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Fourteenth Kerala Legislative Assembly

Bill No. 156

THE KERALA LOK AYUKTA (AMENDMENT) BILL, 2018

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further to amend the Kerala Lok Ayukta Act, 1999.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Lok Ayukta Act, 1999 for the purposes hereinafter appearing;

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 Lok Ayukta (Amendment) Act, 2018.

(2) It shall come into force at once.

2. *Amendment of section 7.*—In section 7 of the Kerala Lok Ayukta Act, 1999 (8 of 1999), for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Notwithstanding anything contained in sub-sections (1) to (4), when the Lok Ayukta or an Upa-Lok Ayukta is unable to discharge his functions owing to absence, illness or any other cause,—

(a) in the case of discharge of functions of the Lok Ayukta under sub-section (1), the Lok Ayukta may constitute a Bench consisting of two Upa-Lok Ayuktas for the discharge of such functions:

Provided that in the event of difference of opinion between the two Upa Lok Ayuktas in the Bench constituted under this clause, the case shall be placed before a Full Bench consisting of the Lok Ayukta and the Upa Lok Ayuktas.

(b) in the case of discharge of functions of an Upa-Lok Ayukta under sub-section (2), the Lok Ayukta and the other Upa-Lok Ayukta may sit single and discharge the functions under that sub-section; and

(c) in the case of absence of both the Upa-Lok Ayuktas, their functions under this section may be discharged by the Lok Ayukta.”.

STATEMENT OF OBJECTS AND REASONS

As per sub section (1) of section 7 of the Kerala Lok Ayukta Act, 1999 (Act 8 of 1999) complaints against the Chief Minister or Ministers or MLAs or Government Secretaries etc. are to be investigated by the Lok Ayukta and one of the Upa Lok Ayuktas. Section 3 provides for the constitution of the Lok Ayukta and Upa Lok Ayuktas. The existing situation is that if the Lok Ayukta is unable to deal with a particular complaint on account of any genuine reason including personal reasons, that particular case will have to be kept pending. To overcome such a situation, the Kerala Lok Ayukta requested the Government to amend the section 7 of the Kerala Lok Ayukta Act, 1999(Act 8 of 1999) in such a way as to enable the Lok Ayukta to constitute Division Bench consisting of the two Upa Lok Ayuktas for the purpose of deciding cases which are to be decided by the Lok Ayukta and also to enable the Lok Ayukta to sit single and deal with Upa Lok Ayukta matters. Hence Government have decided to amend sub section (5) of Section 7 of the Kerala Lok Ayukta Act, 1999(Act 8 of 1999).

2. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

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

PINARAYI VJAYAN

EXTRACT FROM THE KERALA LOK AYUKTA ACT, 1999 (ACT 8 OF 1999)

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7. *Matters which may be investigated by the Lok Ayukta and the Upa-Lok Ayuktas.*—(1) Subject to the provisions of the this Act, the Lok Ayukta and one of the Upa-Lok Ayuktas, as may be nominated by the Lok Ayukta for the purpose, may investigate any action which is taken by or with the general or specific approval of—

- (i) the Chief Minister; or
- (ii) a Minister; or
- (iii) a Member of the State Legislature; or
- (iv) a Secretary; or
- (v) an office bearer of a political party at the State level; or
- (vi) an officer referred to in sub-clause (iii) of clause (d) of section 2,

in any case where a complaint involving a grievance or an allegation is made in respect of such action and where there is difference of opinion between the Lok Ayukta and the Upa-Lok Ayukta as so nominated, the action shall be investigated by the Lok Ayukta and both the Upa-Lok Ayuktas together and the decision of the majority therein shall prevail.

(2) Subject to the provisions of this Act, an Upa-Lok Ayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant not being the Chief Minister or a Minister or a Member of the State Legislature or a Secretary or an office bearer of a political party at State level or an officer referred to in sub-clause (iii) of clause (d) of section 2, in any case where a complaint involving a grievance or an allegation is made in respect of such actions or such action can be or could have been in the opinion of the Upa-Lok Ayukta, the subject of a grievance or an allegation.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Lok Ayukta or an Upa-Lok Ayukta may investigate any action taken by or with the general or specific approval of a public servant, if it is referred to him by the Government.

(4) The Lok Ayukta may, by general or special order, assign to each of the Upa-Lok Ayuktas the matters which may be investigated by them under this Act.

(5) Notwithstanding anything contained in sub-sections (1) to (4), when an Upa-Lok Ayukta is unable to discharge his functions owing to absence, illness or any other cause, his functions may be discharged by the other Upa-Lok Ayukta, and in the absence of both, by the Lok Ayukta.

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