



The Kerala Co-Operative Hospital Complex and the Academy of Medical Sciences (Taking over the Management) Act, 1997

Act 6 of 1997

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**THE KERALA CO-OPERATIVE HOSPITAL COMPLEX AND THE ACADEMY
OF MEDICAL SCIENCES (TAKING OVER THE MANAGEMENT) ACT,
1997**

(ACT 6 OF 1997)

(Translation in English published under the authority of the Governor)

An Act to provide for the taking over in the public interest 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 working of medical college and the 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 for the improvement of medical facilities in the northern part of the State and for establishing a Medical College at Co-operative Sector, Co-operative Hospital Complex and the Academy of Medical Sciences were established with Government participation;

AND WHEREAS the State Government have so far contributed rupees eight hundred and eleven lakhs to the aforesaid societies for the establishment of a Medical College and a super speciality hospital at Pariyaram, Kannur District;

AND WHEREAS the Co-operative Hospital Complex and the Academy of Medical Sciences are being mismanaged by the present office bearers of the said societies;

AND WHEREAS in the interest of the medical college and in the public interest it is necessary to provide for taking over the management of the undertaking of the Co-operative Hospital Complex and the Academy of Medical Sciences by the State for a limited period with a view to ensuring the proper working of the Medical College and the said societies and for matters connected therewith or incidental thereto;

BE it enacted in the Forty-eight year of Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*-(1) This Act may be called the Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking over the Management) Act, 1997.

(2) It shall be deemed to have come into force on the 9th day of February, 1997.

2. *Definitions.*-In this Act, 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) 'articles of association' means the articles of association of the Academy of Medical Sciences ;
- (c) 'bye-laws' means bye-laws of the Co-operative Hospital complex;
- (d) '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 of 1992 under the Kerala Co-operative Societies Act, 1969 (21 of 1969) ;
- (e) 'governing council' means the governing council of the Academy of Medical Sciences ;
- (f) 'notified order' means an order notified in the Gazette;
- (g) 'prescribed' means prescribed by rules made under this Act;
- (h) 'Societies' means the Co-operative Hospital Complex and the Academy of Medical Sciences ;
- (i) 'undertaking' includes the medical college, hospital, all assets rights, lease holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, stores, equipments, automobiles and other vehicles, cash balances, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the date of the notified order under sub-section (1) of section 3, in the ownership, possession, power or control of the societies, and all books of account, registers and all other documents of whatever nature relating thereto.

CHAPTER II

TAKING OVER OF MANAGEMENT OF THE UNDERTAKING OF SOCIETIES

3. Board of Control to take over management of the undertaking of the societies.- (1) The Government may, by notified order, appoint a body of persons (hereinafter referred to as the Board of Control) to take over the management of the undertaking of the societies.

(2) The Board of Control shall consist of a Chairman and such number of other members not exceeding ten as the Government may think fit, to be appointed by the Government.

(3) The Government may, either in the notified order issued under sub-section (1) or in a subsequent order, specify that one or more of the members of the Board of Control shall be full time member or full-time members thereof.

(4) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board of control shall be such as may be prescribed.

(5) The salaries, allowances and other remuneration and conditions of service of the members of the Board of Control shall be such as may be determined by the Government.

(6) Any notified order issued under sub-section (1) shall remain in force for such period not exceeding two years as may be specified in the order:

Provided that if the Government are of opinion that in order to secure the proper management of the undertaking it is expedient that any such notified order should continue in force after the expiry of the period specified in that order, they may, from time to time, by notification in the Gazette, extend such period by not more than six months at a time, but no such notified order shall in any case remain in force for more than five years.

4. *Effect of notified order issued under section 3.*-(1) On the issue of a notified, order under section 3 appointing a Board of Control to take over the management of the undertaking-

(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 other members of the Governing Council and the Board of Directors of the Co-operative Hospital Complex and the President, Vice President and 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) the Board of Control alone shall be entitled, notwithstanding anything contained in any law for the time being in force, to exercise all the powers of the governing council and Board of Directors of the co-operative Hospital Complex and the governing council and executive Committee of the Academy of Medical Sciences;

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

(2) Subject to the other provisions contained in this Act and to the control of the Government, the Board of Control shall take such steps as may be necessary for the purpose of efficiently managing the affairs of the societies medical college and the hospital and shall exercise such other powers and have such other duties as may be prescribed.

5. *Contract in bad faith may be cancelled or varied.*-(1) Without prejudice to the provisions contained in section 4, the Board of control may with the previous approval of

the Government, rescind or alter any contract or initiate proceeding before any court or authority having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered in to at any time before the issue of the notified order under sub-section (1) of section 3 between the society and any person.

(2) Where any proceeding is initiated before any court or authority under sub-section (1), the court or authority, as the case may be may, if satisfied after due enquiry that such contract or agreement had been entered in bad faith and is detrimental to the interests of the societies, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the contract or agreement and in that event the contract or agreement shall cease to have effect or stand cancelled, as the case may be or, shall have effect subject to such variations.

6. *No right to compensation for termination of office.*-Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of sub section (1) of section 4 shall be entitled to any compensation for the loss of office:

Provided that nothing contained in this section shall affect the right of any such person to recover from the societies moneys recoverable otherwise than by way of such compensation.

7. *Applicability of the Kerala Co-operative Societies Act, 1969, the Societies Registration Act, 1860 the bye-laws of the Co-operative Hospital Complex and the Memorandum of Association and the Rules and Regulations of the Academy of Medical Sciences.*-(1) Notwithstanding anything contained in the Kerala Co-operative Societies Act, 1969 or in the Societies Registration Act, 1860,-

(a) the bye-laws of the Co-operative Hospital Complex; and

(b) the Memorandum of Association and the rules and regulations of the academy of Medical Sciences , shall stand suspended for the period during which the notified order under sub-section (1) of section 3 is in force.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such exceptions, restrictions and limitations, if any, as the Government may, by notification in the Gazette specify in this behalf, the Kerala Co-operative Societies Act, 1969 (21 of 1959) and the societies Registration Act, 1860 (Central Act XXI of 1860) shall continue to apply to the co-operative Hospital Complex or, as the case may be, the Academy of Medical Sciences in the same manner as they applied to the said societies before the issue of the notified order under sub-section (1) of section 3.

8. *Conditions of service etc., of existing employees.*-(1) Subject to the provisions of this Act every officer or other employee employed immediately before, the date of the notified order under sub-section (1) of section 3, in connection with the affairs of the

undertaking shall, during the period in which such notified order is in force, hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to gratuity and other matters as he would have held under the societies if such notified order had not been issued.

(2) The Board of Control shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against any employee referred to in sub-section (1) in respect of any act or omission or conduct or record of such employee.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract or agreement the Board of Control may by order in writing terminate the service of any employee appointed irregularly by the society before the issue of the notified order under sub-section (1) of section 3 after giving one month notice in writing to the employee concerned indicating the reasons for termination of service and in lieu of such notice, on payment of one month salary.

(4) Any person aggrieved by an order under sub-section (3) may within one month from the receipt by him of the order, apply to the District Court to modify or set aside such order and that court after taking such evidence as it thinks necessary may pass such orders as it thinks proper in the circumstances of the case.

(5) Where the Co-operative Hospital Complex or the Academy of Medical Sciences has established a provident superannuation, welfare or any other fund for the benefits of their officers and other employees, such fund shall with effect on and from the date of the notified order under sub-section (1) of section 3, stand transferred to, and vested in, the Board of Control.

9. *Power of Government to cancel order notified under section 3.*-If at any time it appears to the Government on the application of any member of the Co-operative Hospital Complex or otherwise that the propose of the notified order under sub-section (1) of section 3 has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Government may, by notified order, cancel such order,

CHAPTER III

MISCELLANEOUS

10. *Duty to deliver possession of property and documents relating thereto.*-(1) As soon as may be after the issue of the notified order under sub-section (1) of 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 of Control or to any such person as may be authorised by the Board of control in this behalf.

(2) Any person who on the commencement of this Act in his possession or under his control any books, documents or other papers relating to the undertaking, 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 of Control and shall deliver them upto the Board of Control or to any such person as may be authorised by the Board of Control in this behalf.

(3) The Government shall take all necessary steps for securing possession of all properties of the Societies by the Board of Control

11. *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 sub-section (1) of section 3 or within such further period as the Government may allow in this behalf, furnish to the Board of control a complete inventory of all the properties and assets (including particular of booklets and investments and belongings) of the respective society at the commencement of this Act 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.

12. *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 Act or the rules made thereunder, any person authorised by the Government in this behalf shall have the right.

(a) to enter and inspect any premises;

(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 (Central Act 45 of 1860).

13. *Penalty for false statements.*-(1) If any person-

(a) When required by this Act or by any order made under this Act 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 Act to submit, he 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 Act, 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.

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

15. *Protection of action taken under the Act.*-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 Act.

16. *Over-riding effect of Act.*-The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or any instrument having effect by virtue of any law other than this Act.

17. *Payment of remuneration and expenses out of the funds of societies.*-All salaries, allowances and other remuneration paid to the Chairman 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 out of the funds of the societies.

18. *Power of Government to give direction.*-Notwithstanding anything contained in the forgoing provisions of this Act, the Government may give such directions to the Board of Control, as the Government may deem fit, for the proper management of the undertaking of the medical college, hospital and the societies and the Board of Control shall comply with such directions.

19. *Power to make rules.*-(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(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.

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

21. *Repeal and Saving.*-(1) The Kerala Co-operative Hospital Complex and the Academy of Medical Sciences (Taking over the Management) Ordinance, 1997 is hereby repealed.

(2) 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.