

Fourteenth Kerala Legislative Assembly

Bill No. 165

**THE KERALA POLICE (AMENDMENT)
BILL, 2018**

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[Translation in English of “2018-ലെ കേരള പോലീസ് (ഭേദഗതി) ബിൽ”
published under the authority of the Governor.]

THE KERALA POLICE (AMENDMENT)

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further to amend the Kerala Police Act, 2011.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Police Act, 2011 for the purposes hereinafter appearing;

BE it enacted in the Sixty-ninth year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Police (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 5th day of November, 2018.

2. *Amendment of section 112.*—After sub-section (4) of section 112 of the Kerala Police Act, 2011 (8 of 2011) (hereinafter referred to as the principal Act) the following sub-sections shall be inserted, namely:—

“(5) The Chairperson of the State Authority or any Member or Members authorized by him, as the case may be, may, for the purpose of performing the functions of such Authority efficiently, take an independent or joint decision on the applications filed before such Authority.

(6) The Chairperson of the District Authority or any Member or Members authorized by him, as the case may be, may take independent or joint decision on the applications filed before such Authority.”

3. *Special provision in respect of some pending applications and certain other matters.*—Notwithstanding anything contained in the principal Act or rules made there under or in any judgment or decree or order of any Court, the

provisions of sub-sections (5) and (6) of section 112 shall apply to all applications filed from the date of commencement of the principal Act as amended by this Act and are pending disposal before the State Authority or the District Authority and to all matters which are to be decided, by such Authorities, further in pursuance of the judgment of any Court.

4. *Repeal and saving.*—(1) The Kerala Police (Amendment) Ordinance, 2018 (56 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action 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.

STATEMENT OF OBJECTS AND REASONS

Section 110 of the Kerala Police Act, 2011 (Act 8 of 2011) provides for the establishment of Police Complaints Authority in the State of Kerala and section 112 of the said Act provides for the procedure to be followed for dealing on the complaints filed before the Complaints Authority.

At present there is no provision in the Kerala Police Act, 2011 (Act 8 of 2011) to enable the Chairperson or the Members to function independently. In the judgment of the Hon'ble High Court in WP(C) No. 18566 of 2017 and in other connected cases held that the orders passed by the Chairperson or the Members without the quorum cannot be sustained under law and the orders so passed are clearly arbitrary, illegal and without jurisdiction and therefore it is directed to the State Police Complaints Authority/District Complaints Authorities to reconsider the said complaints.

The Police Complaints Authority is at present not in a position to dispose petitions with full quorum as two members of the Police Complaints Authority holding the post of Additional Chief Secretary and Additional Director General of Police are already busy with their normal official duties.

Government have examined the matter in detail and in order to overcome this situation, it is decided to amend section 112 of the Kerala Police Act, 2011 (Act 8 of 2011) by inserting sub-sections (5) and (6) so that the Chairperson or Members of the State Authority and District Authorities may take an independent or joint decision on the complaints filed before the Authority and to bring a special provision in respect of some pending applications and certain other matters.

As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Police (Amendment) Ordinance, 2018 was promulgated by the Governor of Kerala on the 5th November, 2018 and the same was published as Ordinance No. 56 of 2018 in the Kerala Gazette Extraordinary No. 2723 dated 5th November, 2018.

The Bill seeks to replace the said Ordinance (No. 56 of 2018) by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

PINARAYI VIJAYAN.

EXTRACT FROM THE KERALA POLICE ACT, 2011

(8 OF 2011)

112. *Procedure of the Complaints Authorities be expedited.*—(1) The Police Complaints Authorities shall take immediate steps on the complaints coming before it for their consideration.

(2) The Authority may require any officer to do any of the following matters where it is convinced that there is merit in a complaint which came before it for consideration and such officer shall carry out the same,—

(a) to question and record the statement of any witness;

(b) to trace, examine and seize any relevant records;

(c) to conduct any inspection or test in which the said officer has authority or competence or expertise;

(d) to render such reasonable assistance taking into account the nature of each complaint.

(3) Complaints Authority may call for a report from the Police or Government in respect of important matters in a complaint which is under its consideration.

(4) In connection with the inquiry being conducted by the Complaints Authority, the police officer concerned may be permitted to produce evidence to depose directly and to cross examine witnesses on occasions suitable and practicable.
