

ACT 21 OF 2007

THE KERALA POLICE (AMENDMENT) ACT, 2007

An Act further to amend the Kerala Police Act, 1960.

*Preamble.*-- WHEREAS, it is considered necessary to make certain measures to improve the functioning of the Police in the State of Kerala;

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

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

(2) It shall be deemed to have come into force on the 7th day of April, 2007.

2. *Amendment of section 2.*-- In the Kerala Police Act, 1960 (5 of 1961) (hereinafter referred to as the principal Act) in sub-section (1) of section 2,--

(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 17 E;

(ia) “Board” means the Police Establishment Board constituted under section 17C;”;

(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 17A;”;

(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;”.

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

"3A. *Separation of Investigation from 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 order to ensure speedier investigation, better expertise and improved rapport with people.

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

4. *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 or 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 Inspector Generals of Police in charge of Ranges, Superintendents of Police in charge of Districts and Station House Officers in charge of Police Stations:

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;

(f)incapacity in the discharge of official duties;

(g)initiation for an enquiry against him by competent authority on a grave allegation of corruption or indifference in the discharge of duty;

(h)if his conduct has been adversely commented upon by any judicial authority;

- (i) disorder or rampant crime on his area of jurisdiction.
- (j) public dissatisfaction with the effectiveness of policing in the jurisdiction; and
- (K) if he request to be transferred from the post;”

5. *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

17A. *The State Security Commission.*--(1) 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 consists of the following members, namely:--

- (i) The Minister in-charge of Home Department who shall be the Chairman;
- (ii) The Minister in-charge of Law;
- (iii) The Leader of Opposition;
- (iv) The Chief Secretary-- *ex-officio*;
- (v) The Secretary to Government, Home Department -- *ex-officio*;
- (vi) The Director General of Police-- *ex-officio*;
- (vii) Three non-official members, who shall be persons of eminence in public life with wide knowledge and experience in law and order administration, human rights, law, social service, management of public administration, nominated by the Governor.

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

(4) Every member nominated under clause (vii) 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 fees and allowances payable to the nominated members of the State Security Commission and their conditions of service shall be such as may be prescribed.

17B *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;

(c) 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 any matter, if the situation so warrants, to meet any emergency.

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

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

17C. *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.

17D. *Functions of the Board.*-- The Board shall discharge the following functions, namely:--

(a) to decide on appeals, complaints and general guidelines relating to 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 review the functioning of the police in the State either in general or with regard to specific instances; and

(c) 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.

17E. *Police Complaints Authority.*-- (1) The Government shall establish a Police Complaints Authority at the State level to look into

(i) complaints of grave misconduct of all types against police officers of and above the rank of Superintendent of Police;

(ii) serious complaints against officers of other ranks relating to molestation of women in custody or causation of death to any person or infliction of grievous hurt to any person or rape.

(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 prescribed.

(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 binding 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."

6. Repeal and Saving.-- (1) The Kerala Police (Amendment) Ordinance, 2007 (45 of 2007), 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 .

