

THE KERALA (SCHEDULED CASTES AND SCHEDULED TRIBES)  
REGULATION OF ISSUE OF COMMUNITY CERTIFICATES  
(AMENDMENT) BILL, 2008

(As passed by the Assembly)

A

*BILL*

*to amend the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996.*

*Preamble.*—WHEREAS, it is expedient to amend the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 for the purposes hereinafter appearing ;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 1st day of February, 2007.

2. *Amendment of section 2.*—In section 2 of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) (hereinafter referred to as the principal Act), for clause (g), the following clause shall be substituted, namely:—

“(g) ‘Expert Agency’ means an officer or team of officers belonging to the Anthropological Wing in the Kerala Institute for Research, Training and Development Studies for Scheduled Castes and Scheduled Tribes (KIRTADS) of the Scheduled Castes and Scheduled Tribes Development Department of the Government, entrusted with the research, training and developmental studies of the Scheduled Castes and Scheduled Tribes and to exercise the powers conferred under sub-section (1) of section 9 and perform such other duties under the control of the Deputy Director (Anthropology) who shall function as the Vigilance Officer of the Vigilance Cell. ”.

3. *Insertion of new section 6A.*—After section 6 of the principal Act, the following section shall be inserted, namely:—

“6A. *Cancellation of Community Certificate issued earlier.*—Notwithstanding anything contained in any other provisions of this Act or in

any judgment, decree or order of any court, the rejection of an application for caste certificate by the Competent Authority under sub-section (1) of section 5 and the rejection of an application under sub-section (2) of section 6 by the Screening Committee shall be treated as cancellation of the certificate, if any, issued earlier by any authority and where any authority mentioned in section 7, on verification finds that the certificate has been obtained fraudulently and consequently the Scheduled Castes and Scheduled Tribes claim of the individual is rejected, such rejection shall also be treated as cancellation of the certificate.”.

4. *Insertion of new section 8A.*—After section 8 of the principal Act, the following section shall be inserted, namely:—

“8A. *Community Certificates, if found bogus, to be cancelled.*—(1) Where on verification, the Scrutiny Committee finds that the community certificate issued in support of the Scheduled Castes or Scheduled Tribes claim of the individual is not genuine, it shall cancel the same and intimate such cancellation to the appointing authority or local authority or head of the educational institution, as the case may be, together with a request to cancel the appointment or admission, as the case may be.

(2) Whenever an intimation is received under sub-section (1), the appointing authority or local authority or head of the educational institution, as the case may be, shall cancel the appointment or admission, without any further notice to the individual concerned and debar him from continuing in office or studying further.”.

5. *Amendment of section 9.*—In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The report of the Expert Agency shall be conclusive proof for or against the Scheduled Castes or Scheduled Tribes claim, as the case may be, of the person reported upon, unless found contrary by the Scrutiny Committee, after due procedure.”.

6. *Amendment of section 11.*—In section 11 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) An order passed by the Scrutiny Committee shall be final and conclusive. No suit or appeal shall lie against the order passed by the Scrutiny Committee.”.

7. *Amendment of section 12.*—In section 12 of the principal Act, sub-section (3) shall be omitted.

8. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

“15A. *Penalty for obtaining a fraudulent community certificate by a Scheduled Caste member as Scheduled Tribe and vice versa.*—Whoever belonging to any of the Scheduled Castes obtains fraudulently a community certificate that he belongs to any of the Scheduled Tribes or whoever belonging to any of the Scheduled Tribes obtains fraudulently a community certificate that he belongs to any of the Scheduled Castes, shall on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.”.

9. *Insertion of new section 16A.*—After section 16 of the principal Act, the following section shall be inserted, namely:—

“16A. *Deferment of pensionery benefits.*—Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force or in any judgment, decree or order of any court, where a person secures any appointment in the Government or any Government Undertaking or local authority or any other authority against a post reserved for Scheduled Caste or Scheduled Tribe, by producing a fraudulent Community Certificate, and if on an enquiry by the Expert Agency it is found that his claim is not genuine and if the incumbent retires while the enquiry by the Government or the Scrutiny Committee is pending, the Government or the Government Undertaking or local authority or any other authority as the case may be, shall have the power to defer and withhold the pensionery benefits of the incumbent pending decision by the Government or the Scrutiny Committee.”.

10. *Insertion of new section 31.*—After section 30 of the principal Act, the following section shall be added, namely:—

“31. *Validation.*—Notwithstanding anything contained in this Act, or in any other law for the time being in force or in any judgment, decree or order of any court, any order passed by the Scrutiny Committee constituted by notification G.O.(P) No. 16/95/SCSTDD dated the 8th May, 1995 consequent to the judgment dated the 2nd September, 1994 of the Supreme Court of India in Civil Appeal No. 5854/1994 during the period from 8th day of May, 1995 to the 24th day of April, 2002 shall be deemed to have been issued under the provisions of this Act, as amended by the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates (Amendment) Act, 2008 and

accordingly anything done or any action taken by the Scrutiny Committee constituted on the 8th May, 1995 in the purported exercise of the powers conferred by or under this Act shall not be deemed to be invalid on the ground that the Scrutiny Committee had not been constituted under the provisions of this Act.

11. *Repeal and Saving.*—(1) The Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates (Amendment) Ordinance, 2008 (37 of 2008) 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.

---