issued to all concerned if similar mistakes are noticed and take necessary steps to avoid such instances in future.*

SRO No. 188/2010 dated 24-2-2010

[G.O.(P) No. 18/2010/SCSTDD dated 20-2-2010]

32. By this notification Government have amended the Special Rules for the Kerala Scheduled Castes Development Subordinate Service, 1997.

33. The Committee notices that the post of Block Extension Officer in the Kerala Scheduled Castes Development Subordinate Service has been redesignated as Scheduled Castes Development Officer Grade II. The qualification for by transfer appointment to the post of Scheduled Castes Development Officer Grade II was modified as B.A./B.Sc./B.Com. Degree of a recognized University vide G.O.(P) 32/2000/SCSTDD dated 9-5-2000. The Committee observes that it took 10 years to give statutory validity to the Executive Order. *The Committee deprecates this extraordinary delay in giving statutory validity to this executive order. The Committee urges the Government to give statutory validity for an executive order, issued in the interest of expediency, without much delay.*

34. In Rule 2 (2), which amended Rule 3 of the original Rules, under the table for category 2 i.e., Instructor in Stenography, the Committee noticed that the method of appointment mentioned are:

- (1) By transfer from among the Confidential Assistants in the Department.
- (2) In the absence of qualified hands under item (1) above by direct recruitment. But in the following Note, it is mentioned that "the transfer appointment from CAs of other Departments shall be made by the Public Service Commission".

35. The Committee observes that Confidential Assistants from other Departments other than Scheduled Castes Development Department can be appointed as 'Instructor in Stenography'. But this provision has not been included in the method of appointment. *Hence the Committee recommends that under the table in Rule 3 for category 2 i.e., Instructor in Stenography the following item may be inserted as 2nd in column 2 and the existing item under 2 should be renumbered as item (3) as follows:*

"(2) In the absence of qualified hands under item (1) above, by transfer from among the Confidential Assistants of other Departments"

"(3) In the absence of qualified hands under item (1) and (2) above, by direct recruitment".

36. The Committee notices that the abbreviation of CAs for the word Confidential Assistants i.e., CAs is used instead of the category name. *Hence the Committee recommends that the usage of abbreviation should be avoided in statutory rules in future.*

37. The Committee notices that for category 1 i.e., Scheduled Castes Development Officer Grade II for the method of appointment of 'By transfer', the qualification stipulated is B.A./B.Sc./B.Com. Degree or any other equivalent 3 year Degree from a recognised University whereas for direct recruitment the qualification needed is M.A./M.Sc./M.Com. or M.S.W. Degree of a recognized University. The Committee observes that the qualification for 'by transfer' appointment is less than the qualification for direct recruitment in order to protect those incumbents who are already in service and in consideration of the experience gained by them during the service.

38. *The Committee is of the view that if the relaxation in qualification for a post for appointment by 'by transfer' is continued for an indefinite period it will affect the quality of service. The Committee is of the opinion that the qualification prescribed for a post for different methods of appointment has to be equalized in due course, so as to ensure the quality of Government Service. Hence the Committee recommends to take steps to equalize the qualification for a specific category for different methods of appointment.*

39. The Committee notices that the qualifications prescribed for different categories in the Kerala Scheduled Castes Development Service Special Rules, 2010 vide SRO No. 314/2010 in Rule 7, the basic qualification for the post of Additional Director, Joint Director/Vigilance Officer, Deputy Director, District Development Officer for Scheduled Castes, Assistant District Development Officer for Scheduled Castes and Scheduled Castes Development Officer Grade I/Chief Publicity Officer including Senior Superintendent is SSLC or equivalent. But in this SRO, the qualification of Scheduled Castes Development Officer Grade II is "B.A./B.Sc./B.Com. Degree or any other equivalent 3 year degree from a recognized University". A note is also attached as "In the case of candidates in service as on the date of these amendments, pass in SSLC or equivalent qualifications shall be accepted as sufficient qualification".

40. The Committee observes that even though the qualification for the post in the Subordinate Service has been raised to graduation or equivalent, the same has not been adopted for the higher posts mentioned in SRO No. 314/2010. The Committee is of the opinion that the qualification for the promotion posts mentioned in SRO No. 314/2010 has to be raised without affecting the existing officers in the service. *Hence the Committee recommends to issue necessary amendments to*

raise the qualification for the posts mentioned in SRO No. 314/2010 to Degree or equivalent and to insert a Note in the similar manner that has been adopted in this notification.

SRO No. 581/2008 dated 3-6-2008

[G.O. (P) No. 229/2008/Fin. dated 31-5-2008]

SRO No. 666/2008 dated 24-6-2008

[G.O. (P) No. 269/2008/Fin. dated 21-6-2008]

SRO No. 948/2008 dated 15-9-2008

[G.O. (P) No. 218/2003/Fin. dated 10-4-2003]

41. These three SROs are meant for amending the Kerala Service Rules, in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968, read with section 3 thereof.

42. In SRO No. 581/2008, which relates with family pension, Rule 1(2) states that "They shall be deemed to have come into force on the 18th day of October, 2004".

43. In SRO No. 666/2008, which relates with pensionary benefits, Rule 1(2) states that "They shall be deemed to have come into force on the 2nd day of February, 2001".

44. In SRO No. 948/2008, which also deals with family pension, Rule 1(2) states that "They shall be deemed to have come into force on the 1st day of January, 1997".

45. The Committee noticed the following points at the time of scrutiny:

<i>SRO No.</i>	<i>Date of Publication</i>	<i>Date of Effect</i>
581/2008	3-6-2008	18-10-2004
666/2008	24-6-2008	2-2-2001
948/2008	15-9-2008	1-1-1997

The Committee observes that there is a general tendency on the part of the Government to amend statutory rules by executive orders. The Committee

apprehends that since the SROs are intended to amend the Kerala Service Rules which are applicable to all Government Servants, they may go unnoticed since the Government Orders are not issued as statutory orders in time. The Committee points out that the Committee came over several such instances while scrutinizing SROs and that there is inordinate delay in issuing statutory orders to executive orders intended to amend the Kerala Service Rules. The Committee wants the Government to pay more attention in giving statutory effect to all executive orders issued so far and intimate the Committee about the steps taken in this connection.

46. The Committee noticed that in the explanatory note the name of the Rule is written as "Kerala Service Rules" instead of "The Kerala Service Rules". Hence the Committee directs the Department to avoid these types of mistakes in future.

SRO No. 1135/2008 dated 7-11-2008

[G.O. (P) No. 117/08/AD dated 17-10-2008]

47. By this notification, Government have amended the special rules for the Kerala Animal Husbandry Subordinate Service, 1993.

48. The Committee notices that for category VIII i.e., the post of Tractor Driver, qualification for by transfer appointment and direct recruitment are different. The Committee observes that in order to improve the efficiency of service, the qualification for different methods of appointment for the same post are to be equalised and the Law Department Officials present during the witness examination also offered the same remarks. Hence the Committee wants the Department to equalise the qualification for different methods of appointment for the same post.

49. In the amendment rule 2(b) the Committee wants the Department to correct the words "The Public Service Commission" as "The Kerala Public Service Commission".

എസ്. ആർ.ഒ. നമ്പർ 4/2015 തീയതി 5-1-2015

[സ.ഉ. (അ) നമ്പർ 580/2014/ധന. തീയതി 29-12-2014]

50. 1968-ലെ The Kerala Public Services Act-ലെ (1968-ലെ 19) 2-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പും അതിലെ 3-ാം വകുപ്പും കൂട്ടിവായിച്ച പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ചുകൊണ്ട് കേരള സർവീസ് ചട്ടങ്ങൾ വീണ്ടും ഭേദഗതി ചെയ്തുകൊണ്ടുള്ളതാണ് ഈ എസ്.ആർ.ഒ.

51. ചട്ടം 1 (1)-ൽ “ഈ ചട്ടങ്ങൾക്ക് 2014-ലെ കേരള സർവീസ് (നാലാം ഭേദഗതി) ചട്ടങ്ങൾ എന്ന പേര് പറയാം” എന്ന് പറഞ്ഞിരിക്കുന്നു. ബന്ധപ്പെട്ട സർക്കാർ ഉത്തരവ് ഇറക്കിയിരിക്കുന്നത് 2014 ഡിസംബർ 29-നും ഗസറ്റിൽ പ്രസിദ്ധീകരിച്ചിരിക്കുന്നത് 2015 ജനുവരി 5-നാണെന്ന് നിരീക്ഷിച്ച സമിതി ചട്ടം 1(1) “ഈ ചട്ടങ്ങൾക്ക് 2015-ലെ കേരള സർവീസ് (ഭേദഗതി) ചട്ടങ്ങൾ എന്ന് പേര് പറയാം” എന്ന് തിരുത്തൽ വരുത്താൻ ശുപാർശ ചെയ്യുന്നു.

52. ഒരു വർഷത്തിന്റെ അവസാനത്തിൽ വിജ്ഞാപനം അച്ചടിക്കാൻ പ്രസ്ഥലേക്ക് അയച്ചുകൊടുക്കുകയാണെങ്കിൽ ആ വർഷത്തിൽ തന്നെ ഭേദഗതിയായി പ്രിന്റ് ചെയ്ത് വിജ്ഞാപനം പുറപ്പെടുവിക്കാൻ വേണ്ട നടപടി സ്വീകരിക്കണമെന്നും ഭാവിയിൽ ഇത്തരത്തിലുള്ള വിഴിവാക്കണമെന്നും സമിതി ശുപാർശ ചെയ്യുന്നു.

53. എസ്.ആർ.ഒ.യുടെ വിശദീകരണക്കുറിപ്പിൽ 1989 മേയ് 4-ാം തീയതിയിലെ സ.ഉ.(അ) 234/1989/ധന. നമ്പർ പ്രകാരം “സ്വമേധയാ ഉള്ള രക്തദാനത്തിന് ജീവനക്കാരന് ഒരു കലണ്ടർ വർഷത്തിൽ പരമാവധി 2 ദിവസത്തെ പ്രത്യേക ആകസ്മിക അവധി അനുവദിക്കുകയും 2012 നവംബർ 20-ാം തീയതിയിലെ സ.ഉ.(അ) നമ്പർ 638/2012/ധന. പ്രകാരം അങ്ങനെയുള്ള പ്രത്യേക ആകസ്മിക അവധിയുടെ എണ്ണം ഒരു കലണ്ടർ വർഷത്തിൽ, നാല് ദിവസമായി സർക്കാർ വർദ്ധിപ്പിക്കുകയും ചെയ്തിരിക്കുന്നു”. 1989-ൽ സർക്കാർ ഉത്തരവ് ഇറക്കുകയും 2012-ൽ വീണ്ടും അതിന് ഭേദഗതി വരുത്തുകയും ചെയ്തിട്ടും ആയതു കൂടി ഉൾക്കൊള്ളിച്ചുകൊണ്ട് 2015-ൽ മാത്രമാണ് ചട്ടങ്ങൾക്ക് നിയമസാധുത നൽകിയതെന്ന് സമിതി നിരീക്ഷിച്ചു. സർക്കാർ ഉത്തരവുകൾ പുറപ്പെടുവിച്ച കഴിഞ്ഞാൽ ആയതിന് നിയമസാധുത നൽകേണ്ടവയാണെങ്കിൽ അതിനുവേണ്ട തുടർനടപടികൾ ബന്ധപ്പെട്ട വകുപ്പ് ഉടൻ സ്വീകരിക്കണമെന്നും തുടർച്ചയായി ഹാജരുന്ന സർക്കാർ ഉത്തരവുകൾ എസ്.ആർ.ഒ.ആക്കി മാറ്റുന്നുണ്ടോയെന്ന് പരിശോധിച്ച് പ്രത്യേകം രജിസ്റ്ററിൽ രേഖപ്പെടുത്തി സൂക്ഷിക്കണമെന്നും ആയതുവഴി സർക്കാർ ഉത്തരവുകൾ കാലതാമസമില്ലാതെ എസ്.ആർ.ഒ.ആയി വിജ്ഞാപനം ചെയ്യപ്പെടുന്നുണ്ടോ എന്നത് പരിശോധിക്കാനാവുമെന്നും സമിതി കരുതുന്നു. ആയതിനാൽ അത്തരമൊരു സംവിധാനം ഏർപ്പെടുത്തി സമിതിയെ അറിയിക്കണമെന്ന് സമിതി ശുപാർശ ചെയ്യുന്നു.

54. നിയമസാധുത നൽകേണ്ട സർക്കാർ ഉത്തരവുകൾക്ക് കാലതാമസം കൂടാതെ നിയമസാധുത നൽകണമെന്നും ഭാവിയിൽ ഉത്തരത്തിലുള്ള വീഴ്ച വരുത്തരുതെന്നും സമിതി ശുപാർശ ചെയ്യുന്നു.

SRO No. 5/2015 dated 5-1-2015

[G.O. (P) No. 581/2014/Fin. dated 29-12-2014]

55. This SRO is meant for amending the Kerala Service Rules, in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968), read with section 3 thereof.

56. The Committee noticed that the date of Government Order is 29-12-2014 and year of publication of this SRO is 5-1-2015. Also this is the second amendment to Kerala Service Rules issued in this year. Hence the Committee directs the Department to correct Rule 1(1) as "These Rules may be called the Kerala Service (Second Amendment) Rules, 2015".

57. In this context, the Committee also recommends that further amendments to the Kerala Service Rules, if any issued in this year, shall be remembered accordingly. The Committee notices that Rule 1 (2) states that "They shall be deemed to have come into force on the 9th day of September, 2013" and in the explanatory note it is stated that "as per G.O. (P) No. 447/2013/Fin. dated 9-9-2013, Government have enhanced the period of special casual leave up to a period of 6 months from the existing limit of 45 days in a calendar year to these employees who undergo chemotherapy radiations". The Committee notices that year of publication is 2015 and date of Government Order is 9-9-2013. The Committee is distressed to note that it took more than a year to give statutory effect to an executive order which was intended to benefit the Government Employees. The Committee observes that such an amendment beneficial to cancer patients had gone unnoticed since it was not issued as a SRO, published in the Gazette.

58. The Committee observes that there is a general tendency on the part of the Government Department to amend statutory rules by executive orders. The

Committee is of the view that in the interest of expediency the Government have powers to issue Government Orders on matters which are to be covered by statutory orders that the same has to be published as SRO in Gazette without much delay. Hence the Committee urges the Government to issue necessary instructions to all concerned to reduce the time lag between the date of issuance of executive order requiring the issuance of the SRO and the actual date of publication of the SRO to a maximum of 90 days. The Committee wants to be furnished with such instructions issued to adhere to the above recommendation.

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957
(CENTRAL ACT 67 OF 1957)

SRO No. 27/2015 dated 13-1-2015

[G.O. (P) No. 5/2015/ID dated 12-1-2015]

59. In exercise of the powers conferred by rule 62 of the Kerala Minor Mineral Concession Rules, 1967, the Government of Kerala authorize the officers of the Department of Mining and Geology to exercise the powers of the State Government to approve the mining plans in respect of mines specified by the Central Government for the development of mineral deposits in the area concerned under clause (b) of sub-section (2) of section 5 of the Mines and Minerals (Development and Regulation) Act, 1957.

60. The Committee notices that in the preamble and explanatory note of the SRO the rule is wrongly written as "Kerala Minor Minerals Concession Rules, 1967". Hence the Committee recommends the Department to correct it as "The Kerala Minor Minerals Concession Rules, 1967".

61. Fourth paragraph of explanatory note states that "As the Director of Mining and Geology is not competent to approve mining plan, various application for quarrying operations are pending in his office. Hence the Government have decided to authorize the Director of Mining and Geology, Additional Director and all the District Geologist of Mining and Geology Department to exercise the power for the approval of mining plans of minor mineral projects". The Committee

enquired the reason for appointing an incompetent officer to approve the mining plan. The witness replied that as per The Kerala Minor Mineral Concession Rules, 1967, there was no provision for approving the Mining plan by the Director, Mining and Geology. But Rule 62 of the Kerala Minor Mineral Concession Rules, 1967, empowers the State Government to delegate all or any of the powers vested in them to any officer or class of officers under them by notification in the Official Gazette. Hence by this SRO State Government has authorized Director, Additional Director and District Level Geologists to exercise the power for approval of mining plans of minor mineral projects.

62. To further query of the Committee about the usage 'is not competent', the witness replied that the words has created such a confusion and the actual words needed in that context were "Since the Director of Mining and Geology is not authorized to approve the mining plan at present, various applications for quarrying operations are pending." After having considered the reply and the evidence tendered by the Industries Department, the Committee wonders how this error has happened in the Administrative Department after the scrutiny at various levels and after the vetting of Law Department. The Committee is of the view that anyone who reads the explanatory note will have the presumption that an incompetent officer has been authorized to approve the mining plans. *Had the fact been mentioned properly in the explanatory note, the examination of the witness could have been avoided. The Committee strongly criticizes the lackadaisical attitude on the part of officials while drafting statutory orders. The Committee wants the Department to give due diligence while issuing statutory orders in future.*

THE LAND ACQUISITION ACT, 1894

(CENTRAL ACT 1 OF 1894)

SRO No. 464/2006 dated 23-6-2006

[G.O. (Rt.) No. 3130/2006/RD dated 14-6-2006]

63. By this SRO Government of Kerala withdrew from the acquisition of 0.0051 hectares of land (Resurvey Nos. 115/20, 115/21, 115/22) in Madayi Village, Kannur Taluk, Kannur District as per sub-section (1) of section 48 of the Land Acquisition Act, 1894 (Central Act 1 of 1894)

64. The Committee notices that the reason for withdrawal of acquisition of land is not seen mentioned in this SRO.

65. *The Committee observes that if this fact had been mentioned in the explanatory note, the examination of the witness, could have been avoided. Hence the Committee recommends that in future, this fact should also be mentioned in the explanatory note attached to such notifications.*

SRO No. 437/2006 dated 15-6-2006

[G.O. (Rt.) No. 3110/2006/RD dated 7-6-2006]

66. By this SRO, Government of Kerala withdrew from the acquisition of 0.0355 hectares of land (Resurvey Nos. 64/18), in Ezhome Village, Kannur Taluk, Kannur District as per sub-section (1) of Section 48 of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

67. *The Committee expresses the same remarks as in the case of SRO No. 464/2006.*

SRO No. 505/2006 dated 6-7-2006

[G.O. (Rt.) No. 3279/2006/RD dated 1-7-2006]

68. By this SRO Government of Kerala withdrew from the acquisition of 2.0309 hectares of land (Resurvey No. 129/2, 129/3A, 129/4A-21, 129/5A, 129/6, 129/8, 129/9A) in Guruvayoor Village, Chavakkad Taluk, Thrissur District as per sub-section (1) of section 48 of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

69. *The Committee expresses the same remarks as in the case of SRO No. 464/2006.*

2013-ലെ കേരള വിവാഹങ്ങൾ രജിസ്റ്റർ ചെയ്യൽ (പൊതു) ഭേദഗതി ചട്ടങ്ങൾ

സ.ഉ. (അച്ചടിച്ചത്) നമ്പർ 6/2013/തിരുക്കും തീയതി 9-10-2013

70. 2008-ലെ കേരള വിവാഹങ്ങൾ രജിസ്റ്റർ ചെയ്യൽ (പൊതു) ചട്ടങ്ങളിലെ 11-ാം ചട്ടത്തിൽ ഒരു ഉപചട്ടം കൂട്ടിച്ചേർത്തുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം.

71. 11-ാം ചട്ടത്തിന്റെ 4-ാം ഉപചട്ടമായി "വെബ്സൈറ്റിൽ നിന്നും ഡൗൺലോഡ് ചെയ്ത് എടുക്കുന്ന ബാർകോഡും ഫോട്ടോയും ഉള്ള വിവാഹ സർട്ടിഫിക്കറ്റ് അംഗീകൃതരേഖയായിരിക്കും" എന്ന ഭേദഗതി സമിതി പരിശോധിക്കുകയും 2008-ലെ ചട്ടങ്ങളിലോ തുടർന്നുള്ള ഭേദഗതി ചട്ടങ്ങളിലോ വെബ്സൈറ്റിലെ വിവാഹ സർട്ടിഫിക്കറ്റ് ഡൗൺലോഡ് ചെയ്യാമെന്നതിനെ സംബന്ധിച്ച വിവരങ്ങൾ ഉൾപ്പെടുത്തിയിട്ടില്ലെന്ന് നിരീക്ഷിക്കുകയുമുണ്ടായി. വിവാഹ സർട്ടിഫിക്കറ്റ് വെബ്സൈറ്റിൽ നിന്നും ഡൗൺലോഡ് ചെയ്യുന്നതിന് ഏത് രീതിയിലാണ് അപേക്ഷ സമർപ്പിക്കേണ്ടതെന്നും ഫീസ് ഒടുക്കേണ്ടതെന്നുമുള്ള സമിതിയുടെ ചോദ്യത്തിന് വിവാഹം രജിസ്റ്റർ ചെയ്യുന്നതിന് വെബ്സൈറ്റിലെ അപേക്ഷ നൽകുന്നതിനുള്ള രീതി നിലവിലില്ലെന്നും ഇ-പേയ്മെന്റ് സിസ്റ്റം നടപ്പിലാക്കിയിട്ടില്ലെന്നും തദ്ദേശസ്ഥാപനങ്ങൾക്ക് മാത്രമേ നിലവിൽ വെബ്സൈറ്റിലേക്ക് അപേക്ഷിക്കാനും വിവാഹ സർട്ടിഫിക്കറ്റ് ഡൗൺലോഡ് ചെയ്യാനും സാധിക്കുകയുള്ളുവെന്നും നിയമ വകുപ്പ് ഉദ്യോഗസ്ഥർ മറുപടി നൽകി. വെബ്സൈറ്റിലെ ഓൺലൈനായി വിവാഹം രജിസ്റ്റർ ചെയ്യാനുള്ള അപേക്ഷ സമർപ്പിക്കാൻ പൊതുജനങ്ങൾക്ക് സൗകര്യം നൽകുന്ന രീതിയിൽ വെബ്സൈറ്റ് അപ്ഡേറ്റ് ചെയ്യണമെന്നും ഇ-പേയ്മെന്റ് സിസ്റ്റം നടപ്പിലാക്കണമെന്നും സമിതി ശുപാർശ ചെയ്യുന്നു.

72. 2008-ലെ കേരള വിവാഹങ്ങൾ രജിസ്റ്റർ ചെയ്ത (പൊതു) ചട്ടങ്ങളിൽ ഇംഗ്ലീഷിലെ റൂൾസിൽ "Marriage Certificate" എന്ന് പറഞ്ഞിരിക്കുന്നുവെങ്കിലും മലയാള തർജ്ജമയിൽ ഈ എസ്.ആർ.ഒ.യിൽ വിവാഹ സർട്ടിഫിക്കറ്റ് എന്നാണ് രേഖപ്പെടുത്തിയിരിക്കുന്നതെന്നും ഈ ഭേദഗതി ഒഴികെ മറ്റുള്ളവയിലെല്ലാം വിവാഹ സാക്ഷ്യപത്രം എന്നാണ് രേഖപ്പെടുത്തിയിരിക്കുന്നത് എന്നും നിരീക്ഷിച്ച സമിതി 'വിവാഹ സർട്ടിഫിക്കറ്റ്' എന്ന് രേഖപ്പെടുത്തിയതിനുള്ള കാരണം, നിയമ വകുപ്പിനോട് ആരാധകയുണ്ടായി. എല്ലാ ചട്ടങ്ങളിലും വിവാഹസാക്ഷ്യപത്രം എന്നാണ് രേഖപ്പെടുത്തിയിരിക്കുന്നതെന്നും ഇവിടെയും അങ്ങനെ ചേർക്കുന്നതാണ് ഉചിതമെന്നും നിയമ വകുപ്പ് ഉദ്യോഗസ്ഥർ വ്യക്തമാക്കി. അയതിനാൽ "വിവാഹ സർട്ടിഫിക്കറ്റ്" എന്നത് "വിവാഹ സാക്ഷ്യപത്രം" എന്ന് തിരുത്തൽ വരുത്താൻ സമിതി ശുപാർശ ചെയ്യുന്നു.

THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006
(CENTRAL ACT 27 OF 2006)

SRO No. 652/2013 dated 26-8-2013

[G.O. (P) No. 90/13/ID dated 2-8-2013]

SRO No. 653/2013 dated 26-8-2013

[G.O. (P) No. 100/13/ID dated 20-8-2013]

73. By these SROs, Government have decided to establish Micro and Small Enterprises Facilitation Council having State jurisdiction with five members, in exercise of the powers conferred by section 20 and 21 of the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006).

74. The Committee notices that Gazette date, contents and intention of both SROs are the same but Government Order number and date are different. The Committee views this carelessness on the part of officials seriously and opines that it is irregular to have two SROs for the same purpose. *Hence the Committee wants the Government to cancel SRO No. 653/2013 and recommends that due diligence should be taken while drafting statutory notifications.*

75. *The word "facilitation" in the preamble of SRO may be corrected as "Facilitation".*

Thiruvananthapuram,
15th December, 2015.

M. UMMER,
Chairman,
Committee on Subordinate Legislation.

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