

[Translation in English of “2009-ലെ പമ്പാ നദീതടം അതോറിറ്റി ആക്ട്” published under the authority of the Governor.]

## **ACT 33 OF 2009**

### **THE PAMPA RIVER BASIN AUTHORITY ACT, 2009\***

*An Act to provide for the constitution of an Authority in the State for the conservation of water resources of the Pampa River and its basins as an integral unit and for the management of allied activities and matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, the Pampa River is considered as a Holy River in connection with Sabarimala Temple and the pilgrimage to that temple;

AND WHEREAS, the Government is bound to ensure the quality of water in the river and to take measures to prevent pollution and to undertake integrated planning, monitoring, management and development of water resources in the river, basins and tributaries as an integral unit;

AND WHEREAS, the State Government have prepared the Pampa Action Plan to carry out different projects to achieve the above objects;

AND WHEREAS, a statutory body is required as a co-ordinated and effective mechanism for the management of the projects undertaken by the various Government Departments and Agencies as part of the Pampa Action Plan and for their monitoring and for the conservation and development of the water resources and the Pampa River Basins;

AND WHEREAS, it is expedient to provide for the constitution of an Authority in the State for the conservation of water resources in Pampa River and its basins as an integral unit and for the management of allied activities and matters connected therewith or incidental thereto;

---

\*Received the assent of the Governor on the 15<sup>th</sup> day of October, 2009 and published in the Kerala Gazette Extraordinary No. 1907 dated 15<sup>th</sup> October, 2009.

BE it enacted in the Sixtieth Year of the Republic of India as follows:—

CHAPTER I  
PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Pampa River Basin Authority Act, 2009.

(2) It shall be deemed to have come into force on the 2nd day of August, 2008.

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

(a) “Authority” means the Pampa River Basin Authority constituted under section 3;

(b) “Chairman” means the Chairman of the Authority;

(c) “Executive Committee” means the committee constituted under section 11;

(d) “Fund” means the Pampa River Basin Authority Fund constituted under section 12;

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

(f) “member” means a member of the Authority;

(g) “Member-Secretary” means the Member-Secretary of the Authority;

(h) “notification” means a notification published in the Official Gazette;

(i) “Pampa Action Plan” means the plan of the Government of Kerala for the conservation of the Pampa River and its reservoirs by averting pollution,

through the projects undertaking integrated planning, monitoring, management and development of water sources;

(j) “Pampa River Basin” means the reservoir areas of the Pampa River, its two banks and its tributaries;

(k) “Project Director” means the Project Director of the Authority;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “regulations” means the regulations made under section 21;

(n) “State” means the State of Kerala.

## CHAPTER II

### CONSTITUTION, FUNCTIONS AND POWERS OF THE AUTHORITY

3. *Constitution of the Authority.*—(1) The Government may, by notification in the Gazette, constitute with effect from such date as may be specified therein, an Authority to be called the Pampa River Basin Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

4. *Composition of the Authority.*—The Authority shall consist of the following members, namely:—

(a) Chief Minister, who shall be the Chairman of the Authority;

(b) Minister for Water Resources, who shall be the Vice-Chairman of the Authority;

(c) Secretary, Water Resources, who shall be the Member-Secretary of the Authority;

(d) Secretary, Revenue Department;

(e) Secretary, Forest Department;

(f) Secretary, Local Self Government Department;

(g) Secretary, Health Department;

(h) Secretary, Science and Technology and Environment Department;

(i) Secretary, Finance Department;

(j) Secretary, Power Department;

(k) Secretary, Devaswom;

(l) Chairman, Kerala State Pollution Control Board;

(m) President, Travancore Devaswom Board;

(n) two experts having dexterity in the water-environment sector nominated by the Government;

(o) two members of the House of the People, nominated by Government representing the constituencies of the area through which the Pampa River passes;

(p) two members of the Legislative Assembly, nominated by Government, representing the legislative constituencies of the area through which the Pampa River passes;

(q) Presidents of the District Panchayats of Alappuzha, Pathanamthitta Districts; and

(r) two Presidents each nominated by Government from two Block Panchayats and two Village Panchayats of the area through which the Pampa River passes;

(2) The Member-Secretary shall exercise such powers and perform such functions as may be prescribed.

(3) The Authority may delegate any of its functions to the Member-Secretary or to the Executive Committee as it may deem fit.

*5. Term of office and conditions of service of nominated members.—*(1) Notwithstanding anything contained in section 7, the nominated members shall hold office during the pleasure of the Government and their conditions of service shall be such as may be prescribed.

(2) Subject to the provisions of sub-section (1), every nominated member shall, unless their seats become vacant earlier by resignation, death or otherwise, hold office for a period of two years and shall be eligible for re-nomination.

(3) If a casual vacancy arises in the office of anyone who comes under clauses (o), (p), (q) and (r) of sub-section (1) of section 4, under which clause the vacancy of nominated place occurs, a person who comes under that clause may be nominated to that place by the Government and such nominated person shall continue to hold office only for the remaining term of office of that nominated person in whose place he was nominated and he would have continue to hold office as member unless that vacancy had not been occurred.

(4) Any nominated member may, at any time, resign his office by a resignation letter addressed to the Chairman of the Authority.

6. *Disqualification for membership of the Authority.*—A person shall be disqualified for being nominated as, and for being, a member,—

(a) if he has been convicted and sentenced to imprisonment for an offence or offence in respect of environment which, in the opinion of the Government, involves moral turpitude; or

(b) if he is of unsound mind and is so declared by a competent court; or

(c) if he is an undischarged insolvent; or

(d) if he has been removed or dismissed from the service of the Central Government or the Government of Kerala or Corporation owned or controlled by the Central Government or the Government of Kerala or from the membership of the Authority; or

(e) if he has directly or indirectly, by himself or by his partner, any share or interest in any work done by the order of the Authority or in any contract or employment with or under or by or on behalf of the Authority.

7. *Removal of a member.*—(1) The Government may remove a nominated member, if he,—

(a) becomes subject to any of the disqualifications specified in section 6; or

(b) refuses to act or becomes incapable of acting; or

(c) without obtaining leave of absence from the Authority, absents from three consecutive meetings of the Authority; or

(d) in the opinion of the Government, has so abused his position as to render his continuance as member detrimental to the interest of the Authority.

(2) No order of removal of a nominated member under sub-section (1) shall be made unless such member has been given an opportunity of making representation against his removal.

8. *Powers and Functions of the Authority.*—The Authority shall have the following powers and functions, namely:—

(i) to formulate policies and projects for enabling the sustainable development of water sources, reservoirs and water resources of the Pampa River and the scientific management for protecting the ecosystem containing various species and the environment with its genetic diversity;

(ii) to co-ordinate the activities of various departments and agencies, of the projects under the plan for implementation;

(iii) to take decisions relating to matters in the Pampa Action Plan and to implement the projects coming under the plan;

(iv) to impose control or restriction on exploitation of natural resources or encroachments which may have impact on water resources and the reservoirs of the Pampa River;

(v) to receive grants, contributions and funds for the Authority;

(vi) to undertake the project works by the Authority itself in case of failure by the Departments and other agencies;

(vii) to appoint Committee from among its members for the disposal of any business of the Authority or for tendering advice on any matter pertaining to the functions of the Authority;

(viii) to control the disposal of wastes or discharge of any industrial effluent or domestic effluent to the Pampa River in accordance with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (Central Act 6 of 1974) without proper treatment;

(ix) to bring the contravention of the laws to the notice of the Authority concerned and to monitor the follow-up action;

(x) to control and to take steps including the prohibition in accordance with the existing laws on any activity which may cause pollution to the Pampa River and the river basins;

(xi) to do such other things which may be directly or indirectly connected with or incidental or conducive to the efficient administration for the protection of water sources and river basins of the Pampa River; and

(xii) to implement appropriate campaigns and awareness programmes for conserving and making the Holy River Pampa pollution free.

9. *Office, Officers and Employees of the Authority.*— (1) The Government shall appoint a Project Director who shall exercise such powers and discharge such duties under the Authority, as may be prescribed.

(2) The Authority may, with the prior approval of the Government and subject to such rules as may be prescribed, appoint such number of officers and employees as it deems necessary for the efficient discharge of its duties under this Act.

(3) The administrative expenses of the Authority, including the salaries, allowances etc. payable to the officers and employees of the Authority shall be met as provided under sub-section (1) of section 12.



(4) The Office of the Authority shall be established at such place on the Pampa River Basin where most of the project works are centered.

10. *Meetings.*—(1) The Authority shall meet at such times and at such places and observe such procedure in regard to the transaction of business at its meeting, as may be provided by Regulations.

(2) The Member-Secretary shall convene the meetings of the Authority on the advice of the Vice-Chairman.

(3) The Chairman of the Authority shall preside over the meetings of the Authority and in the absence of the Chairman, the Vice-Chairman shall preside over the meetings.

(4) The quorum for the meeting of the Authority shall be one-third of the existing members and the decisions may be taken by simple majority of those present and vote in the meeting.

(5) The Authority shall meet at least once in three months.

11. *Constitution of the Executive Committee and its functions.*—(1) The Authority may constitute a Committee called the Executive Committee consisting of the following members, namely:—

(i) Secretary, Water Resources Department, who shall be the Chairman of the Committee;

(ii) Chief Engineer, Project II, Irrigation Department, who shall be the Secretary of the Committee;

(iii) Secretary, Kerala State Pollution Control Board;

(iv) Managing Director, Kerala Water Authority;

(v) Chief Conservator of Forests;

- (vi) Chief Wildlife Warden;
- (vii) Director, Science and Technology and Environment Department;
- (viii) Chairman, Kerala State Electricity Board;
- (ix) Chief Engineer (Irrigation and Administration), Irrigation Department;
- (x) Director, Centre for Water Resources Development and Management; and
- (xi) One expert having dexterity in the water-environment sector nominated by the Government.

(2) Subject to the general supervision and control of the Authority, the management of the affairs of the Authority shall vest in the Executive Committee, which shall assist the Authority, as the Authority may require.

(3) The Authority, shall have the power to invite such number of non - Governmental organisations, technical experts and representatives of Local Self Government and environmental activists to the Executive Committee if it deems necessary for carrying out the functions of the Authority. The number of such representatives shall not exceed five at a time.

(4) The Executive Committee shall co-ordinate the working of the implementing agencies such as Water Resources Department, Kerala Water Authority, Travancore Devaswom Board, Local-self Government and other Local Institutions and other Agencies and initiate the construction works to be undertaken and facilitate the timely release of fund.

## CHAPTER III

## FINANCE, ACCOUNTS AND AUDIT OF THE AUTHORITY

12. *Fund of the Authority.*—(1) The Authority shall have its own Fund and all receipts of the Authority shall be credited thereto and all payments by the Authority shall be made therefrom. The administrative expenses of the Authority including the salaries, allowances, etc. of the officers and employees of the Authority shall be met from this Fund.

(2) The Fund of the Authority shall consist of,—

(a) any amount or grants given by the State Government for the purpose of the Act;

(b) an amount not less than fifty per cent of the amount collected per year, by the Revenue Authorities through sand mining in Pampa River under the provisions of the Kerala Protection of the River Banks and Regulation of Removal of Sand Act, 2001(18 of 2001), which is got transferred to the Authority;

(c) financial assistance to the Authority received from Centre-State Government or other State Governments or Institutions or well wishers;

(d) loans and financial assistance to the Authority for the purposes of this Act on such terms and conditions, as the Government may determine.

13. *Application of Fund.*—The Fund of the Authority and all property held or vested in the Authority shall be applied for the administration of the Act.

14. *Budget*.—The Authority shall prepare in such form and at such time every year as may be prescribed, its Budget for the next financial year showing the estimated receipt and expenditure.

15. *Annual Report*.—(1) The Authority shall prepare its annual report giving full details of its activities during the previous financial year and submit a copy to the Government, in such form as may be prescribed.

(2) The Government shall, as soon as may be, after the receipt of a report under sub-section (1) shall lay the same before the Legislative Assembly.

16. *Accounts and Audit*.—(1) The Accounts of the Authority shall be maintained and audited in such manner as may be prescribed.

(2) The Authority shall furnish to the Government before such date as may be prescribed, the audited copy of accounts together with the auditors' report thereon.

## CHAPTER IV

### MISCELLANEOUS

17. *Protection of action taken in good faith*.—No suit, prosecution or other legal proceedings shall lie against the Authority or any member of the Authority for anything which is done or intended to be done in good faith in pursuance of the provisions of this Act or any rule made thereunder.

18. *Bar of Jurisdiction of civil court*.—No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Government or Authority or any officer authorised by the Government or Authority.

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

Provided that no order shall be issued under this section after two years from the date of commencement of this Act.

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

20. *Members and employees of the Authority to be public servants.*—All members and employees of the Authority shall, while acting or purporting to act in pursuance of any of the provisions of this Act or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

21. *Power to make regulations.*—The Authority may, with the previous approval of the Government, make regulations in respect of the matters provided in sub-section (1) of section 10, and particularly of the procedure to be followed by the Authority and the Executive Committee, as the case may be, for the meetings and disposal of the matters coming up before the Authority or the Executive Committee.

22. *Power to make Rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out all or any of the purposes of this Act. 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:—

- (i) the powers and functions of the Member-Secretary;
- (ii) the condition of service of nominated members of the Authority;

- (iii) the powers and duties of the Project Director;
  - (iv) the appointment of the employees of the Authority and their conditions of service;
  - (v) the form of annual report;
  - (vi) the manner in which accounts of the Authority is to be audited;
- and
- (vii) any other matter which is required to be or may be prescribed.

(2) 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 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.

23. *Application of other laws not barred.*—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other laws for the time being in force.

24. *Repeal and Saving.*—(1) The Pampa River Basin Authority Ordinance, 2009 (19 of 2009), 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 Act.