

ACT 8 OF 2005

The Kerala Tourism (Conservation and Preservation of Areas) Act, 2005

An Act to provide for the conservation and preservation of tourist areas in the State and for matters connected therewith or incidental thereto.

Preamble- WHEREAS it is expedient to make provisions for the conservation and preservation of tourist areas in the State and for matters connected therewith or incidental thereto;

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

1. *Short title, extent and commencement-*(1) This Act may be called the Kerala Tourism (Conservation and Preservation of Areas) Act, 2005.

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

(3). It shall be deemed to have come into force on the 9th day of February 2005.

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

(a) 'committee' means the State Tourism Conservation and Preservation Committee constituted under section 4;

(b) 'local authority' means a village panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(c) 'prescribed' means prescribed by rules made under this Act;

(d) 'special tourism zone' means any area declared as such by Government under section 3;

(e) 'State' means the State of Kerala;

(f) 'tourist area' means any area notified by the Government in the Gazette to be a tourist area for the purposes of this Act;

3. *Special Tourism Zone-*(1) The Government may, by notification in the Gazette, declare any area which have or likely to have the importance of tourism within the State as 'Special Tourism Zone' for the conservation, preservation and integrated planned development of such area.

(2) No developmental activity including construction in a Special Tourism Zone shall be carried except in accordance with such guidelines as may be issued by the Committee.

4. *Constitution of Tourism Conservation and Preservation Committee-*(1) The Government shall constitute a Committee called the 'State Tourism

Conservation and Preservation Committee' (hereinafter referred to as the 'Committee') for the conservation, preservation and integrated planned development of the Special Tourism Zone.

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

- (i) Secretary to Government in-charge of Tourism;
- (ii) Secretary to Government in-charge of Local Self Government Department;
- (iii) Director, Department of Tourism;
- (iv) Director, Department of Archeology;
- (v) Chief Town Planner, Government of Kerala;
- (vi) An expert in the field of environment, nominated by the Government;
- (vii) An expert in the field of tourism nominated by the Government.

(3) The Secretary to Government in-charge of Tourism shall be the Chairman of the Committee and the Director, Department of Tourism shall be the Convener.

(4) The Chairman shall co-opt to the committee the District Town Planner and the President or Chairperson, as the case may be, of the local authority having jurisdiction over the area of Special Tourism Zone and every member as so co-opted shall be entitled to take part in the meetings of the Committee and to vote in respect of such matters as may be prescribed:

Provided that, any officer or officers may be made as the special invitees at the time and place to be fixed by the committee and their proposals and suggestions may be recorded.

(5) The Committee shall meet at such times and places to be fixed by the Chairman and shall observe such procedure in regard to its transaction of business, as may be decided by the Committee.

(6) The Committee shall have perpetual succession and a common seal.

(7) The Committee may sue and be sued in the name of Convener.

5.Functions of the Committee-(1) Notwithstanding anything contained in any other law, the Committee shall have the following functions, namely :-

- (i) to prepare a sustainable Tourism Development Plan including guidelines to regulate developmental activities in the Special Tourism Zone;
- (ii) to implement or co-ordinate the implementation of the Tourism Development Plan;
- (iii) to enforce the guidelines issued in respect of the development of Special Tourism Zones;
- (iv) to ensure proper and systematic programming by rendering appropriate advice to the local authorities in regard to formulation of projects and determination of priorities in accordance with the Tourism Development Plan;

- (v) to direct the concerned local authority for taking action against any unauthorized construction or land development or encroachment or such other activities inconsistent with or in violation of the Tourism Development Plan;
 - (vi) to monitor the guidelines prepared by the Committee;
 - (vii) to perform such other functions as may be prescribed or entrusted to it by the Government.
- (2) The local authority concerned shall, notwithstanding anything contained in any other law for the time being in force, act in accordance with the advice or direction in writing, if any, given by the Committee in respect of any area comprised in a Special Tourism Zone and it shall intimate to the Committee such action as so taken by it.
- (3) The Tourism Development Plan prepared by the Committee shall indicate the manner in which the land within the Special Tourism Zone shall be used, whether by carrying out development therein or by conservation, or such other matters as are likely to have any substantial influence on the development of the area under the Special Tourism Zone.
- (4) Every Tourism Development Plan shall contain the following elements which are necessary for the integrated sustainable development of the area with major thrust on tourism development, namely:-
- (i) policy in relation to the land use plan and allocation of land for tourism purposes;
 - (ii) policy in relation to the built up area, environment including architectural control and form;
 - (iii) strategies towards conserving and strengthening existing natural systems and enhancing the visual qualities of the region; and
 - (iv) regulations, if any, found necessary for the implementation of the Tourism Development Plan.

6. Powers of the Committee- Notwithstanding anything contained in any other law, the Committee shall have the following powers, namely :-

- (i) to approve the Tourism Development Plans and guidelines for the Special Tourism Zone;
- (ii) to sanction the projects or developmental activities in the Special Tourism Zone;
- (iii) to review implementation of the Tourism Development Plan or guidelines prepared for Special Tourism Zone;
- (iv) to approve the regulations for conservation of the Special Tourism Zone;
- (v) to call for information from Government Departments or from the local authorities or other authorities or persons with regard to their projects and priorities relating to Special Tourism Zone;

- (vi) to conduct or cause to be conducted such surveys and studies, as it may consider necessary, for the sustainable development of Special Tourism Zones;
- (vii) to take such action as may be prescribed for the preservation of any land or building having any tourist importance and situated in a Special Tourism Zone;
- (viii) to provide for infrastructure facilities which may be necessary for the purpose of sustainable development of a Special Tourism Zone, in such manner as may be prescribed;
- (ix) to authorise any officer or institutions to enter upon any land or premises at all reasonable times and to do such things thereon, as may be necessary for the purpose of lawfully carrying out any work or activities for the sustainable development of Special Tourism Zones;

Provided that no person shall enter any land or building without giving the occupier thereof at least five days' notice of his intention to do so.

7.Appeal- (1) Any person aggrieved by an order passed by the Committee in exercise of its powers under section 6 may, within ninety days from the date of receipt of such order, file an appeal to the Government:

Provided that the Government may entertain an appeal filed after the expiry of ninety days, if it is satisfied that there was sufficient cause preventing the appellant from filing the appeal in time.

- (2) Every appeal shall be accompanied by an attested copy of the order appealed against and such fees, as may be prescribed.
- (3) The appellant shall have the right to appear either in person or through a counsel or a duly authorised agent, and the committee against whose order the appeal has been filed, may be represented by such officer, counsel or person as the Committee may authorise.
- (4) The Government may after giving the appellant an opportunity of being heard and after making such enquiry as it may deem fit, dispose of the appeal recording the reasons thereof.
- (5) Every appeal filed under this section shall be disposed of as early as may reasonably be practicable, but not later than four months from the date of filing of such appeal.

8.Protection of action taken in good faith- No suit, prosecution or other legal proceedings shall lie against the Committee or the appellate authority or any other officer in respect of anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

9.Direction by Government- The Government may, from time to time, issue to the Committee such general or special directions of policy as may be deemed necessary or expedient for the purpose of carrying out the objects of this Act and the Committee shall be bound to comply with such directions.

10.*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 purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the procedure to be followed by the Committee for the preparation of guidelines for the Special Tourism Zones;

(b) the procedure to be followed by the Committee for the preparation of regulations for the Special Tourism Zones;

(c) the procedure to be followed in providing for other infrastructure facilities for the purpose of sustainable development of Special Tourism Zone;

(d) the fees leviable under the Act;

(e) any other matter which is to be, or may 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 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.

11.*Power to remove difficulties*-(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Gazette, do anything not inconsistent with the provisions of this Act or the rules made there under, which appears to them necessary to remove the difficulty:

Provided that no such order shall be passed after two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the Legislative Assembly.

12. *Repeal and Saving* -(1) The Kerala Tourism (Conservation and Preservation of Areas) Ordinance, 2005 (4 of 2005) is hereby repealed.

Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.
