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Government of Kerala
കേരള സർക്കാർ
2007



Reg. No. രജി. നമ്പർ
KL/TV(N)12/2006-2008

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണ.

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA
Law (Legislation-B) Department
NOTIFICATION

No. 3613/Leg. BI/2007/Law. Dated, Thiruvananthapuram, 12th February, 2007
23rd Magha, 1928.

The following Ordinance promulgated by the Governor of Kerala on the 12th February, 2007 is hereby published for general information.

By order of the Governor,

GEORGE JAMES,
Special Secretary (Law).

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33/595/2007/DTP.

ORDINANCE No. 23 OF 2007

**THE KERALA POLICE (AMENDMENT)
ORDINANCE, 2007**

Promulgated by the Governor of Kerala in the Fifty-eighth Year of the Republic of India.

*AN
ORDINANCE*

further to amend the Kerala Police Act, 1960.

Preamble.—**W**_{HEREAS}, it is considered necessary to make certain measures to improve the functioning of the police in the State;

A_{ND} **W**_{HEREAS}, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

N_{OW}, **T**_{HEREFORE}, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, The Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Kerala Police (Amendment) Ordinance, 2007.

(2) It shall come into force on such date as may be notified by the Government.

2. *Act 5 of 1961 to be temporarily amended.*— During the period of operation of this Ordinance, the Kerala Police Act, 1960 (5 of 1961) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 6.

3. *Amendment of section 2.*- In section 2 of the principal Act, in sub-section (1), —

(1) the existing clause (i) shall be renumbered as clause (ib) and before the clause as so renumbered, the following clauses shall be inserted, namely:—

"(i) "Authority" or "Authorities" shall mean the Police Complaints Authority established at the State level and at the District level, respectively, under section 7E;

(ia) "Board" means the Police Establishment Board constituted under 7C;"

(2) after the existing clause (i) renumbered as clause (ib), the following Clause shall be inserted, namely:—

"(ic) "Commission" means the State Security Commission constituted under section 7 A;"

(3) after clause (ii), the following clause shall be inserted, namely: —

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

(4) after clause (iv), the following clause shall be inserted, namely:—

"(iva) "prescribed" means prescribed by rules made under the Act;"

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

"3A. *Separation of Investigation and Law and Order* — (1) : The Government may, having regard to the" population in an area or the circumstances "prevailing' in such area, by order, separate the investigating police from the law and order police in such area as may be specified in the order to ensure speedier investigation, better expertise and improved rapport with people.

(2). The Director General of Police shall ensure the full co-ordination between the two wings of the police force separated under sub-section (1)."

5. *Substitution of section 4.*— For section 4 of the principal Act the following sections shall be substituted, namely: —

"4. *Director General of Police.*—(1) The administration of the police throughout the State shall, subject to the control of the Government, be vested in the Director General of Police.

(2) The Director General of Police shall be appointed by the Government from amongst those officers of the State cadre of the Indian Police Service who have either already been promoted to such rank of are eligible to be promoted to such rank, considering his overall record of service and experience for leading the police force of the State:

Provided that the officer selected as the Director General of Police must not have a charge pending against him in any Court or Tribunal or Departmental agency on a charge filed on behalf of the State.

4A. *Minimum Tenure of Police Officers.*—1) The Government may ensure a normal tenure of two years from the date of assuming charge of the post to the Director General of Police; and to all officers holding charge of Police Stations, Police Circles, Police Sub-divisions, Police Districts, Police Ranges and Police Zones:

Provided that the normal tenure shall not be applicable in cases of superannuation, promotion, reversion, suspension and leave.

(2) The Government or the appointing authority may, without prejudice to any other legal or departmental action, transfer any police officer before completing the normal tenure of two years, on being satisfied *prima facie* that it is necessary to do so on any of the following grounds, namely:—

- (a) if he is found incompetent and inefficient in the discharge of duties so as to affect the functioning of the police force;
- (b) if he is accused in a criminal case involving moral turpitude;
- (c) initiation of departmental proceedings against him;
- (d) if he exhibits a palpable bias in the discharge of duties;
- (e) misuse or abuse of powers vested in him; and
- (f) incapacity in the discharge of official duties."

6. *Insertion of new Chapter IIIA* — After Chapter III of the principal Act, the following Chapter shall be inserted, namely: —

"CHAPTER III A
STATE SECURITY COMMISSION, POLICE ESTABLISHMENT
BOARD AND POLICE COMPLAINTS AUTHORITY

7A. *The State Security Commission.*—(i) The Government may, by notification in the Official Gazette, constitute a State Security Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission under this Act.

(2) The Commission shall consist of the following members, namely:—

- (i) The Minister in-charge of Home Department who shall be the chairman;
- (ii) The Leader of Opposition;
- (iii) The Chief Secretary— ex-officio;
- iv) The Secretary to Government, Home Department— ex-officio;
- (v) The Director General of Police— ex-officio;
- (vi) Three non-official, members nominated by the Governor.

(3) The Director General of Police shall be the Secretary of the commission

(4) Every member nominated under clause (Vi) of sub-section (2), shall unless their seats become vacant earlier by resignation, death or otherwise, hold office for a period of three years and shall be eligible for re-nomination.

(5) If a non-official member of the Commission is absent without sufficient cause for more than three consecutive meetings thereof, the Chairman of the Commission may, remove such member from the membership of the Commission:

Provided that no member shall be removed under the provisions of this sub-section except after giving him a reasonable opportunity of showing cause against such removal.

(6) Any non-official member of the Commission, may resign his office by giving notice in writing, of his intention so to do, to the Chairman, and on such resignation being accepted, he shall be deemed to have vacated his office.

(7) The Commission shall regulate its own procedure and the conduct of the business to be transacted by it.

(8) The qualifications and disqualifications of the members to be nominated by the Governor under clause (vi) of sub-section (2), the fees and allowances payable to them and their conditions of service shall be such as may be prescribed.

7B. Functions of the Commission.—(1) The Commission- shall have the following functions, namely: —

(a) to frame the broad policy guidelines for the functioning of the police force in the State;

(b) to issue directions for the performance of the preventive tasks and service, oriented functions of the police;

(e) to evaluate, from time to time, the performance of the police in the State in general;

(d) to prepare and submit an yearly report of its functions to the Government; and

(e) to discharge such other functions as may be assigned to it by the Government.

(2) The report submitted by the Commission under clause (d) of sub-section (1) shall on receipt, be placed before the Legislative Assembly.

(3) No act or proceedings of the Commission shall be deemed to be invalid merely by reason of any vacancy at the time of any such act or proceedings is done or passed.

(4) Notwithstanding any guidelines or directions issued by the Commission, the Government may issue such directions as it deems necessary on the matter, if the situation so warrants, to meet any emergency.

(5) The directions of the Commission shall be binding on the Police Government.

Provided that the Government may, for reasons to be recorded in writing, fully or partially reject or modify any recommendation or direction by the Commission.

7C. *Police Establishment Board.* — (1) The State Government may constitute a Police Establishment Board which shall be a departmental body consisting of the Director General of Police as Chairman and four other senior Police Officers of the Department of the rank of Additional Director General of Police as members.

(2) The term of office of the members of the Board, the procedure for the functioning of the Board and the guidelines to be followed by the Board in the exercise of its functions shall be in such manner as may be prescribed.

7D. *Functions of the Board.*— The Board shall discharge the following functions namely: —

(a) to decide on all transfers, postings, promotions and other service related matters of police officers of and below the rank of Inspector of Police, subject to the provisions of the relevant service laws as may be applicable to each category of police officers;

(b) to make appropriate recommendations to the State Government regarding the posting and transfers of officers of and above the rank of Deputy Superintendent of Police;

(c) to review the functioning of the police in the State either in general with regard to specific instances; and

(d) to discharge such other functions as may be assigned to the Board by the Government.

(2) The Government shall give due consideration to the recommendations of the Board.

(3) The Government may, either *suo motu* or on a representation filed by the affected person, for reasons to be recorded in writing, set aside or modify any decision or order of the Board.

7E. Police Complaints Authority.— (1) The Government shall establish a Police Complaints Authority at the State level to look into complaints of grave misconduct against police officers of and above the rank of Superintendent of Police as well as serious complaints including death, grievous hurt or rape or molestation of women in police custody against officers of all ranks.

(2) The State Authority shall consist of the following members, namely:—

(i) a retired judge of a High Court who shall be the Chairman of the Authority;

(ii) a serving officer of the rank of Principal Secretary to Government; and

(iii) a serving officer of the rank of Additional Director General of Police.

(3) The Government shall establish Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police.

(4) The District Authority shall consist of the following members, namely:—

(i) a retired District Judge, who shall be the Chairman;

(ii) the District Collector; and

(iii) the District Superintendent of Police:

Provided that the Chairman of one District Authority may be appointed as the Chairman of one or more District Authorities.

(5) The conditions of service, remuneration and other allowances of the members of the State Authority and District Authorities and the procedure for functioning of the authority or authorities shall be in such manner as may be prescribed.

(6) The Government shall, in consultation with the authority or authorities, provide all necessary facilities for their proper functioning.

(7) The State Authority and the District Level Authorities shall, while conducting enquiry, have all the powers of a civil court, while trying a suit under the Code of Civil Procedure 1908 (Central Act 5 of 1908) in respect of the following matters, namely : —

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document:

(c) receiving evidence on affidavit; and

(d) any other matter which may be described.

(8) All agencies of the Government shall render all possible assistance to the authority or authorities in respect of production of documents, examination of records, analysis of evidence or provision of expert assistance in any matter in which such authority or authorities or an officer acting under the orders of such authority or authorities requires their assistance.

(9) The recommendations of the Authority or Authorities, for any action, departmental or criminal, against a delinquent police officer shall be finding in so far as initiation of departmental proceedings or registration of a criminal case is concerned. Such recommendation shall, however, not prejudice the application of mind by the enquiry officer or the investigating officer when he is conducting the departmental enquiry or criminal investigation, as the case may be."

R. L. BHATIA,
GOVERNOR.
