

Fourteenth Kerala Legislative Assembly

Bill No. 214

**THE KERALA PANCHAYAT RAJ (AMENDMENT)
BILL, 2019**

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further to amend the Kerala Panchayat Raj Act, 1994.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Panchayat Raj Act, 1994 (13 of 1994) for the purposes hereinafter appearing;

BE it enacted in the Seventieth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Panchayat Raj (Amendment) Act, 2019.

(2) It shall be deemed to have come into force on the 2nd day of March, 2019.

2. *Amendment of section 219A.*—In the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act) in section 219 A, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything contained in this Act or any other law for the time being in force, for the purpose of carrying out the provisions contained in sub-section(4), the Government shall have the

power to take over any land belonging to the Local Self Government Institution in which the project as specified in said sub-section is proposed to be implemented, by publishing a notification in the Official Gazette.”.

3. *Repeal and saving.*—(1) The Kerala Panchayat Raj (Amendment) Ordinance, 2019 (29 of 2019) is hereby repealed.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 principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

As per sub-section (3) of section 219 A of the Kerala Panchayat Raj Act, 1994 (13 of 1994) a village panchayat may contract out any part or the whole process of collection and disposal of solid waste from the public or private premises. As per sub-section (4) of the said section, notwithstanding anything contained in this Act or any other law for the time being in force, the Government may, if satisfied that it is necessary to do so in the public interest, make arrangements on contract basis or otherwise for the collection, transportation, disposal and processing of solid wastes, rubbish, filth and such other materials from two or more Local Self Government Institutions either directly or through the agency authorized by the Government or undertake any project, for the collection, transportation, disposal and processing of solid wastes, rubbish, filth and such other materials, involving considerable expenditure.

For the purpose of implementation of the above said projects, land is required for installing modern equipments. In the above circumstances, the Government have decided to amend the Kerala Panchayat Act, 1994 (13 of 1994) by incorporating a provision empowering the Government to take over the land belonging to the Local Self Government Institution in which the above said projects are proposed to be implemented.

As the Legislative Assembly of the State of Kerala was not in session and the above said proposal had to be given effect to immediately, the Kerala Panchayat Raj (Amendment) Ordinance, 2019 was promulgated by the Governor of Kerala on the 2nd day of March, 2019 and the same was published as Ordinance No.19 of 2019 in the Kerala Gazette Extraordinary No. 553 dated 2nd March, 2019.

Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No.193 of the Fourteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 27th day of May, 2019 and ended on the 4th day of July, 2019.

As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Kerala Panchayat Raj (Amendment) Ordinance, 2019 (29 of 2019) was promulgated by the Governor of Kerala on the 6th day of July, 2019 and the same was published in the Kerala Gazette Extraordinary No.1507 dated 7th July, 2019.

The Bill seeks to replace Ordinance No. 29 of 2019 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (5) of section 219A proposed to be inserted in the principal Act by clause 2 of the Bill, seeks to empower the Government to take over any land belonging to the Local Self Government Institution, in which the project as specified in sub-section (4) is proposed to be implemented, for the purpose of carrying out the provisions contained in said sub-section of said section, by a notification published in the Official Gazette.

2. The matters in respect of which rules are to be made or notifications are to be issued are matters of procedure and are of routine or administrative in nature. Further, the rules, after they are made, will be subject to scrutiny of the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

A. C. MOIDEEN.

EXTRACT FROM THE KERALA PANCHAYAT RAJ ACT, 1994 (13 OF 1994)

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219 A. Village Panchayat to arrange for the removal of rubbish, solid, wastes and filth.— (1) Every Village Panchayat shall make adequate arrangements for,—

(a) the regular sweeping and cleaning of the roads and removal of sweepings therefrom;

(b) the daily removal of the filth and the carcasses of animals from private premises;

(c) removal and burial of unclaimed dead bodies under intimation to the police;

(d) the removal of solid wastes;

(e) the daily removal of rubbish from dustbins and private premises and with this object, it shall provide—

(i) depots, receptacles and places for the deposit of filth, rubbish and the carcasses of animals;

(ii) covered vehicles and vessels for the removal of filth;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and

(iv) dustbins, receptacles and places for the temporary deposit of domestic waste, dust, ashes, refuse, offensive matter, trade refuse, institutional refuse, carcasses of animals.

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(3) A Village Panchayat may contract out any part or the whole process of collection and disposal of solid waste from the public or private premises.

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(4) Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may, if satisfied that it is necessary to do so in

the public interest, make arrangements on contract basis or otherwise for the collection, transportation, disposal and processing of solid wastes, rubbish, filth and such other materials from two or more Local Self Government Institutions either directly or through the agency authorised by the Government or undertake any project, for the collection, transportation, disposal and processing of solid wastes, rubbish, filth and such other materials, involving considerable expenditure.

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