

**Fourteenth Kerala Legislative Assembly**

**Bill No. 215**

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**THE KERALA CO-OPERATIVE HOSPITAL COMPLEX, THE ACADEMY  
OF MEDICAL SCIENCES AND ALLIED INSTITUTIONS (TAKING  
OVER AND ADMINISTRATION) BILL, 2019**

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[Translation in English of "2019-ലെ കേരള സഹകരണ ആശുപത്രി കോംപ്ലക്സും മെഡിക്കൽ സയൻസസ് അക്കാദമിയും അനുബന്ധ സ്ഥാപനങ്ങളും (എടുക്കലും നടത്തിപ്പും) ബിൽ" published under the authority of the Governor.]

THE KERALA CO-OPERATIVE HOSPITAL COMPLEX, THE ACADEMY  
OF MEDICAL SCIENCES AND ALLIED INSTITUTIONS (TAKING  
OVER AND ADMINISTRATION) BILL, 2019

A

BILL

*to provide for taking over and administering the Co-operative Hospital Complex, the Academy of Medical Sciences and allied institutions by the Government, which were run by the Kerala State Co-operative Hospital Complex and Academy of Medical Sciences, respectively, in Paryaram, Kannur District and are now managed by the Board of Control appointed by the Government.*

*Preamble.—WHEREAS, it is expedient to provide for taking over and administering the Co-operative Hospital Complex, the Academy of Medical Sciences and allied institutions by the Government, which were run by the Kerala State Co-operative Hospital Complex and Academy of Medical Sciences, respectively, in Paryaram, Kannur District and are now managed by the Board of Control appointed by the Government;*

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 Co-operative Hospital Complex, the Academy of Medical Sciences and Allied Institutions (Taking over and Administration) Act, 2019:

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

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

(a) "Academy of Medical Sciences" means the society known as Academy of Medical Sciences, Pariyaram, Kannur District, registered with Certificate of Registration No.503 of 1993 under the Societies Registration Act, 1860 (Central Act XXI of 1860);

(b) "Board of Control " means the Board of Control appointed as per section 3 of the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking over the Management and Administration) Ordinance, 2018 ( 1 of 2019);

(c) "Co-operative Hospital Complex" means the Co-operative Society known as the Kerala State Co-operative Hospital Complex and Centre for Advanced Medical Services Limited, Kannur District, registered with Certificate of Registration No.4386 under the Kerala Co-operative Societies Act, 1969 (21 of 1969);

(d) "Financial Institution" means banks, co-operative banks and other banking institutions from where the societies have availed loans for the functioning of or improving the physical facilities of the establishments;

(e) "Establishments" means the Pariyaram Medical College and allied institutions established under the Memorandum of Association, rules and regulations of the Academy of Medical Sciences and the Medical College Hospital established by the Co-operative Hospital complex together with the dispensaries attached thereto and used in connection therewith and includes all buildings, lecture rooms, museums, laboratories, libraries, hostels and boarding houses used in connection with or as accessories to or adjuncts of the said medical college and hospital all assets, rights, powers, authorities and privileges, furniture, stores, equipments, automobiles and other vehicles, cash balance, reserve fund, investments and book debts and all other movable rights and interests in the medical college and hospital now in the possession and administrative control of the Board of Control as per the provisions in the Kerala State Co-operative Hospital Complex and Academy of Medical Sciences (Taking over the Management and Administration) Ordinance, 2018 (1 of 2019);

(f) "allied institutions" means Pariyaram Medical College, Pariyaram Dental College, Academy of Pharmaceutical Sciences, College of Nursing – Pariyaram, School of Nursing – Pariyaram, Sahakaran Hridayalaya, Pariyaram Medical College Public School and Institute of Para-Medical Sciences functioning under the Medical Sciences Academy;

(g) "Government" means the Government of Kerala;

(h) "notification" means a notification published in the Official Gazette;

(i) "Ordinance" means the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking over the Management and Administration) Ordinance, 2018 ( 1 of 2019);

(j) "prescribed" means prescribed by rules made under this Act;

(k) "Societies" means the Co-operative Hospital Complex and the Academy of Medical Sciences;

(l) "Special Officer" means the officer appointed under section 7.

3. *Board of Control to handover the administration of the establishments to Government.*—Notwithstanding anything contained in any other law for the time being in force or in any judgment or decree of any Court or in any contract or other document or order, the Board of Control shall handover the administration of the establishments to the Government immediately on the commencement of this Act.

4. *Establishments to vest in Government.*—Notwithstanding anything contained in any other law for the time being in force or in any order or Judgment or decree of any Court or in any contract or other document, on and from the date of commencement of this Act, the establishments and allied institutions together with all its assets, rights, interests, balance outstanding on such date in the borrowings made by it directly or on behalf of it and all other liabilities and obligations of all kind related to it, shall vest in Government and any right, possession and interests of any individual or shareholder of the societies in respect of it shall be ceased.

5. *General effect of vesting.*—(1) Notwithstanding anything contained in any other law for the time being in force or in any order or judgment or decree of any

Court or in any contract or other document, relating to the establishments immediately before the commencement of this Act, the same shall be deemed to have been terminated on such commencement.

(2) The Board of Control who had managed and administered the establishments immediately before the commencement of this Act shall be deemed to have vacated its administration and management on such commencement.

6. *Payment of Amount.*—In pursuance of the vesting of the establishments in the Government under section 4, the Government shall pay the amount to societies in the manner provided in the following sections.

7. *Appointment of Special Officer for determining the amount.*—(1) The Government shall, by notification, appoint a person having expertise and adequate experience in matters relating to accounts, as special officer for the purpose of fixing the amount specified in section 6.

(2) For assisting the Special Officer in exercising the powers conferred on him under this Act the Government may depute such other officers as think fit.

(3) The salaries and allowances of the Special Officer and other officers mentioned sub-sections (1) and (2) shall be as fixed by the Government.

8. *Amount payable to the Societies.*—Amount payable to the societies means the amount as per the first balance sheet prepared after the commencement of this Act, that is spent by the societies from their own fund for constructing building, setting up of other physical facilities, purchasing all movables like equipments and furniture which are now in use, for the administration and functioning of the Medical College, Hospital and allied institutions, after deducting the depreciation and deducting the amount deducted as per section 9.

9. *Deductions from the payable amount.*—The Government shall be entitled to deduct the following sums from the amount specified in section 8, namely:—

(a) amount, to be repaid by the societies from amount so far given by the Government;

(b) all amounts and its interest due to the Government from the societies;

(c) the amount due to any financial institutions to which societies are indebted, which are repaid by the Government on behalf of the societies in that account;

(d) amount spent by the Government, by any other means, for the societies or establishments;

(e) the balance amount of loan which are availed by the societies from various financial institutions, on Government guarantee or otherwise, its interest and guarantee commission;

(f) any other amount determined by the Special Officer to be repaid as a result of vesting of the establishments in the Government as per section 4.

10. *Procedure to be followed by the Special Officer.*—(1) The Special Officer may summon any officer or employee concerned, of the Government or establishments, for the purpose of collecting evidence or for assistance in determining the amounts specified in sections 8 and 9 and if the Special Officer so requires, such officer or employee shall be bound to give the records or assistance required by the Special Officer.

(2) If any hindrances is caused to the Special Officer in performing such functions, he may seek the assistance of the Executive Magistrate concerned and he shall be bound to provide such assistance.

(3) The Special Officer shall submit a report to the Government, determining the amount specified in sections 8 and 9, within 6 months from the date of his appointment:

Provided that if the circumstances so warrants, Government may, on reasons recorded in writing, by notification, extend the period of submission of report up to a maximum of one year.

(4) The Special Officer may seek the presence of the officials concerned of the Government, societies and establishments or their representatives also, while determining the amount specified in sections 8 and 9.

11. *Manner of payment of amount.*—(1) Immediately on the submission of the report by the Special Officer, determining the amount payable as per section 8 and the net amount to be paid to the societies, after adjusting the deductions eligible to the Government, determined under section 9, the Government shall examine the same and pay such amount payable to the societies within six months from the date of receipt of the report.

(2) If the amount payable by the Government to the societies under section 8 is equal to or less than the amount determined under section 9, Government shall not pay any amount to the societies.

12. *Determination of the service conditions of the officers and other employees in the establishments.*—(1) Every officer and other employee who immediately before the date of order of appointment of the Board of Control, is employed in or in connection with the establishments and allied institutions, even after commencement of this Act shall hold office from the date of that order, as officer or other employee, as the case may be, for the same tenure, with the same remuneration and upon the same terms and conditions till the prescribed date as he would have held if this Act has not been passed. After the vesting of establishments in the Government, by virtue of this Act, the service conditions of such teachers, officers and employees shall be as prescribed or as per the orders issued by the Government in this behalf.

(2) Where the establishments have constituted a provident fund or superannuation fund or any other fund for the benefit of the person, employed in such establishment, the amounts in respect of the officer or other employees whose services have become transferred, by or under this Act shall be dealt with in such manner as may be prescribed.

13. *Special provision for maintaining T.B. Sanatorium.*—(1) The Government shall maintain the T.B. Sanatorium situated in the premises of the Pariyaram Medical College and shall provide treatment to the T.B patients as described in document number 812 dated the 5<sup>th</sup> day of June, 1950 created by the Late Samuel Aaron.

(2) For the proper administration of the T.B. sanatorium referred to in sub-section (1), the Government may give such directions as it deems fit and not in contrary to the provisions of this Act.



14. *Protection of actions taken in good faith.*—No suit, prosecution, penal action or other legal proceedings shall lie against the Government or the Special Officer or any other officers or persons who acted in accordance with the directions of the Special Officer, for anything done or intended to be done in good faith as per this Act.

15. *Overriding effect of Act.*—The provisions of this Act or any rule or order made thereunder shall have overriding effect notwithstanding anything inconsistent therewith contained in any law other than this Act or any instrument having effect by virtue of any law other than this Act.

16. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes 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.

17. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Act which appears to them to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be issued after the expiry of two years from the date of commencement of this Act.

18. *Special provisions regarding societies.*—(1) Even after the vesting of all assets and liabilities of the establishments and the allied institutions in Government, as per section 4, the societies that is, the Academy of Medical Sciences, the Co-operative Hospital Complex may continue to exist under the laws as per which they are registered, as the case may be, and they may function in the manner stipulated in the said laws:

Provided that the said societies shall have no right or control over the establishments taken over by the Government under this Act and it shall be subjected to the provisions of section 15 of this Act.

19. *Special provisions regarding existing legal proceedings.*—On and from the date of commencement of this Act, any suit, petition or other legal proceedings pending before any court, tribunal or authority by or against the establishments be continued from such date by or against the Government, as the case may be.

20. *Repeal and saving.*—(1) The Kerala Co-operative Hospital Complex, the Academy of Medical Sciences and Allied Institutions (Taking over and Administration) Ordinance, 2019 (24 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 said Ordinance shall be deemed to have been done or taken under this Act.

#### STATEMENT OF OBJECTS AND REASONS

It is the declared policy of the Government to establish Medical College in Government Sector to provide better medical services to the public in the Northern region of Kerala. Though the control and administration of the Kerala Co-operative Hospital Complex and the Academy of Medical sciences were taken over by the Government as per the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking over the Management) Act, 1997, later in 2001, it was restored to the Society.

2. Since the societies faced difficulty in running the Hospital Complex and the Academy of Medical Sciences, they have requested the Government to take over the said establishments. For the running of the said establishments, the societies concerned are heavily indebted to the Government and other financial institutions in the way of loans and financial assistance, with government guarantees or otherwise. Considering the necessity of maintaining the said establishments, though the Government are repaying the loans of the societies, the situation is that the societies may have to again borrow loans for continuing the functioning of the establishments. This may lead to a deadlock of the functioning of the establishments. Considering the same, Government have taken over the

management and administration of the Kerala Co-operative Hospital Complex, the Academy of Medical Sciences and the allied institutions as per the Kerala Co-operative Hospital Complex and Academy of Medical Sciences (Taking over the Management and Administration) Ordinance, 2018 (1 of 2019) and handed over the same to the Board of Control, as a temporary measure.

3. The General Body meeting of the Kerala Co-operative Hospital Complex held with the special sanction of the Registrar, as per rules 54 (2) and 180 of the Kerala Co-operative Societies Rules, 1969 and passed a resolution to request the Government to vest said establishments in Government. Government have convinced that by bringing the establishments fully under the control of the Government, it would be possible to provide medical facilities and other services from the said Medical College and allied institutions, to the public at the same cost that are provided by the other Medical Colleges in the State and also to impart medical education to the students who get admission in these establishments in future, at the same fee rates as in the Government Medical Colleges. The taking over the full control of the establishments by Government in such a way, will ensure medical education in the Government sector in the northern parts and better medical facilities to the public and educational security of the students studying in the said Medical College and allied institutions. With these objectives Government have decided to make a legislation.

4. As the Legislative Assembly of the State of Kerala was not in session and the said proposal had to be given effect immediately, the Kerala Co-operative Hospital Complex, the Academy of Medical Sciences and Allied Institutions (Taking over and Administration) Ordinance, 2019 was promulgated by the Governor of Kerala on the 2<sup>nd</sup> day of March, 2019 and the same was published as Ordinance No.20 of 2019 in the Kerala Gazette Extraordinary No.554 dated 2<sup>nd</sup> day of March, 2019.

5. A Bill to replace the said ordinance by an Act of the State Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 27<sup>th</sup> day of May, 2019 and ended on the 4<sup>th</sup> day of July, 2019.

6. In order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Hospital Complex, the Academy of Medical Sciences and Allied Institutions (Taking over and Administration) Ordinance, 2019 was promulgated by the Governor of Kerala on the 6<sup>th</sup> day of July, 2019 and the same was published as Ordinance No.24 of 2019 in the Kerala Gazette Extraordinary No.1499 dated 6<sup>th</sup> day of July, 2019.

7. The Bill is intended to replace the Kerala Co-operative Hospital Complex, the Academy of Medical Sciences and Allied Institutions (Taking over and Administration) Ordinance, 2019 (24 of 2019) by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

If the Bill is enacted and brought into operation, an yearly recurring expenditure of approximately 250 Crores (Two Hundred and Fifty Crores) will be incurred from the Consolidated Fund of the State. Only after fixing the method of appointment and remuneration of Special Officer and other officers as per clause 7 and after the submission of the report by the Special Officer, determining the amount as per clauses 8 and 9 of the Bill, the amount that may be incurred as non-recurring expenditure from the Consolidated Fund of the State will be able to be estimated.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-clause (1) of clause 7 of the Bill empowers the Government, by gazette notification, to appoint a person having adequate knowledge and experience in matters relating to accounts for fixing the amount payable by the Government to the societies, for the purpose of transferring and vesting of the establishments in Government.

2. Sub-clause (2) of clause 7 of the Bill empowers the Government to depute such other officers, as think fit, for assisting the Special Officer in exercising the powers conferred on him.

3. Sub-clause (3) of clause 7 of the Bill empowers the Government to fix the salaries and allowances of the Special Officer and other officers.

4. Sub clause (3) of clause 10 of the Bill empowers the Government, by gazette notification, to extend the period of submission of report by the Special Officer determining the amount payable by the government to the societies upto one year.

5. Sub-clause (1) of clause 12 of the Bill empowers the Government to prescribe the date upto which of the teachers, officers and employees who are working in the establishments, immediately prior to the date of appointment of the control board, with the same salary, tenure, terms and conditions, to hold office and also to prescribe their terms and conditions after the vesting of the establishments in Government.

6. Sub clause (2) of clause 12 of the Bill empowers the Government to prescribe the manner in which the Provident Funds and such other funds created for the employees of the institutions is to be dealtwith, in the event of their transfer of service.

7. Sub clause (2) of clause 13 of the Bill empowers the Government to give directions as it deems fit and not in contrary to the provisions of the bill for the proper administration of the T.B. sanatorium.

8. Clause 16 of the Bill empowers the Government to make rules by notification.

9. Clause 17 of the Bill empowers the Government by order, as occasion requires, do anything not inconsistent with the provisions of this bill, if any difficulty arises in giving effect to the provisions of the bill.

10. The matters in respect of which notifications or orders may be issued or rules may be made are matters of procedure and are of routine and administrative in nature. Further, the rules to be made are subject to the scrutiny of the Legislative Assembly. The delegation of Legislative power is therefore, of a normal character.

K. K. SHAILAJA TEACHER.