

**THE KERALA (SCHEDULED CASTES AND SCHEDULED TRIBES)
REGULATION OF ISSUE OF COMMUNITY
CERTIFICATES ACT, 1996**

(Act 11 of 1996)

(As AMENDED)

An Act to provide for and to regulate the issue of community certificates to members of the Scheduled Castes and the Scheduled Tribes in the State of Kerala.

Preamble - WHEREAS it is considered necessary to devise and provide for a strict procedure for and to regulate the issue of community certificates to members of the Scheduled Castes and the Scheduled Tribes in the State of Kerala.

AND WHEREAS in order to curb effectively the evil practices of securing such certificates by persons other than those belonging to the Scheduled Castes and Scheduled Tribes for claiming the benefits of reservation and such other benefits meant for the Scheduled Castes and the Scheduled Tribes and to make provision for prescribing punishment therefor and to provide for matters connected therewith or incidental thereto;

BE it enacted in the Forty-seventh year of the Republic of India as follows:-

1. Short title, extent and commencement - (1) This Act may be called the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

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

- (a) 'appointment in public service' means appointment to a service or post under the State or Central Government and includes appointment to any post of the 'State or Central Government Undertakings';
- (b) 'appointing authority' in relation to a service or post means the authority empowered to make appointment to such service or post, and includes appointing authorities in respects of the services and posts in connection with the affairs of the Central Government and of the State and Central Government undertakings;
- (c) 'Community Certificate' means the certificate issued by the competent authority in the prescribed form indicating therein the Scheduled Caste or the Scheduled Tribe, as the case may be, to which a person belongs;
- (d) 'Competent Authority' means any officer or authority authorised by the Government by notification to perform the functions of the competent authority under this Act, for such areas or for such purposes as may be specified in the notification;
- (e) 'Co-operative Institution' means a Co-operative Society a Society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969);
- (f) 'Educational Institution' means any School, College, Polytechnic, Industrial Training Centre, Industrial Training Institute, College of Fine Arts, College of Music, Engineering College, Medical College, Ayurveda College, Homoeopathy College, Dental College, College of Nursing, Nurses Training School, Health Visitors Training School, Colleges

† Act was published in Kerala Gazette Extra-ordinary No.1151 dated 1st October 1996. Act received the assent of the President of India on 24-9-1996. This Act shall be deemed to have come into force on 1-12-1996 by Notification G.O.(P) 60/96/SCSTDD. dated 28-11-1996 by SRO No. 827/96 Published in Kerala Gazette Extra-Ordinary No. 1373 dated 29-11-1996.

- under the control of the Kerala Agricultural University and various Colleges or institutions under the control of any University established by an Act of the State Legislature and any other institution imparting education as may be specified by the Government by notification in the Gazette, from time to time;
- †
- (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”.
- (h) 'Government' means Government of Kerala; Kerala Panchayat Raj Act, 1994 (13 of 1994) or the Kerala Municipalities Act, 1994 (20 of 1994) as the case may be;
- (i) 'Notification' means a notification published in the Gazette and the word 'notified' shall be construed accordingly
- (j) 'Prescribed' means prescribed by rules made under this Act;
- (k) 'Scheduled Castes' and 'Scheduled Tribes' shall have the meanings respectively assigned to them in clause (24) and clause (25) of Article 366 of the Constitution of India;
- (l) 'Screening Committee' means a committee mentioned in section 6;
- (m) 'Scrutiny Committee' means the committee constituted by the Government by notification under Section 8 to perform the functions of the Scrutiny Committee under this Act for such areas or for such purposes as may be specified in the notification;
- (n) 'Special Court' means a Court of Session specified as a special court under Section 21;
- (o) 'Special Public prosecutor' means a Public Prosecutor specified by the Government as a Special Public Prosecutor or an advocate by notification, under Section 22.

3. *Proof of the Scheduled Caste or Scheduled Tribe Status -*

Notwithstanding anything contained in any other law for the time being in force, any person belonging to any of the Scheduled Castes or the Scheduled Tribes claiming any benefit, concession, protection, exemption or reservation provided to such Castes or Tribes either for at appointment in public services or for admission into educational insituations, exclusively intended for members of the Scheduled Castes and the Scheduled Tribes, or for contesting for the seats reserved for them in any educational institution in the State or outside the State for the students of the State or local authority or co-operative institution, shall prove his claim by a Certificate issued for the purpose under this Act, by the competent authority, in the prescribed manner.

4. *Application for Community Certificate :-*

Any person belonging to any of the Scheduled Castes or the Scheduled Tribes in order to prove his claim that he belongs to the Scheduled Caste or the Scheduled Tribe, as the case may be, for any purpose, shall make an application in such form and in such manner, as may be prescribed, to the competent authority for the issue of a Community Certificate.

5. *Community Certificate to be issued only by the Competent Authority :-*

- (1) The Competent Authority may on an application made to it under Section 4, by following the prescribed procedure, satisfy itself about the genuineness or otherwise of the claim made therein and thereafter issue a community certificate within such period and in such form as may be prescribed or reject the application for reasons to be recorded in writing.

† Added as per Amendment Act 32 of 2008

- (2) A Community Certificate issued by any person, officer or authority other than the Competent Authority shall be invalid.
- (3) The Competent Authority shall not issue a Community Certificate to a member of the Scheduled Caste or the Scheduled Tribe subject to any condition or contingency.

6. Constitution of Screening Committee for verification of Community Certificate :-

- (1) The applications from members of the Scheduled Castes and the Scheduled Tribes for admission to the seats reserved for the Scheduled Castes and the Scheduled Tribes in educational institutions shall be got scrutinised by a Screening Committee constituted by Government in the prescribed manner, to ensure that the Community Certificate produced in support of the Scheduled Caste or the Scheduled Tribe claim of the applicant is genuine.
- (2) The Screening Committee may cause detailed enquiry through the expert agency to ascertain if the applicant actually belongs to the Scheduled Caste or the Scheduled Tribe, as the case may be, and shall reject the application if the applicant does not belong to the Scheduled Caste or the Scheduled Tribe as claimed by him:

Provided that rejection of the application shall be without prejudice to the actions that may be taken under sections 11, 15 and 16.

† 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 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.

7. Further verification of Community Certificates:-

Production of a community certificate issued by the Competent Authority shall not preclude the appointing authority, or head of the educational institution or any officer or authority superior to the appointing authority, or head of the educational institution including the State Government, from verifying or causing to be verified the claim of an individual that he belongs to the Scheduled Caste or the Scheduled Tribe, as the case may be at the time of initial appointment, selection or admission or at any stage thereafter.

8. Constitution of Scrutiny Committee for verification of Community Certificates :-

Government shall constitute a scrutiny committee for verification of community certificates. Any person belonging to Scheduled Castes or Scheduled Tribes or any appointing authority or local body or heads of educational institutions may make an application in such form and in such manner as may be prescribed by the scrutiny committee for verification of Community Certificates.

† 8A. Community Certificates, if found bogus, to be cancelled :-

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.

† Inserted by Amendment Act 32 of 2008

- (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 the debar him from continuing in office or studying further.”

9. **Enquiry by Expert Agency :-**

- (1) The expert agency may conduct such enquiries as it may deem fit into the claim of an individual or group of individuals that he or they belong or belongs to the Scheduled Caste or the Scheduled Tribe in the following circumstances,

- (i) *Suo motu* enquiries on the basis of field studies on castes, communities, or tribes; or as a part of or auxiliary to Anthropological or Sociological Studies or investigations.
- (ii) On petitions and complaints being received by it, from any source pertaining to the Scheduled Caste or the Scheduled Tribe, claims of non-Scheduled Castes or non-Scheduled Tribes as the case may be.
- (iii) On references, requisitions, directions or proposals being received from the State and Central Governments, the competent authorities or the Screening Committee or the Scrutiny Committee.

- †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.

3. The person reported upon shall be entitled for a copy of the report of the Expert Agency, if he desires so, free of cost from the authority authorising the enquiry.

10. **Burden of proof:-**

Where an application is made to the Competent Authority under Section 4 for the issue of a community certificate in respect of a Scheduled Caste or Scheduled Tribe or in any enquiry conducted by the Competent Authority, the Expert Agency, or the Scrutiny Committee or in any trial or offence under this Act, the burden of proving that he belongs to such Caste or Tribe shall be on the claimant

11. **Cancellation of false community certificate :-**

- (1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes or the Scheduled Tribes has obtained a false community certificate to the effect that either himself or his children belongs or belong to such Caste or the Tribe, the Scrutiny Committee may either *suo motu* or on a written complaint or report by any person or authority, call for the records and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by order, cancel the certificate after giving the person concerned an opportunity of making a representation, if any.
- (2) The powers of the nature referred to in sub-section (1) may also be exercised by the Government.
- (3) The Scrutiny Committee while performing its functions for verification and cancellation of community certificates shall follow such procedure as may be prescribed.
- † (4) An order passed by the Scrutinee Committee shall be final and conclusive. No suitor appeal shall lie against the order passed by the scrutinee committee.

† Inserted as per Amendment Act of 2008

12. Appeal and review:-

- (1) Any person aggrieved by an order passed under sub-section (1) of section 5 by the Competent Authority rejecting an application made to it under section 4 may, within thirty days from the date of receipt of such order, appeal to the next higher Competent Authority and that authority may after giving the appellant an opportunity of being heard, either confirm the order appealed against or set aside the said order by following the prescribed procedure.
- (2) When the Competent Authority rejecting an application for community certificate is the District Collector, the person aggrieved by the said decision of the District Collector, may within fifteen days from the date of receipt of the order of the District Collector, appeal to the Government and the Government may after giving the appellant an opportunity of being heard, confirm the order of the District Collector or arrange for an enquiry through the Expert Agency and issue appropriate orders or directions on the basis of the expert report.
- † (3) 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.
- (4) The Government may, on an application received from any person aggrieved by an order passed by them under sub-section (2) of section 11 within fifteen days of the date of receipt of the said order, review any such order if they are satisfied that the order was passed by them under any mistake, whether of fact or law or in ignorance of any material fact or unaware of any relevant evidence.
- (5) Pending disposal of an appeal under sub-section(2) or review under sub-section (4) it shall be competent for the Government to stay the operation of the order against which the appeal or review, as the case may be, is filed.

13. Power of stay and revision by the Government:-

- (1) Except in the cases of decisions of the Scrutiny Committee the Government may, at any time, either *suo motu* or on application made to them within the prescribed period, call for and examine the record, relating to any decision made or order passed by any person, officer or authority subordinate to them for the purpose of satisfying themselves as to the legality, regularity or propriety of such decision or order, and if, in any case it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, or subjected to enquiry by the expert Agency or Scrutiny Committee they may do so accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless such party has had an opportunity of making a representation, except in the case of referring the case for enquiry by the Expert Agency, or Scrutiny Committee where the matter may be referred to the Expert Agency or Scrutiny Committee by their own motion.

- (2) With the exceptions of (i) orders passed by Government in pursuance of and on the basis of a report submitted by the Expert Agency, (ii) the decision of Screening Committee constituted under section 6, and (iii) the decision of the Scrutiny Committee constituted under section 8, the Government may stay the execution of any such decision or order pending the exercise of their powers under sub-section (1) in respect thereof.

† Omitted by Amendment Act 32/2008

14. Competent Authority, the Expert Agency and Scrutiny Committee to exercise powers of the Civil Court :-

The Competent Authority, the Expert Agency and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers of Civil Court trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely :-

- (1) Summoning and enforcing the attendance of any person from any part of the State and examining him on oath;
- (2) Requiring the discovery and production of any document;
- (3) Receiving evidence on affidavits;
- (4) Requisitioning any public record or copy thereof from any Court Office;
- (5) Issuing commissions for the examination of witnesses or documents; and
- (6) Any other matter which may be specified by Government by notification in the gazette.

15. Penalties :-

- (1) Whoever obtains a community certificate by,
 - (a) furnishing false information; or
 - (b) filing a false statement; or
 - (c) by suppressing material facts and relevant evidence pertaining to his caste or tribal status; or
 - (d) any other fraudulent means,

shall, on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which shall not be less than six months but which may extend upto two years and with fine which shall not be less than one thousand rupees but which may extend upto five thousand rupees;

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term or fine.

- (2) Whoever furnishes false information regarding his personal details of caste or tribal status, to the Expert Agency in an enquiry under section 9 or to the Scrutiny Committee in an enquiry under section 11 or causes any obstruction in such an enquiry proceeding, by preventing the Expert Agency or the Scrutiny Committee from collecting the facts or evidence regarding his personal and caste or tribal status, or tries to frustrate, prevent or interfere in any way with the process of the enquiry, shall on conviction be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend upto six months and with fine which shall not be less than five hundred rupees but which may extend upto one thousand rupees.

† 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.

† Inserted by Amendment Act 32/2008

16. Benefits secured on the basis of false community certificates to be withdrawn :-

- (1) Whoever not being a person belonging to any of the Scheduled Castes or the Scheduled Tribes secures admission in any educational institution against a seat reserved for such Castes or Tribes or secures any appointment in the Government, Government Undertakings, Local Authority or in any other Company or Corporation owned or controlled by the Government or in aided institution against a post reserved for such Castes or Tribes or enjoys an other benefit intended exclusively for such Castes or the Tribes by producing a false community certificate shall on cancellation of the false community certificate, be removed by cancelling the irregular admission in the concerned educational institution or, as the case may be removed from the said service forthwith and any other benefit enjoyed by him as aforesaid shall be withdrawn forthwith.
- (2) Any amount paid to such person by the Government or any other agency by way of scholarship, grant, allowance, stipend or any other financial benefit shall be recovered as if it is an arrear of public revenue due on land.
- (3) Any degree, diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a false community certificate shall also stand cancelled on cancellation of the community certificate obtained by him.
- (4) The Competent Authority or the State Government may also order appropriate measures to prevent such person from further enjoying the benefits of Scheduled Castes or the Scheduled Tribes, including substitution of the real caste name of such person in the public records, for the false Scheduled Caste or Scheduled Tribe name.
- (5) Whoever not being a person belonging to any of the Scheduled Castes or the Scheduled Tribes secures any benefit reserved for Scheduled Caste or the Scheduled Tribes other than those mentioned in section 17 by producing a false community certificate shall on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years and with fine which shall not be less than one thousand rupees but which may extend upto five thousand rupees.

Provided that the Court may, for adequate and special reasons to be recorded in the judgement, impose a sentence of imprisonment for a lesser term or fine.

† 16A. Deferment of pensionary 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 pensionary benefits of the incumbent pending decision by the Government or the Scrutiny Committee:

† Inserted by Act 32/2008

17. *Penalty for securing an appointment or election to local bodies etc., on the basis of false community certificates :-*

Whoever not being a person belonging to any of the Scheduled Castes or the Scheduled Tribes secures an appointment in Government or other institutions referred to in section 16 against the posts reserved for the Scheduled Castes or the Scheduled Tribes or is elected to any of the elective offices of any local authority or Co-operative Society against the office reserved for such Castes or the Tribes on the basis of a false community certificate, shall on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years and with fine which shall not be less than one thousand rupees but which may extend upto five thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term or fine.

18. *Penalty for issuing false community certificate :-*

- (1) Any person or authority performing the functions of Competent Authority under this Act, who intentionally issues a false community certificate, shall on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years and also with fine which shall not be less than one thousand rupees but which may extend upto five thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a lesser term or fine.

- (2) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

19. *Penalty for preparation and submission of false report by the expert agency :-*

- (1) Any officer or group of officers performing the functions of the Expert Agency under this Act, who intentionally prepares any report and submits the same to any authority or to the Government, whereby any person who is not a member of any Scheduled Caste or the Scheduled Tribe happens to secure community certificate from the Competent Authority or secure any benefits exclusively intended for Scheduled Caste or the Scheduled Tribe, as the case may be, or intentionally prepare and submit a report to any authority or to the Government to deprive a member of any Scheduled Caste or the Scheduled Tribe of the benefits due, as such member of any Scheduled Caste or the Scheduled Tribe, as the case may be, shall on conviction be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years and also with fine which shall not be less than one thousand rupees but which may extend upto five thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a lesser term or fine.

- (2) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

20. *Penalty for abettors :-*

Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offence.

21. *Establishment of Special Court :-*

For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Gazette,

specify for each District a Court of Session to be a Special Court to try the offences under this Act.

22. *Special Public Prosecutor :-*

For every Special Court the State Government shall, by notification in the Gazette, specify a Public Prosecutor, or appoint an advocate who was in practice as an Advocate for not less than seven years, as Special Public Prosecutor for the purpose of conducting the cases under this Act in that Court.

23. *Offence under the Act cognizable and non-bailable :-*

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) all offences under this Act shall be cognizable and non-bailable.

24. *Bar of jurisdiction of Civil Courts :-*

No Civil Court shall have jurisdiction in respect of any order passed by any Officer or Authority under this Act and no stay or injunction shall be granted by a Court in respect of any action taken or to be taken by such officer or authority under this Act in pursuance of any power conferred by or under this Act.

25. *Protection of acts done in good faith :-*

No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or rules made thereunder.

26. *Act to override other laws :-*

Save as otherwise provided in this Act, the provisions of this Act, the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any customs or usage or any instrument having effect by virtue of any such law.

27. *Power to make rules :-*

- (1) The Government may, by notification in the Gazette, make rules either prospectively or retrospectively for carrying out all or any of the purpose of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such, rules may provide for the following matters, namely:-
 - (a) manner of certificate to be issued by the Competency Authority under section 3;
 - (b) manner of application for community certificate under section 4;
 - (c) Procedure and manner of issue of community certificate under sub-section (1) of section 5.
 - (d) manner of constitution of Screening Committee for verification of community certificate under sub-section (1) of section 6;
 - (e) manner of constitution of the Scrutiny Committee for verification of community certificates under section 8 and the detailed procedure for its functioning as specified in sub-section (3) of section 11.
 - (f) procedure for appeal under sub-section (1) of section 12;
 - (g) any other matter required or allowed by this Act to be prescribed.
- (3) 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 rules shall not be made, the rules 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.

28. Departmental proceedings not barred by prosecution :-

Prosecution of any person for any offence under this Act shall not be a bar on departmental proceedings being initiated against that person under the relevant service conditions or disciplinary rules for the time being in force applicable to that person.

29. Cancellation of community certificate issued to a person to be proof against the relatives of the same blood :-

Cancellation of a community certificate issued to any person by any competent authority shall be proof against the Scheduled Caste or the Scheduled Tribe claims, as the case may be, of the consanguineal relations of that individual and shall be a ground for taking action under sub-section (1) of section 11 against members of such family by the scrutiny committee or under sub-section (2) thereof by the Government.

30. Transitional provision :-

A community certificate issued by any authority competent to issue the same under the relevant rules or orders before the commencement of this Act, shall unless it is cancelled under the provisions of this Act, be valid and shall be deemed to have been issued under the provisions of this Act.

† 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.”

† 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.

† Inserted by Act 32/2008

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Government of Kerala
കേരള സർക്കാർ
2008



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

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

Vol. LIII	Thiruvananthapuram,	19th December 2008	No.	} 2707
} വാല്യം 53	Friday	2008 ഡിസംബർ 19	} നമ്പർ	
	തിരുവനന്തപുരം,	28th Agrahayana 1930		
	വെള്ളി	1930 അഗ്രഹായണം 28		

GOVERNMENT OF KERALA
Law (Legislation-A) Department

NOTIFICATION

No. 1485/Leg.A1/2007/Law. Dated, Thiruvananthapuram, 19th December, 2008
28th Agrahayanya, 1930

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 17th day of December, 2008

By order of the Governor,

K. JOHN BRITTO,

Special Secretary (Law)

ACT 32 OF 2008

THE KERALA (SCHEDULED CASTES AND SCHEDULED TRIBES) REGULATION OF ISSUE OF COMMUNITY CERTIFICATES (AMFNDMENT) ACT, 2008

An act 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) 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 :-

“15 A. *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 obtain fraudulently a community certificate that he belongs to any of the Scheduled Castes, shall on conviction, be punishable with rigorous imprisonment for 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 16 A.*- After section 16 of the principal Act, the following section shall be inserted, namely :-

“16 A. *Deferment of pensionary 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 Governemnt 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 pensionary benefits of the incumbent pending decision by the Government 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 Spetember, 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.



KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

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GOVERNMENT OF KERALA

Scheduled Castes and Scheduled Tribes Development (G)

Department

NOTIFICATION

G.O.(P) No. 18/2002/SCSTDD

Dated, Thiruvananthapuram, 20th April 2002.

S.R.O.No. 310/2002. - In exercise of the powers conferred by section 27 of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996), the Government of Kerala hereby make the following rules, namely :-

RULES

1. *Short title and Commencement.*- (1) These rules may be called the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Rules, 2002.

(2) They shall be deemed to have come into force on the first day of December, 1996

2. *Definitions.* - In these rules unless the context otherwise requires;-

(a) 'Act' means the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996);

(b) 'Form' means the form appended to these rules;

(c) 'Section' means a section of the Act;

(d) Words and expressions used, but not defined in these rules, but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. *Application for Community Certificate and its Registration.*-(1) Any person belonging to any of the Scheduled Castes or the Scheduled Tribes, who intends to obtain a Community Certificate, shall apply in Form No. I to the Competent Authority for the issue of a Community Certificate.

(2) On receipt of an application under sub-rule (1), the Competent Authority shall enter the necessary particulars of the application in the register kept for the purpose in Form II

4. *Issuance of Community Certificate.* - (1) If upon such enquiry, as it may deem fit, the Competent Authority is satisfied that the particulars furnished in the application are correct and if it is found that the applicant belongs to the Scheduled Caste or the Scheduled Tribe as claimed by him, a Certificate in Form No. III shall be issued to the applicant within seven days from the date of receipt of the application.

(2) If, on enquiry it is found that the claim of the applicant is not genuine and that the applicant does not belong to the Scheduled Caste or the Scheduled Tribe, as the case may be, the application shall be rejected, recording in writing the reasons therefor, and the applicant shall be informed accordingly.

5. *Appeal.*-(1) Any person aggrieved by an order under sub-rule (2) of rule 4, may within thirty days from the date of receipt of the order, prefer an appeal to the next higher Competent Authority.

(2) The appeal shall be in the form of a memorandum signed by the appellant and accompanied by a copy of the order appealed against. The authority which is entitled to hear the appeal shall on receipt of such appeal, issue notice to all concerned, fixing a date for hearing thereof.

(3) After hearing the appellant and, if necessary, the other concerned parties, the Authority may either confirm the order appealed against or set aside the said order and direct the Competent Authority subordinate to it, to issue Community Certificate to the applicant, within such date as may be specified in the order or issue Community Certificate to the applicant by itself.

(4) In cases where the appeal is filed before the Government as provided under sub-section (2) of section 12, the Government shall follow the procedure under sub-rule (2) and after hearing the appellant make such order as provided under sub-section (3)

6. *Constitution of Screening Committee for verification of Community Certificates:-*

(1) The Government may, by notification in the Gazette, constitute a Screening Committee for verification of Community Certificates produced along with applications for admission to the seats reserved for the Scheduled Castes and Scheduled Tribes in educational institutions.

(2) The Committee shall consist of the following members namely

- (a) the Commissioner for Entrance Examinations
- (b) the Director of Kerala Institute for Research Training and Development Studies of Scheduled Castes and Scheduled Tribes.
- (c) the Director of Scheduled Castes Development/Director of Scheduled Tribes Development.

(3) Every application received by an educational institution for admission to seats reserved for Scheduled Castes and Scheduled Tribes shall be forwarded to the Screening Committee, for verification of the genuineness of the Community Certificate produced along with the application.

(4) The Screening Committee may refer the same for detailed enquiry by the Expert agency and if it is revealed that the applicant does not belong to a Scheduled Caste or a Scheduled Tribe as the case may be, the Screening Committee shall reject the application.

(5) Before rejecting an application, under sub-rule (4) the Screening Committee shall give notice to the applicant or to his/her guardian of its intention to do so, and if requested give opportunity to hear his/her guardian in person.

7. *Constitution of Scrutiny Committee.-* The Government shall constitute a Scrutiny Committee for the purposes of the Act, with a Chairman and two other members, namely:

- (a) Secretary, Scheduled Castes/
Scheduled Tribes
Development Department Member, Ex-Officio
- (b) Director, Kerala Institute for
Research Training and Development
Studies (KIRTADS) Member Ex-Officio
- (c) Director Scheduled Castes
Development/Director, Scheduled
Tribes Development Member, Ex-Officio

8. *Application for verification of Community Certificate.*- An application for verification of Community Certificate shall be in Form No. IV, addressed to the Chairman of the Scrutiny Committee.

9. *Procedure to be followed by the Scrutiny Committee for verification of Community Certificate.*-(1) Every application received by the Scrutiny Committee under rule 8 shall be referred to the expert agency for enquiry

(2) Upon receipt of a reference under sub-rule (1), the Expert Agency shall conduct such enquiry as it may deem fit and submit its report to the Scrutiny Committee

(3) The Scrutiny Committee shall consider the claim of any person or his children that they belong to Scheduled Caste or Scheduled Tribe, in the light of the report of the expert agency that the applicant does not belong to a Scheduled Caste or a Scheduled Tribe, as the case may be and if the Scrutiny Committee has reason to believe that such person or his children do not belong to Scheduled Caste or Scheduled Tribe, as the case may be, it shall give notice to the persons concerned to make representation, if any, in writing, within fifteen days from the date of receipt of the notice.

(4) While holding enquiry under section 11 of the Act, the Scrutiny Committee shall also give an opportunity of being heard.

(5) The date fixed for hearing shall be communicated to all concerned parties, by registered post with acknowledgement due.

(6) On completion of the enquiry, if it is found that the Community Certificate was obtained fraudulently, the Scrutiny Committee shall make an order under sub-section (1) of section 11 of the Act, cancelling the Certificate and copies of such order shall be given to all concerned parties.

10. *Verification of Community Certificate by the Government.*-The procedure prescribed under rule 9 shall mutatis mutandis apply to the Government while exercising the powers conferred on them under sub-section (2) of section 11 of the Act.

11. *Revision by Government.*-The Government shall not entertain an application for revision filed under sub-section (1) of section 13 unless it is filed within ninety days from the date of receipt of the order, which is the subject matter of revision.