

ACT 9 OF 2011

THE KERALA PUBLIC WAYS (RESTRICTION OF ASSEMBLIES AND PROCESSIONS) ACT, 2011 *

An Act, to provide for the protection of public ways for unobstructed movement by the public and for imposition of reasonable restrictions on the rights of any section of the public to assemble and collectively move thereon and to regulate procession through public ways and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the protection of public ways for unobstructed movement by the public;

AND WHEREAS, it is necessary to impose reasonable restrictions on the rights of any section of the public to assemble or move collectively on any public way;

AND WHEREAS, it is necessary to regulate procession through public ways and for matters connected therewith or incidental thereto;

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

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Public Ways (Restriction of Assemblies and Processions) Act, 2011.

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

(3) It shall come into force at once.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) ‘carriage way’ means the portion of the public way which is intended for the movement of vehicles or carriages of any type ;

(b) ‘footpath’ means any area comprised in a public way earmarked for movement of pedestrian having a width of not less than one meter but not exceeding three meters on either side of the public way, after leaving sufficient space for the movement of vehicles;

(c) ‘licence’ means a licence issued under section 5;

(d) ‘public way’ includes any highway, bridge, causeway, road, lane, footpath, square, courtyard, garden-path, channel or passage, accessible to the public, which is not owned by a private person;

* Received the assent of the Governor on the 18th day of February, 2011 and published in the Kerala Extraordinary Gazette No. 368 dated 18th February, 2011.

(e) ‘road-margin’ means the portion of the public way which extends outwards on each side from the footpath towards the outer edge of the public way.

(2) Words and expressions used and not defined in this Act, but defined in the Indian Penal Code, 1860 (Central Act 45 of 1860) or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or the Motor Vehicles Act, 1988 (Central Act 59 of 1988) or in the Kerala Police Act, 2011 (8 of 2011) shall have the meanings, respectively, assigned to them in those Acts.

3. *Rights of the public for movement on public ways.*—On all public ways the public shall have, subject to the laws governing the control of traffic and safety of public, the right to unobstructed movement by vehicles along carriageways and on foot along footpaths.

4. *Prohibition of obstruction on public ways.*—(1) No person shall cause any obstruction by conducting any business or meeting or assembly or procession or demonstration on any public way or part thereof.

(2) No meeting or assembly shall be conducted so as to obstruct any portion of the carriageway or footpath.

(3) No demonstration or procession shall be conducted in such a manner that the entire carriageway or free flow of traffic is fully obstructed.

5. *Regulation of conduct of festivals, assemblies, meetings etc.*—(1) Notwithstanding anything contained in sections 3 and 4, the District Police Chief may impose reasonable restrictions on the right of unobstructed movement of the public along public ways for a period not exceeding twenty four hours in any particular area, in all or any of the following instances, namely:—

(a) for the conduct of religious or national festivals, which are customary and have been established by tradition and for the conduct of such festivals of social, cultural or public importance which are declared to be so by the District Magistrate;

(b) for security of the State or individuals which in the opinion of the District Police Chief necessitate such restrictions;

(c) for the conduct of public assemblies or meetings; and

(d) for the conduct of public demonstrations and processions.

(2) In cases where a dispute arises as to whether a festival is traditional or customary the authority empowered to impose such restrictions may decide the matter having due regard to the facts and circumstances of each case.

(3) Any person, association, organization, trust or body which requires the use of any portion of any public way for any purpose referred under sub-section (1), shall apply to the District Police Chief at least seven days in advance for a licence for such use and furnish such details as may be specified by the District Police Chief and on remitting such fee as may be specified by the Government by general or special order:

Provided that no fee shall be levied for matters referred to in clauses (a) and (b) of sub-section (1):

Provided further that the District Police Chief may entertain an application in relaxation of the time limit specified under sub-section (3) for sufficient and genuine reasons.

(4) (a) On receipt of an application under sub-section (3) the District Police Chief shall, after due consideration of the same, publish a notice regarding the nature, duration and other details of the restrictions imposed on the right of the public for unobstructed movement at any location or locality;

(b) All notices under clause (a) shall specify alternative routes or facilities available to the public for the duration of the obstruction and it shall be the duty of the District Police Chief to deploy such police strength in the area, free of cost or partly or fully at the cost of the licensees as may be decided by the District Police Chief having regard to the public importance of the event and subject to such guidelines as may be issued by Government from time to time for maintaining public order, catering to emergencies and mitigating the difficulties to the public;

(c) The District Police Chief shall issue a licence to the person, association, organization, trust or body which have applied for use of the public way, imposing such conditions in the licence, as he may deem just and reasonable.

(5) Notwithstanding anything contained in this section, the District Police Chief shall not permit any erection of any structure either of a permanent or temporary nature on any public way unless it is allowed in writing by the

appropriate authority of the department in charge of the upkeep and maintenance of the particular public way.

(6) The fees levied under this Act, after deducting the cost of deployment of police personnel, if any, shall be deposited in the Criminal Justice Miscellaneous Expenses Fund maintained under section 127 of the Kerala Police Act, 2011 (8 of 2011).

(7) Nothing in this section shall be deemed to compel the District Police Chief to permit any demonstration or procession or assembly or meeting or festival, where he is satisfied that for considerations of public safety, convenience or security, such activity cannot be allowed.

(8) The District Police Chief may extend the duration of restrictions imposed under sub-section (1) to fifteen days with the concurrence of the District Magistrate and for a period more than fifteen days with the concurrence of the Government.

6. *Punishment for offences.*—(1) Any person who causes any obstruction on any public way otherwise than permitted under a licence issued under this Act or any person who abets or involves in such activity or any person who carries on any activity in violation of the conditions of a licence shall on conviction be punishable with imprisonment for a term which may extend to one year and with fine proportionate to damage and inconvenience caused by such obstruction or with both.

(2) All offences under this Act shall be cognizable and bailable.

(3) An offence under this Act shall be compoundable by a Judicial Magistrate having jurisdiction to try the offence.

7. *Exemption.*—Nothing in this Act shall apply to a funeral procession or any action undertaken by the public or any member or group thereof in good faith to prevent danger arising from any natural or man made calamity, disaster or accident.

8. *Delegation of powers.*—The District Police Chief may, with the approval of the Government, delegate any of his powers under this Act to an officer not below the rank of Sub-Divisional Police Officer within his jurisdiction.

9. Power to make rules.—(1) The Government may, by notification in the gazette make rules not inconsistent with the provisions of this Act to carry out the purposes of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed ;and

(b) all other matters which are 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 fall 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, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, Government may by order do anything not inconsistent with the provisions of this Act which appears to them necessary for the purpose of removing the difficulty:

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is issued, before the Legislative Assembly.