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Government of Kerala
2019



Regn. No. KERBIL/2012/45073
dated 5-9-2012 with RNI

Reg. No. KL/TV(N)/634/2018-20

കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

വാല്യം 8 } Vol. VIII }	തിരുവനന്തപുരം, തിങ്കൾ Thiruvananthapuram, Monday	2019 ജനുവരി 7 7th January 2019	നമ്പർ } 34 No. }
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GOVERNMENT OF KERALA

Law (Legislation-H) Department

NOTIFICATION

No. 6746/Leg. H1/2018/Law.

7th January, 2019

Dated, Thiruvananthapuram, 23rd Dhanu, 1194

17th Pousha, 1940.

The following Ordinance promulgated by the Governor of Kerala on the 7th day of January, 2019 is hereby published for general information.

By order of the Governor,

B. G. HARINDRANATH,
Law Secretary.

ORDINANCE No. 1 OF 2019**THE KERALA CO-OPERATIVE HOSPITAL COMPLEX AND
THE ACADEMY OF MEDICAL SCIENCES (TAKING
OVER THE MANAGEMENT AND ADMINISTRATION)
ORDINANCE, 2018**

Promulgated by the Governor of Kerala in the Sixty-ninth Year of the Republic of India.

AN

ORDINANCE

to provide for the taking over of the management of the undertaking of the Co-operative Hospital Complex and the Academy of Medical Sciences with a view to ensuring the proper functioning of the medical college and hospital run by the Academy of Medical Sciences and Co-operative Hospital Complex, Pariyaram, Kannur District and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking Over the Management and Administration) Ordinance, 2018 (33 of 2018) was promulgated by the Governor of Kerala on the 14th day of April, 2018;

AND WHEREAS, a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 4th day of June, 2018 and ended on the 25th day of June, 2018;

AND WHEREAS, in order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking Over the Management and Administration) Ordinance, 2018 (41 of 2018) was promulgated by the Governor of Kerala on the 6th day of July, 2018;

AND WHEREAS, a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 30th day of August, 2018 and ended on the same day;

AND WHEREAS, in order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking Over the Management and Administration) Ordinance, 2018 (45 of 2018) was promulgated by the Governor of Kerala on the 12th day of September, 2018;

AND WHEREAS, a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 27th day of November, 2018 and ended on the 13th day of December, 2018;

AND WHEREAS, under sub-clause (a) of clause (2) of Article 213 of the Constitution of India, the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking Over the Management and Administration) Ordinance, 2018 (45 of 2018) will cease to operate on the 8th day of January, 2019;

AND WHEREAS, difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS, 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;

NOW, THEREFORE, 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 Co-operative Hospital Complex and the Academy of Medical Sciences (Taking Over the Management and Administration) Ordinance, 2018.

(2) It shall be deemed to have come into force on the 14th day of April, 2018.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “Academy of Medical Sciences” means the society known as Academy of Medical Sciences, Pariyaram, Kannur District and registered with Certificate of Registration No. 503 of 1993 under the Societies Registration Act, 1860 (Central Act XXI of 1860);

(b) “Co-operative Hospital Complex” means the Co-operative Society known as the Kerala State Co-operative Hospital Complex and Centre for Advanced Medical Services Limited, Kannur, registered with Certificate of Registration No. 4386 under the Kerala Co-operative Societies Act, 1969 (21 of 1969);

(c) “Establishment” means the Pariyaram Medical College established under the Memorandum of Association and rules and regulations of the Academy of Medical Sciences and the Hospital established by the Co-operative Hospital Complex together with the dispensaries attached thereto and used in connection therewith and includes all buildings, lecture rooms, museums, laboratories, libraries, hostels and boarding houses used in connection with or as accessories to or adjuncts of the said medical college and hospital, all assets, rights, powers, authorities and privileges, furniture, stores, equipments, automobiles and other vehicles, cash balance, reserve fund, investments and book debts and all other movable rights and interests in the medical college and hospital now in the possession and control of the societies;

(d) “Government” means the Government of Kerala;

(e) “governing council” means the governing council of the Academy of Medical Sciences;

(f) “notified order” means an order notified in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Ordinance;

(h) "Societies" means the Co-operative Hospital Complex and the Academy of Medical Sciences.

3. *Board to take over the management of the societies.*—The Government may, by a notified order, appoint a body of persons (hereinafter referred to as Board of Control) to take over the management of the societies from the date mentioned therein and its control shall thereupon be exercised by the Government in such manner as may be mentioned in the said order.

4. *Effect of notified order issued under section 3.*—On the issue of a notified order under section 3 appointing a Board of Control to take over the management of the establishment,—

(a) all persons in charge of the management of the Co-operative Hospital Complex and the Academy of Medical Sciences including the President, Vice-President and the other members of the Governing Council and the Board of Directors of the Co-operative Hospital Complex and the President, Vice-President and the other members of the Governing Council and the executive committee of Academy of Medical Sciences shall be deemed to have vacated their offices as such;

(b) notwithstanding anything contained in any law for the time being in force the Board of Control shall alone be entitled to exercise all the powers of the Governing Council and Board of Directors of the Co-operative Hospital Complex and the Governing Council and the Executive Committee of the Academy of Medical Sciences;

(c) from the date of the notified order, the establishment of the societies shall be in the custody of the Board of Control which shall, as soon as may be after such date, take steps as may be necessary to take into its possession and under its control all properties, assets and effects and all actionable claims comprised in the undertaking.

5. *Cancelling or varying contracts in bad faith.*—Without prejudice to the provisions contained in section 4, the Board of Control may cancel or vary any contract or agreement entered into at any time before the issue of the notified order under section 3 between the societies and any other person if it is satisfied that such contract or agreement were entered into without *bona fides* and detrimental to the interest of the societies.

6. *Duty to deliver possession of property and documents relating thereto.*—(1) As soon as may be, after the issuance of the notified order under section 3, every person having possession, custody or control of any property of the Co-operative Hospital Complex and the Academy of Medical Sciences shall deliver the property to the Board or to any such person as may be authorised by the Board in this behalf.

(2) Any person who on the commencement of this Ordinance, has in his possession or under his control any books, documents or other papers relating to the establishment, including any letters or other communications between him and any of the societies shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the said books, documents and other papers (including such letters or other communications) to the Board and shall deliver them up to the Board or any such person as may be authorised by the Board in this behalf.

(3) The Government may take all necessary steps for securing possession of all properties of the societies.

7. *Duty to furnish particulars.*—The Co-operative Hospital Complex and the Academy of Medical Sciences shall, within ten days from the date of the notified order under section 3 or within such further period as the Government may allow in this behalf, furnish to the Board a complete inventory of all the properties and assets (including particulars of the booklets and investments and belongings) of the respective society at the commencement of the Ordinance and of all the liabilities and obligations of the respective society at such commencement and also of all agreements entered into by the respective society and in force at such commencement.

8. *Power of inspection.*—(1) For the purpose of ascertaining whether any property is, the property of the Co-operative Hospital Complex or the Academy of Medical Sciences or for any other purpose mentioned in this Ordinance or the rules made thereunder, any person authorised by the Government in this behalf shall have the right,—

(a) to enter and inspect any premise;

(b) to require any person having the possession, custody or control of any register or record of the Co-operative Hospital Complex or the Academy of Medical Sciences to produce such register or record;

(c) to require the occupier of any property belonging to, or claimed to be the property of, the Co-operative Hospital Complex or the Academy of Medical Sciences to submit to the person so authorised such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary; and

(d) to examine any person having the control of, or employed in connection with, the Co-operative Hospital Complex or the Academy of Medical Sciences and to require him to make any statement touching the affairs of the respective society.

(2) Any person authorised by the Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

9. *Determination of terms of the teaching staff and other employees of the societies.*—(1) Every officer or other employee, who immediately before the date of the notified order under section 3, is employed or in connection with the Pariyaram Medical College and Hospital shall become from the date of notified order an officer or other employee as the case may be, of the society and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held if this Ordinance had not been passed.

(2) Where the establishments have constituted a provident fund, superannuation fund or any other fund for the benefit of the person employed in such establishment the amounts in respect of the officer or other employees whose services have become transferred, by or under this Ordinance shall out of the amounts standing as on the date of transfer to the credit of such provident fund, superannuation fund or other fund stand transferred and shall be dealt with in such manner as may be prescribed.

10. *Special provision for maintenance of T. B. Sanatorium.*—(1) The Board of Control shall maintain the T.B. Sanatorium working in the premises of the Pariyaram Medical College and provide free treatment to the T.B. patients as described in document number 812 of 1950 dated the 5th day of June, 1950 created by the Late Sri Samuel Aaron.

(2) Notwithstanding anything contained in this Ordinance, the Government may give such directions to the Board of Control as the Government may deem fit, for the proper administration of the T.B. Sanatorium referred to in sub-section (1).

11. *Penalty for false statements.*—(1) If any person,—

(a) when required by this Ordinance or by any order made under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or

(b) makes any such statement as aforesaid in any book, account, record, return or other document which he is required by any order made under this Ordinance to submit,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

(2) Any person who,—

(a) having in his possession, custody or control any property forming part of the assets of the societies wrongfully withholds such property from the Board of Control; or

(b) wrongfully obtains possession of any property forming part of the assets of the societies; or

(c) wilfully withholds or fails to produce to any person authorised under this Ordinance, any register, record or other document which may be in his possession, custody or control; or

(d) fails without any reasonable cause to submit any accounts, books or other documents when required to do so,

shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees, or with both.

12. *Limitation on prosecution.*—No court shall take cognizance of an offence punishable under this Ordinance except with the previous sanction of the Government or of an officer authorised by the Government in this behalf.

13. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government or the Board of Control or any member thereof or any other person for anything which is in good faith done or intended to be done under this Ordinance.

14. *Overriding effect of Ordinance.*—The provisions of this Ordinance or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or any instrument having effect by virtue of any law other than this Ordinance.

15. *Payment of remuneration and expenses.*—All salaries, allowances and other remuneration paid to the Chairperson and other members of the Board of Control or any other person who may be

appointed or employed in connection with the affairs of the management of societies and all other expenses duly incurred in connection with such management shall be paid by the Government.

16. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Ordinance.

(2) Every rule made under this Ordinance 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 rule should not be made, the rule 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.

17. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Ordinance which appears to them to be necessary for the purpose of removing the difficulty.

18. *Repeal and saving.*—(1) The Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking Over the Management and Administration) Ordinance, 2018 (45 of 2018) 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 said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. SATHASIVAM,
GOVERNOR.