
REPORT OF THE SUBJECT COMMITTEE
ON
THE KERALA INVESTMENT PROMOTION AND
FACILITATION BILL, 2018
AND
THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

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2018

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SUBJECT COMMITTEE IV
INDUSTRY AND MINERALS

(2016-2018)

Composition

Chairman :

Shri A. C. Moideen,

Minister for Industries, Sports and Youth Affairs.

Ex-Officio Members :

DR. T. M. Thomas Isaac,

Minister for Finance and Coir.

Smt. J. Mercykutty Amma,

Minister for Fisheries, Harbour Engineering and Cashew Industry.

Members :

Shri Antony John

Prof. K. U. Arunan

Shri C. Divakaran

Shri V. K. Ebrahim Kunju

Shri K. B. Ganesh Kumar

Shri Hibi Eden

Shri C. Krishnan

Shri N. Vijayan Pillai

Legislature Secretariat :

Shri V. K. Babu Prakash, Secretary

Smt. G. Suma Kumari, Additional Secretary

Shri Mathewkutty. G, Deputy Secretary

Smt. Deepa. V., Under Secretary.

THE KERALA INVESTMENT PROMOTION AND FACILITATION BILL, 2018

Report of the Subject Committee

The Kerala Investment Promotion and Facilitation Bill, 2018 (Bill No.88) was referred to Subject Committee IV (Industry and Minerals) for joint consideration with Subject Committee VII (Electricity, Labour and Labour Welfare). The joint meeting of Subject Committee IV and VII considered the Bill clause by clause and now submits this report with the Bill as reported by the Subject Committee annexed thereto.

2. The Kerala Investment Promotion and Facilitation Bill, 2018 was published as a Gazette Extraordinary dated January 19, 2018. The Bill was introduced in the Assembly on January 24, 2018 and was referred to Subject Committee IV for joint consideration with Subject Committee VII on the same day.

3. The Committee considered the Bill clause by clause at the meetings held on 5-2-2018, 19-3-2018 and 21-3-2018 and the Committee recommends to adopt the Bill with the following modifications:—

Enacting Formula

In the Enacting Formula for the words and symbol “Sixty-eighth”, the words and symbol “Sixty-ninth” shall be substituted.

Clause 3

1. For sub-section (1) of section 9A of the Kerala Headload Workers Act, 1978 proposed to be inserted by clause 3 of the Bill the following section shall be inserted, namely :—

“9A. *Engaging the services of headload workers.*—(1) Subject to the provisions of this Act, any employer shall engage a headload worker registered under the Act in connection with the work of his establishment:

Provided that in the case of works which require assistance of skilled persons and which is to be done with due diligence or require the aid of machinery, such works may be done by engaging the persons having such skill or by the machinery, as the case may be.”

2. In sub-section (2), for the words “wages notified” the words “wages prescribed” shall be substituted.

Clause 5

For sub-clause (1) the following sub-clause shall be substituted, namely:—

“(1) The Kerala Investment Promotion and Facilitation Ordinance, 2018 (8 of 2018) is hereby repealed.”

4. All other changes are either verbal or consequential.
5. Minutes of dissent is appended.

Thiruvananthapuram,
March 21, 2018.

A. C. MOIDEEN,
Chairman.
Subject Committee IV.

വിയോജനക്കുറിപ്പ്

സബ്ജക്ട് കമ്മിറ്റി റിപ്പോർട്ടിന് താഴെപ്പറയുന്ന കാരണങ്ങളാൽ ഞങ്ങൾ വിയോജിപ്പ് രേഖപ്പെടുത്തുന്നു.

തൊഴിലുടമയ്ക്ക് അയാളുടെ സ്വന്തം ജോലിക്കാരെക്കൊണ്ടോ, യന്ത്രസാമഗ്രികൾ കൊണ്ടോ കയറ്റിയിറക്ക് ജോലി ചെയ്യിക്കാമെന്നും ഇതുമായി ബന്ധപ്പെട്ട ജോലികൾക്ക് ചുമട്ടുതൊഴിലാളികളെ നിയോഗിക്കേണ്ടതില്ല എന്നുമുള്ള കേരളാ ചുമട്ടുതൊഴിലാളി നിയമത്തിൽ 9 എ(1) ആയിക്കൊണ്ട് വന്നിട്ടുള്ള ഭേദഗതി നിർദ്ദേശങ്ങൾ അംഗീകാരമുള്ള ചുമട്ടുതൊഴിലാളികളുടെ ജോലിസാധ്യത പരിമിതപ്പെടുത്തുന്നതിനും അവരുടെ ജീവിതം ദുരിതത്തിലേയ്ക്ക് തള്ളിവിടുന്നതിനും മാത്രമേ ഉപകരിക്കുകയുള്ളൂ. അത് തൊഴിലാളി വിരുദ്ധമായതിനാൽ ഈ ഭേദഗതിയെ ശക്തമായി എതിർക്കുന്നു.

നോക്കുകൂലി എന്നത് ഹൈക്കോടതി തന്നെ ഭരണഘടനാ വിരുദ്ധമാണെന്ന് പ്രഖ്യാപിച്ചിട്ടുള്ള ഒന്നാണ്. ആത്മാഭിമാനമുള്ള ചുമട്ടുതൊഴിലാളി യാതൊരു കാരണവശാലും അത് ആവശ്യപ്പെടുകയില്ല. നോക്കുകൂലി ആവശ്യപ്പെടുന്നതിനെതിരെ നടപടി സ്വീകരിക്കുവാൻ നിലവിലുള്ള നിയമം അസിസ്റ്റന്റ് ലേബർ ഓഫീസർമാർക്ക് അധികാരം നൽകുന്നുണ്ട്. 2002-ലെ 10-ാം നമ്പർ നിയമ പ്രകാരം കൊണ്ടുവന്ന നിബന്ധനകൾ 2008-ലെ കേരള ചുമട്ടുതൊഴിലാളി (ഭേദഗതി) ആക്റ്റിലൂടെ വേണ്ടെന്ന് വച്ചശേഷം ഈ നിയമത്തിലൂടെ വീണ്ടും കൊണ്ടുവരാനുള്ള ശ്രമമാണ് നടത്തിയിട്ടുള്ളത്. ഇപ്പോൾ കൊണ്ടുവന്നിട്ടുള്ള ഭേദഗതി ചുമട്ടുതൊഴിലാളി സേവനം ചെയ്യാതെ വേതനം വാങ്ങുന്നവരാണ് എന്ന് സമൂഹത്തിന് മുന്നിൽ ധാരണ പരത്തി അവരെ അവഹേളിക്കുന്നതിനുള്ള ശുഭമുദ്ദേശത്തോടു കൂടിയുള്ളതാണ്. ഇക്കാരണത്താൽ പ്രസ്തുത ഭേദഗതിയേയും എതിർക്കുന്നു.

1. ടി. വി. ഇബ്രാഹിം, എം.എൽ.എ. (ഒപ്പ്)
2. വി. പി. സജീന്ദ്രൻ, എം.എൽ.എ. (ഒപ്പ്)

THE KERALA INVESTMENT PROMOTION AND
FACILITATION BILL, 2018

(As reported by the Subject Committee)

[Words sidelined/underlined indicate the modifications suggested by the Subject Committee]

A

BILL

to give effect to certain proposals of the Government of Kerala to avoid delay in granting various licences, permissions, approvals, clearances required under various enactments and to provide for other matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to give effect to certain proposals of the Government of Kerala to avoid delay in granting various licences, permissions, approvals, clearances required under various enactments and to provide for other matters connected therewith or incidental thereto;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Investment Promotion and Facilitation Act, 2018.

(2) It shall be deemed to have come into force on the 20th day of October, 2017.

2. *Amendment of Act 34 of 1960.*—In the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960), in section 5A, in sub-section (4), after the words “in the prescribed form”, the words “on the same day of the receipt of application” shall be inserted.

3. *Amendment of Act 20 of 1980.*—In the Kerala Headload Workers Act, 1978 (20 of 1980), after section 9, the following sections shall be inserted, namely:—

“9A. *Engaging the services of headload workers.*—(1) Subject to the provisions of this Act, any employer shall engage a headload worker registered under the Act in connection with the work of his establishment:

Provided that in the case of works which require assistance of skilled persons and which is to be done with due diligence or require the aid of machinery, such works may be done by engaging the persons having such skill or by the machinery, as the case may be.

(2) Every Headload worker shall be entitled to wages prescribed by the Government under the provisions of this Act only if their services have been engaged by the employer or owner of an establishment.”.

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

(2) 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.

5. *Repeal and saving.*—(1) The Kerala Investment Promotion and Facilitation Ordinance, 2018 (8 of 2018) 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 Kerala Shops and Commercial Establishments Act, 1960 and the Kerala Headload Workers Act, 1978 as amended by the said Ordinance, shall be deemed to have been done or taken under the above said Acts as amended by this Act.

Secretariat of the Kerala Legislature,
Thiruvananthapuram,
March 21, 2018.

V. K. BABU PRAKASH,
Secretary.