



Accordingly, the Karnataka Stamp (Second Amendment) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 30.03.2015. The said Bill was passed in the Legislative Assembly on 30.03.2015 and in the Legislative Council on 30.03.2015.

The subject matter of the Bill falls under entries 63 of List II and 44 of List III of the Seventh Schedule to the Constitution of India. Clause 2, 3, 4, 5 and 6 of the Bill are repugnant to the provisions of the Section 9 of Indian Stamp Act, 1899 (Central Act 02 of 1899), which is Central Law. Therefore, the Bill has to be reserved for consideration of the President.

Therefore, the Honourable Governor has been pleased to reserve the Karnataka Stamp (Second Amendment) Bill, 2015 under Article 200 of the Constitution of India for the consideration of the President as required by clause (2) of Article 254 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 27.08.2015.

The Resident Commissioner, Karnataka Bhavan vide letter dated 29.03.2016 has stated that the said Bill is pending with the Ministry of Finance (Department of Revenue) for their comments.

The Government of India vide letter No.17/40/2015-Judl.P.P dt:18.04.2016 has requested to furnish the clarifications on the observations made by Department of Revenue and Financial Services. Accordingly a request was made to Revenue Department to furnish the same vide letter dt: 07/05/2016.

The Clarification had been communicated to Government of India for further necessary action vide letter dated 23.06.2016. The clarifications of Revenue Department had been sent vide letter dated: 08.09.2016 and a reminder had been sent vide letter dated: 21.10.2016, 14.12.2016, 21.01.2017 and 07.03.2017. Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India.

The Ministry of Home Affairs vide its letter dt. 24.02.2017, 05.04.2017 and 12.05.2017 has again requested for the clarification of the State Government on the views of Ministry of Finance (Department of Revenue) Government of India and the same as been forwarded to Revenue Department vide letter No. DPAL 19 Shasana 2015 dt. 27.04.2017 and 02.06.2017.

#### **PRESENT STATUS:**

The Clarifications of Inspector General of Registration and Commissioner of Stamps and Revenue Department had been sent to Ministry of Home Affairs vide letter even No.dated:03.07.2017 with a request to obtain the assent of His Excellency the President of India. A reminder dated 16.08.2017, 21.09.2017, 26.10.2017 and 16.12.2017 have been sent.

**Subject (2): The Karnataka Municipal Corporations (Amendment) Bill, 2015**

**Category** Assent of the President to the Bill

**Proposal Classification A Proposal Code DPAL**

| <b>Reference Date</b> | <b>Reference Number</b>                            | <b>Ministry</b>                                      |
|-----------------------|--|--|
| 04.08.2015            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 17.08.2015            | No.17/33/2015-judl.&PP<br>No. 17/33/2015- judl.&PP | Ministry of Home Affairs<br>Ministry of Home Affairs |
| 25.11.2015            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 26.11.2015            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 16.01.2016            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 29.01.2016            | No.17/33/2015-judl.&PP<br>No. 17/33/2015- judl.&PP | Ministry of Home Affairs<br>Ministry of Home Affairs |
| 16.02.2016            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 04.2.2016             | 23/18/2013-Judl. & P.P.(Part III)                  | Ministry of Home Affairs                             |
| 18.03.2016            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 26.03.2016            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 25.05.2016            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 22.06.2016            | No.17/33/2015-judl.&PP                             | Ministry of Home Affairs                             |
| 16.07.2016            | No.17/33/2015-judl.&PP                             | Urban Development Department                         |
| 22.08.2016            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 24.09.2015            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 07.11.2016            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 20.12.2016            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 28.01.2017            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 06.03.2017            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 27.05.2017            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 05.07.2017            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 17.08.2017            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 22.09.2017            | DPAL 25 Shasana 2015                               | Urban Development Department                         |
| 20.09.2017            | UDD 565 MNY 2015                                   | Ministry of Home Affairs                             |
| 28.10.2017            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |
| 16.12.2017            | DPAL 25 Shasana 2015                               | Ministry of Home Affairs                             |

The population of the larger urban area of the city of Bangalore has gone beyond eighty lakhs. Therefore, it is difficult to supervise the implementation of the State or Central Schemes. For the purpose of smooth administration of the corporation of city of Bangalore, the expert committee appointed by the Government has also recommended in its interim report for trifurcation of the corporation of city of Bangalore. Therefore, it is considered necessary to reconstitute the corporation of city of Bangalore into two or more corporations. Hence, it is considered necessary to amend the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) accordingly.

Accordingly, the Karnataka Municipal Corporations (Amendment) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 20.4.2015. The said Bill was passed in the Legislative Assembly on 20.04.2015 and was referred to the Select Committee by the Legislative Council on 27.04.2015. The said Bill was rejected in the Legislative Council on 20.07.2015 and was reconsidered and passed by the Legislative Assembly for the second time on 21.07.2015 and was passed in the Legislative Council on 22.07.2015.

The subject matter of the Bill falls under entry 5 of List II of the Seventh Schedule to the Constitution of India. The provisions of the said Bill are not repugnant to any provisions of the Central Acts in force.

Accordingly, the Bill was sent to the Honourable Governor of Karnataka on 24.07.2015 to obtain His assent under Article 200 of the Constitution of India.

The Honourable Governor of Karnataka on 28.07.2015 having observed certain infirmities in the proposed legislation and taking note of the constitutional provisions has deemed it appropriate to reserve the said Bill for the consideration of His Excellency the President of India in accordance with Article 200 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 04.08.2015.

As requested by the Ministry of Home Affairs vide letter dated: 17.08.2015, two more copies of the observation made by the Honorable Governor on the above said Bill were sent along with letter dated: 25.11.2015 with a request to obtain the assent of His Excellency the President of India.

The Ministry of Home Affairs vide its letter dated: 30.09.2015 requested to send views of the State Government on comments of the Ministry of Urban Development and Ministry of Urban Poverty Alleviation for further process of the said Bill. Accordingly the Urban Development Department vide letter dated: 26.11.2015 was requested to send the said views.

The Ministry of Home Affairs vide its Office Memorandum dated 4.2.2016 has issued guidelines on State Legislations on time limits and modalities to be adhered to by the State Government.

The said letter was sent to the Urban Development Department vide letter dated 18.3.2016 with a request to furnish the information sought by Government of India.

The Ministry of Home Affairs vide letter dated 29.01.2016 requested the State Government to provide comments on the observations made by the Ministry of Urban Development, Government of India and the Ministry of Housing and Poverty alleviation, Government of India. In this respect the information received from the Urban Development Department, Government of Karnataka dated 24.03.2016 has been sent to the Joint Secretary (Judicial), Ministry of Home Affairs (Judicial & PP Section), New Delhi vide letter dated: 26.03.2016.

The Resident Commissioner, Karnataka Bhavan vide letter dated has reported that the comments of the State Government would be referred to the Ministry of Housing & Poverty Alleviation and the Ministry of Urban Development.

Clarifications of the State Government have been sent to the Government of India vide letter dated 26.03.2016.

The Government of India vide its letter dated: 22.06.2016 has again requested to send views and clarifications on comments of the Ministry of Urban Development & Ministry of Housing & Urban Property Alleviation. This letter has been forwarded to Urban Development Department vide letter No. DPAL 25 Shashana 2015, Dated: 16.07.2016 and a reminder has been issued vide letter dated 22.08.2016, 24.09.2016, 07.11.2016 , 20.12.2016 and 17.08.2017.

**PRESENT STATUS:**

The Ministry of Home Affairs vide its letter dated 22.06.2017 and 31.07.2017 has again requested for the clarification of the State Government on views of Ministry of Urban Development and Ministry of Housing and Urban Poverty Alleviation, Government of India and the same has been forwarded to the Urban Development Department vide even letter No. dated: 05.07.2017 and a reminder has been issued on 28.10.2017. The Urban Development Department vide letter No. UDD 565 MWY 2015 dated: 20.09.2017 has given the clarifications directly to Govt of India. A reminder dated: 16.12.2017 has been sent to Government of India.

**Subject (3): THE PREVENTION OF CRUELTY TO ANIMALS (KARNATAKA SECOND AMENDMENT) BILL, 2017**

**Category** Assent of the President to the Bill

| <b>Proposal Classification</b> | <b>A</b>                | <b>Proposal Code DPAL</b> |
|--------------------------------|-------------------------|---------------------------|
| <b>Reference Date</b>          | <b>Reference Number</b> | <b>Ministry</b>           |
| 01.12.2017                     | DPAL 42 Shasana 2017    | Ministry of Home Affairs  |

The Prevention of Cruelty to Animals Act, 1960 (Central Act 59 of 1960) was enacted to prevent the infliction of unnecessary cruelty and suffering on animals. The Act also recognizes the need to exempt the application of its provisions in certain circumstances.

Considering the significant role played by the traditional sports event of “Kambala” or “Bulls race” or "Bullock cart race" in preserving and promoting tradition and culture among the people in the State of Karnataka and also considering the vital role of “Kambala” or “Bulls race or "Bullock cart race" in ensuring survival and continuance of native breeds of cattle, the Government of Karnataka have decided to exempt the conduct of “Kambala” or “Bulls race” or "Bullock cart race” in the state.

Government of India suggested certain modifications in the Karnataka Prevention of Cruelty to Animals (Karnataka Amendment) Bill, 2017 (LA Bill No. 02 of 2017) Government of Karnataka has considered those changes. Accordingly by adopting the changes proposed by Government of India and as the Karnataka Legislative Assembly was not in session and was not likely to meet in the near future, the Honourable Governor was pleased to promulgate the Karnataka Prevention of Cruelty to Animals (Karnataka Amendment) Ordinance, 2017 on 20th July, 2017 with previous instructions of the His Excellency the President of India as required under the proviso to Article 213 of the Constitution.

The Kambala festival is an inherent part of the culture of the people of Dakshina Kannada, Shivamogga, Udupi and Uttar Kannada districts. The Kambala event is completely distinct from Jallikattu and cannot be equated with the latter. The buffaloes(Male) involved in the conduct of Kambala are of a special and distinct breed, namely Canara breed. These buffaloes(Male) are in fact reared by the agrarian community of above districts in the State of Karnataka, specifically to participate in Kambala.

The event involves a 100 – 140 meters race between two pairs of buffaloes(Male) in a slush paddy field in the months of November till March – after the harvest season is over. Each pair of buffaloes(Male) is yoked by a plough and controlled by a jockey who guides them during the run. Kambala also does not involve violence/cruelty on the animals.

As the Karnataka Legislative Assembly was not in session and was not likely to meet in near future and whereas it was expedient to facilitate the conduct of Kambala for current year, the Government of Karnataka decided to issue the Prevention of Cruelty to Animals (Karnataka Amendment) Ordinance, 2017 with previous instructions of His Excellency the President of India.

Accordingly, the Prevention of Cruelty to Animals (Karnataka Amendment) Ordinance, 2017 was sent to the Ministry of Home Affairs, Government of India to obtain the previous instructions of His Excellency the President of India vide letter cited under reference (1) above. His Excellency the President of India was pleased to approve the promulgation of the Prevention of Cruelty to Animals (Karnataka Amendment) Ordinance, 2017 vide Order No. 14/04/2017-Judl. & PP, dated: 03.07.2017 (copy enclosed) as required under the proviso to clause (1) of Article 213 of the Constitution of India on 04.07.2017. As such the Prevention of Cruelty to Animals (Karnataka Amendment) Ordinance, 2017 (Karnataka Ordinance No. 01 of 2017) was published in the official Gazette on 20.07.2017.

As such it is expedient to enact the present legislation in the State of Karnataka to strike a balance between conserving cultural rights of its people under Article 29 (1) as well as ensuring that the animals involved are not subjected to any cruelty or unnecessary pain.

Further, in order to ensure that no unnecessary pain or suffering is caused to the buffaloes(Male) involved, the Government of Karnataka issued a notification No. AHF 332 AID 2017, dated:14.11.2017,in pursuant to the said Ordinance, wherein stringent conditions have been laid down regulating the conduct of Kambala (copy enclosed).

Both the Houses of Karnataka Legislature met on 13.11.2017 at Belagavi. On 15.11.2017 an Ordinance replacing Bill called the Prevention of Cruelty to Animals (Karnataka Second Amendment) Bill, 2017 was sent to the Karnataka Legislative Assembly.

The Prevention of Cruelty to Animals (Karnataka Second Amendment) Bill, 2017 was introduced in the Karnataka Legislative Assembly on 16/11/2017 and passed in the Karnataka Legislative Assembly on 17/11/2017 and was passed in the Karnataka Legislative Council on 22/11/2017.

The subject matter of the Prevention of Cruelty to Animals (Karnataka Second Amendment) Bill, 2017 falls under entries 15 of list II and 17 of list III of the seventh schedule to the Constitution of India. The provisions of the said Bill are repugnant to the provisions of sections 3, 11, 22 and 27 and certain other provisions of the Prevention of Cruelty to Animals Act, 1960 (Central Act 59 of 1960) which is a Central Law in force. Therefore, the Bill has to be reserved for the assent of His Excellency the President of India as required by clause (2) of Article 254 of the Constitution of India.

The Honourable Governor has therefore pleased to reserve the Prevention of cruelty to Animals (Karnataka Second Amendment) Bill, 2017 under Article 200 of the Constitution of India for the consideration of His Excellency the President of India as required under clause (2) of Article 254 of the Constitution of India vide letter dated. 01.12.2017.

**Subject (4): THE KARNATAKA EXTENSION OF CONSEQUENTIAL SENIORITY TO GOVERNMENT SERVANTS PROMOTED ON THE BASIS OF RESERVATION (TO THE POSTS IN THE CIVIL SERVICES OF THE STATE) BILL, 2017**

**Category** Assent of the President to the Bill

| <b>Proposal Classification</b> | <b>A</b>                | <b>Proposal Code DPAL</b> |
|--------------------------------|-------------------------|---------------------------|
| <b>Reference Date</b>          | <b>Reference Number</b> | <b>Ministry</b>           |
| 16.12.2017                     | DPAL 44 Shasana 2017    | Ministry of Home Affairs  |

It is considered necessary to provide for Consequential Seniority of the Government Servants promoted on the basis of Reservation to the posts in the civil services of the State with the effect from the 27<sup>th</sup> day of April 1978 in pursuance of Article 16 (4A) of the Constitution of India in the following circumstances, namely:-

The Government of Karnataka has introduced the policy of reservation in promotion in favour of Government Servants belonging to the Scheduled Castes and the Scheduled Tribes as per the Government Order No. DPAR 29 SBC 77 dated 27.4.1978;

Paragraph 7 of the Reservation Order stipulates that the inter-se seniority amongst persons promoted in accordance with that order on any occasion has to be determined, in the manner provided in rule 4 or 4-A, as the case may be, of the Karnataka Government Servants (Seniority) Rules, 1957;

The Supreme Court of India, in its Judgment dated 1-12-2000, in the case of M.G. Badappanavar and Another Versus State of Karnataka and others in Civil Appeal Nos. 6970-6971 of 2000 with Civil Appeal No. 6972 of 2000 (AIR 2001 SC 260) while dealing with the issue of determination of seniority interse between the persons belonging to the reserved categories and the general category, in pursuance of the ratio of the decision of the Constitution Bench in Ajit Singh and Others (II) Vs State of Punjab and others-(1999) 7 SCC 209 has examined rule 2(c), rule 4 and rule 4-A of the Karnataka Government Servants' (Seniority) Rules, 1957 and has observed that there is no specific rule therein permitting seniority to be counted in respect of a person promoted against a (reserved) roster point;

Subsequently, the Parliament has enacted the Constitution (Eighty Fifth Amendment) Act, 2001 by insertion of clause (4A) to Article 16 of the Constitution with retrospective effect from 17-6-1995 providing for consequential seniority in the case of promotion on the basis of reservation;

The Government of Karnataka has enacted the Karnataka Determination of Seniority of the Government Servants promoted on the basis of reservation (to the posts in the civil services of the State) Act, 2002 (Karnataka Act 10 of 2002) (herein after referred to as Karnataka Act 10 of 2002) to remove any ambiguity and to clarify that the Government Servants belonging to the Scheduled Castes and the Scheduled Tribes promoted in accordance with the policy of reservation in promotion contained in the Reservation Order shall be entitled to seniority as it is available to the Government Servants belonging to the other categories;

The validity of the Karnataka Act 10 of 2002 and constitutional amendments to Articles 16(4A) and 16(4B) came to be challenged in Supreme court in W.P.No 61/2002 titled Sri.M. Nagaraj & others Vs Union of India. The Hon'ble Supreme Court in the said case upheld the constitutional validity of Articles 16(4A) and 16(4B) and held that the validity of the individual enactments of the appropriate States shall be gone into in individual Writ petitions by the appropriate Bench. In turn having been remitted, the High Court of Karnataka in W.P.No.14655/2010 has examined the constitutional validity of Karnataka Act 10 of 2002 and declared that the same was a valid piece of legislation as it satisfied the tests specified by the Supreme Court in M.Nagaraja's case. The correctness of the view taken by the High Court of Karnataka was then assailed in Appeal before the Supreme Court in B.K.Pavitra case;

The Hon'ble Supreme Court of India in its judgment dated: 09.02.2017 in the case of B.K. Pavitra and others v/s Union of India and others in Civil Appeal No. 2368 of 2011 and connected matters while dealing with the issue of consequential seniority provided to the Scheduled Castes and the Scheduled Tribes, having regard to the ratio of the decision of the Constitution Bench in M. Nagaraj in Writ Petition No. 61 of 2002 has observed that a proper exercise for determining 'inadequacy of representation', 'backwardness' and 'overall efficiency', is a must for exercise of power under Article 16(4A). The court held that in the absence of this exercise under Article 16(4A) it is the "catch up" rule that shall be applicable. Having observed this the Court declared the provisions of Sections 3

and 4 of the Karnataka Act 10 of 2002 to be ultra vires of Article 14 and 16 of the Constitution. The Hon'ble Supreme Court directed that revision of the Seniority lists be undertaken and completed within three months and further consequential action be taken within the next three months;

In order to comply with the directions of the Hon'ble Supreme Court in B.K. Pavitra and others v/s Union of India and others in Civil Appeal No. 2368 of 2011 the Government has issued order vide Government order No: DPAR 182 SRR 2011 dated 06.05.2017 to all appointing authorities to revise the seniority lists;

While in compliance of the Supreme Court order, the Government considering the need and taking note of the decision of the Constitution Bench in M. Nagaraj, in Writ Petition No. 61 of 2002, has entrusted the task of conducting study and submitting a report on the backwardness of Scheduled Castes and Scheduled Tribes in the State, inadequacy of their representation in the State Civil Services and the effect of reservation in promotion on the State administration, to the Additional Chief Secretary to Government in Government Order No. DPAR 182 SRR 2011 dated: 22.03.2017;

The Additional Chief Secretary to Government with the assistance of officers from various departments has collated the scientific, quantifiable and relevant data collected and having made a detailed study of quantifiable data has submitted a report on the backwardness of Scheduled Castes and Scheduled Tribes in the State, inadequacy of their representation in the State Civil Services and the effect of reservation in promotion on the State administration to the State Government;

The report confirms the backwardness of Scheduled Castes and Scheduled Tribes in the State, inadequacy of their representation in the State Civil Services and that the overall efficiency of administration has not been affected or hampered by extending reservation in promotion to the Scheduled Castes and Scheduled Tribes in the State and continuance of reservation in promotion within the limits will not affect or hamper overall efficiency of administration;

The Government of Karnataka has also obtained the views of Legal Experts and the Karnataka Law Commission in this regard; and

After having examined the report submitted by the Additional Chief Secretary and the views expressed by the Legal Experts the Government of Karnataka has accepted the report. Keeping in view the findings of the report, the Government is satisfied and having identified and measured, has come to the conclusion that compelling reasons continue to exist for providing consequential seniority to persons promoted on the basis of policy of reservation in the State since 1978 so as to ensure adequate representation of the Scheduled Castes and Scheduled Tribes across all departments;

State on finding of compelling necessity for exercise of its powers, it is of the opinion that, it is expedient to provide for Consequential Seniority of the Government Servants Promoted on the Basis of Reservation to the Posts in the Civil Services of the State since 24<sup>th</sup> day of July, 1978.

As such the Karnataka extension of consequential Seniority to Government servants promoted on the basis of reservation (to the posts in the civil services of the state) Bill, 2017 was introduced in the Karnataka State Legislative Assembly on 14.11.2017 and passed in Karnataka State Legislative Assembly on 17.11.2017 and was passed in Karnataka State Legislative Council on 23.11.2017.

The subject matter of the Bill falls under entry 41 of List II of the Seventh Schedule to the Constitution of India. The State Legislature is competent to enact the proposed legislation. The provisions of the Bill are not repugnant to any provisions of the Central laws in force. Therefore, the said Bill need not be reserved for the consideration of His Excellency the President.

Accordingly three authentic copies of the Karnataka extension of consequential Seniority to Government servants promoted on the basis of reservation (to the posts in the civil services of the state) Bill, 2017 in the Kannada and English language as passed by both Houses of the State Legislature was sent to the Honourable Governor of Karnataka on 29.11.2017 for his assent under Article 200 of the Constitution of India.

The Honourable Governor of Karnataka on 06.12.2017 having observed and ordered as follows:-

"Perused the file.

The Supreme Court in the case of B.K. Pavitra Case, while considering the issue of grant of promotion to persons belonging to SC and STs has observed the necessity of applying the test of inadequacy of representation, backwardness and overall efficiency, for exercise of power under Article 16(4A) of the Constitution and has directed the State Government to revise the seniority list within the time frame.

The State Government to overcome the situation which was found fault with by the Supreme Court in the aforesaid judgement has come out with a Bill, which is now sent for my assent.

Having regard to the judgement of the Supreme Court in the aforesaid case and importance of the issue and the Constitutional interpretation involved in the matter, I deem it appropriate to reserve the matter for the consideration of the President. Accordingly, the Bill is reserved for the consideration of the President under Article 200 of the Constitution of India."

Further the Advocate General of Karnataka was consulted for his opinion in this regard. Based on the opinion given by Advocate General of Karnataka a letter from Honourable Chief Minister was written to the Honourable Governor to reconsider his decision on the following grounds, namely:-

It appears that the observation recorded by the Honourable Governor is on certain premises / assumptions, which are not fully correct, in the extraordinary circumstance as set out hereunder,-

(i) at the outset, the Hon'ble Supreme Court in B.K. Pavitra and others vs. State of Karnataka [**Civil Appeal No. 2368 of 2011**] has held that State Government has not complied with the direction of the Constitutional Bench in M. Nagaraj's case [reported in (2006) 8 SCC 212]; as the State did not consider the requirement of satisfying the three parameters, viz., backwardness, inadequacy of representation, impact on efficiency of administration, under the Constitutional Scheme [under Articles 16 (4), 16 (4A) and 16 (4B)] before enacting the impugned provisions. The Apex Court has further held that the state has not undertaken an exercise, based on collection and analysis of the relevant data, to establish backwardness, inadequacy of representation in Government services and in assessing the overall impact of reservation in promotion with consequential seniority on efficiency in administration. It is said that Government has not collected and collated the relevant and quantifiable data for showing the 'compelling necessity' in exercise of its legislative power to provide for 'reservations in promotions' and 'consequential seniority'. The Supreme Court, in its order dated 09-02-2017, having held the provisions of Sections 3 and 4 of Act No. 10 of 2002 as unconstitutional, has directed the State Government to re-draw 'the seniority list' as a result of 'striking down' the said provisions, further, it is held that the absence of this exercise under Article 16(4A), it is the 'catch up rule' that shall be applicable.

(ii) the State Government, has filed a Review Petition in the Supreme Court, pointing to 'errors' and the need for re-consideration of the very 'ratio' of the decision in Nagaraj's case; [which is in fact now an aspect of a reference to a 'Constitution Bench of five Judges']. Without prejudice to the contentions made in the Review Petition, now pending in the Supreme Court, the State Government, taking note of the time constraint and possible effect on the administration and smooth governance thereof, had decided to comply with the direction of the Honourable Supreme Court as contemplated in M. Nagaraj's case. Accordingly, an exercise was launched to collect and collate 'quantifiable data' for determining the inadequacy of representation, backwardness and overall efficiency in administration; and to evaluate 'compelling necessity' if any; of providing reservations in promotion with consequential seniority.

(iii) a Committee under the chairmanship of Additional Chief Secretary was constituted to collect and collate the relevant and quantifiable data, for consideration of formulating a policy. The report prepared by the Committee was examined by the Government in detail and it was decided to obtain the opinions of atleast two eminent jurists on the findings of the Committee and the way forward for the policy. Accordingly, opinion of the former Chief Justice of India T.S.Thakur and former judge of the Supreme Court of India Justice V.Gopala Gowda were obtained. Further more, the views of the State's Law Commission the Advocate General were also obtained. The matter was placed before a 'Cabinet Sub Committee' which also went into various aspects of the 'issues' involved. The report of the Cabinet sub-committee, which recommended to place before the Legislature a Bill to provide 'reservations in promotions' together with consequential seniority and to dispense with the 'catch up rule' was placed before the Cabinet.

(iv) the Cabinet looked into various aspects of the matter and satisfied itself of the facts and circumstances that necessitate reservation in promotion with consequential seniority, and of the measures that are required to be taken in this regard. The Cabinet concluded that compelling reasons continue to exist for providing such consequential seniority, to persons 'promoted' on the basis of policy of reservation. In order, therefore, to ensure adequate representation of the Scheduled Castes and Scheduled Tribes across all levels of all the Departments the Cabinet decided to recommend to Honourable Governor to promulgate an Ordinance. However, since Honourable Governor advised the Government to take the Bill to the Legislature, when it is convened, the same was done. The two Houses of the Legislature debated and 'passed' the Bill in the Belagavi session of November, 2017. The Bill was then placed before Honourable Governor for his assent in accordance with the requirement of Article 200 of the Constitution of India.

(v) under Article 200 of the Constitution the Governor may give assent to the Bill or withhold the assent and reserve the Bill for consideration of the President. The 2nd proviso to Article 200 provides that the Governor shall reserve for the consideration of the President any Bill which in the opinion of the Governor would, if it became law so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

(vi) the Governor undoubtedly has the power under Article 200 to reserve the Bill for consideration of the President. But as has been pointed out by the pronouncements of the Courts as well as reports of 'the Interstate Council', [see Chapter V of report that explains scope of Governor's discretion under Article 200 of the Constitution] unless the Governor is of the view that there is un-constitutionality in the Bill, or it relate to a matter in List I and, as such may be beyond the 'legislative competence' of the State Legislature, or the Bill may clearly violate Fundamental Rights or transgress other constitutional limitations, or the provisions of the Bill may manifestly derogate from the scheme and frame work of the Constitution, so as to endanger the sovereignty, unity and integrity of the nation, a Bill need not be reserved for the consideration of the President. It is indicated in the said Report that except in cases of patent unconstitutionality, wherein the Governor may reserve for consideration by the President, the Governor while discharging his functions under Article 200 is required to abide by the advice of his Ministers.

(vii) the note recorded by Honourable Governor does not indicate that an opinion has been formed that the Bill attracts the provisions of '2<sup>nd</sup> proviso' to Article 200 of the Constitution, or that the Bill is unconstitutional. It may also be noted that this is not one of the matters falling under or requiring to be governed under Article 254 (2) of the Constitution - being repugnant to the provisions of a central law in force or subject matter falling under list III. Therefore, there does not appears to be any situation that warrants reservation of the bill for consideration of His Excellency the president.

(viii) from a reading of the 'note', it appears to Honourable Governor seems to have taken a view / proceeded on the premise that legislature has passed the present Bill to "overcome" a situation created by the order of the Supreme Court. Such a view or premise is factually not correct. As noted in the very 'Bill' and materials placed on record for grant of assent, it is **in compliance of the Supreme Court's order** [M.Nagaraj's case] that the State had carried out an exercise of collecting and collating the data to see if there was backwardness,

inadequate representation and if there was adverse impact of reservation in promotion with consequential seniority on the efficiency in administration. Having found compelling reasons to provide for reservations in promotions and consequential seniority and having found the compelling necessity for exercise of its powers under the amended Articles 16(4A) and 16 (4 B) of the Constitution of India, that such Bill was passed by the Legislature. This collective wisdom of a Committee of officers, two eminent jurists, who have served the country's Apex Court, the Cabinet and all the elected members of the two Houses of Legislature, could not be viewed as an attempt 'to overcome' the decision of the Hon'ble Supreme Court in Pavitra's case.

(ix) it is pointed out that in the last paragraph of observation made by Honourable Governor - 'having regard to the judgement of the Supreme court in the aforesaid case [in B.K.Pavitra's case] and importance of the issue and the Constitutional interpretation involved in the matter.....' - is premised on an erroneous view of the matter. Premising that the action taken [passing of the bill] is in possible conflict with the Constitutional provisions - requiring Constitutional interpretation, may not be correct; for it is to be noted that the legislation contemplated by the State is in furtherance of the 'enabling provisions' under Article 16(4A) & 16(4B) of the Constitution of India. The Constitution having so provided for making provisions for reservations in matters of 'promotion' with 'consequential seniority' to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes **which, in the opinion of the State, are not adequately represented in the services under the State**, there is no question of 'this exercise of power by the State, through the present legislation' in any way, be in violation of the constitutional provisions. The State certainly has the power to legislate, by the very terms of Article 16 (4A) & (4B) apart from its powers under List II or List III.

(x) there is no law enacted by the Parliament, in exercise of its legislative powers under List I or List III, on the issue. On the contrary Article 16(4A) specifically enables the State Governments to enact a law on this subject. Therefore, the opinion recorded in para 212 of the file is perhaps the result of factually incorrect presumption / assumption and overlooking the position of law narrated in the previous paragraphs.

(xi) further, as already pointed out there are no reasons for reserving the Bill for consideration of His Excellency the President of India. Honourable Governor has not recorded a finding that the Bill is unconstitutional, or it falls foul of an existing central legislation on the subject, or the subject pertains to List I or III and hence it is beyond the legislative competence of the State legislature, or it derogates fundamental rights, or it attracts 2<sup>nd</sup> proviso to Article 200

(xii) apparently in taking the view, Honourable Governor has not drawn the attention to the 'legal opinion' rendered by the Hon'ble Justice T.S.Thakur, former Chief Justice of India and Justice V.Gopala Gowda, former Judge, Supreme Court of India; who have, on detailed consideration and examining the 'Report of the Committee', opined that the proposed actions by the Government is appropriate and in compliance with the directions in B.K.Pavitra case and the ratio of the judgment in M. Nagaraj's case. The said views expressed by the Hon'ble [former] Judges of the Supreme Court have been re-iterated, independently by the Karnataka Law Commission as well. In spite of the 'opinions' by such legal experts, Honourable Governor has, without recording a basis, deemed the Bill to be opposed to the 'constitutional scheme' and thus

warranting reservation for President's consideration, we therefore feel duty bound to again apprise you of the legal opinions and the work done by the Government in compliance with the judgment in M. Nagaraj's case.

(xiii) since the very premise of the consideration by Honourable Governor, it is understand, is the assumption that it is an attempt to 'overcome' the 'decision' of the Hon'ble Supreme Court in B.K.Pavitra case, when factually it is in compliance with the ratio and directions of the Hon'ble Supreme Court the Bill has been passed. Its effect on the governance, and of the urgency in grant of assent to the Bill, to secure justice to the employees of the State Government belonging Scheduled Caste and Scheduled Tribes.

Despite above request the Honourable Governor of Karnataka has reserved the Karnataka extension of consequential Seniority to Government servants promoted on the basis of reservation (to the posts in the civil services of the state) Bill, 2017 for the consideration of the President of India under Article 200 of the Constitution of India. A original copy of the observations made by the honourable Governor of Karnataka was enclosed and sent to Government of India vide letter dated: 16.12.2017.

**PART II**  
**PENDING PROPOSALS FOR WHICH CLARIFICATIONS HAVE TO BE**  
**FURNISHED BY THE STATE GOVERNMENT**

**Subject (1): The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video or Audio Pirates (Amendment) Bill, 2014.**

**Category** Assent of the President to the Bill

**Proposal Classification**                      **A**                      **Proposal Code DPAL**

| <b>Reference Date</b> | <b>Reference Number</b>     | <b>Ministry</b>          |
|-----------------------|-----------------------------|--------------------------|
| 17.10.2014            | DPAL30 Shasana 2014         | Ministry of Home Affairs |
| 02.12.2014            | No. 17/26/2014-Judl. & P.P. | Ministry of Home Affairs |
| 09.02.2015            | DPAL30 Shasana 2014         | Ministry of Home Affairs |
| 15.05.2015            | DPAL30 Shasana 2014         | Ministry of Home Affairs |
| 25.06.2015            | No.17/26/2014-Judl.P.P      | Ministry of Home Affairs |
| 15.07.2015            | No.17/26/2014-Judl.P.P      | Ministry of Home Affairs |
| 28.07.2015            | DPAL30 Shasana 2014         | Home Department          |
| 05.08.2015            | No.17/26/2014-Judl.P.P      | Ministry of Home Affairs |
| 30.09.2015            | DPAL30 Shasana 2014         | Ministry of Home Affairs |
| 24.11.2015            | DPAL 30 Shasana 2014        | Ministry of Home Affairs |
| 30.01.2016            | DPAL 30 Shasana 2014        | Ministry of Home Affairs |
| 16.03.2016            | DPAL 30 Shasana 2014        | Ministry of Home Affairs |
| 22.04.2016            | No.17/26/2014-Judl.P.P      | Ministry of Home Affairs |
| 11.05.2016            | DPAL 30 Shasana 2014        | Kerala Government        |
| 22.06.2016            | DPAL 30 Shasana 2014        | Ministry of Home Affairs |

|                              |                        |                          |
|------------------------------|------------------------|--------------------------|
| 14.06.2016                   | No.17/26/2014-Judl.P.P | Ministry of Home Affairs |
| 15.07.2016                   | DPAL 30 Shasana 2014   | Home Department          |
| 12.08.2016                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 22.09.2016                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 10.11.2016                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 11.11.2016                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 16.12.2016                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 21.01.2017                   | DPAL 30 Shasana 2014   | Home Department          |
| 08.03.2017                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 01.06.2017                   | DPAL 30 Shasana 2014   | Ministry of Home Affairs |
| 29.06.2017                   | DPAL 30 Shasana 2014   | Home Department          |
| 11.10.2017 and<br>16.11.2017 | No.17/26/2014-Judl.P.P | Ministry of Home Affairs |
| 06.12.2017                   | DPAL 30 Shasana 2014   | Home Department          |

It is considered necessary further to amend the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video or Audio Pirates Act, 1985 (Karnataka Act 12 of 1985) to include the offences relating to acid attack, depredation of environment, digital media, land grabbing, money laundering and sexual offences in relation to children and women, as a preventive measure.

Accordingly, the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic offenders, Slum-Grabbers and Video or Audio Pirates (Amendment) Bill, 2014 was introduced in the Karnataka Legislative Assembly on 28.7.2014. The said Bill was passed in the Legislative Assembly on 28.07.2014 and in the Legislative Council on 28.07.2014.

The subject matter of the Bill falls under entry 1 of List III of the Seventh Schedule to the Constitution of India.

Whereas assent of the President was obtained while enacting the original Legislation and also while incorporating several other offences through Amendments in respect of following offences, namely:-

- (a) Bootleggers
- (b) Drug offender
- (c) Gambler
- (d) Goonda
- (e) Immoral traffic offender
- (f) Slum grabber
- (g) Video or audio pirates

Now it is proposed to include the following new offences, namely:-

- (a) Acid attack
- (b) Digital offence
- (c) Land grabbing

- (d) Depredation of Environment
- (e) Money laundering; and
- (f) Sexual offences pertaining to woman and children under new laws.

Therefore, Clause 5 to 7 of the said Bill are now becoming repugnant to sections 326 A, 326 B, 376, 376 A, 376 B, 376 C, 376 D and 376 E of the Indian Penal Code, 1860 (Central Act 45 of 1860), the Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012), sections 41, 42, 44, 46 and 50 of the Code of Criminal Procedure, 1973, section 15 of the Environment Protection Act, 1986, sections 66, 66A and 66B, 67, 68, 69, 70, 71, 72, 73, 74 and 75 of the Information Technology Act, 2000 (Central Act 21 of 2000), sections 3 and 4 and Part A of the schedule to the Prevention of Money Laundering Act, 2002, which are central Legislations in force. These central enactments provide for punishment after crimes are committed but the proposed legislation provides for detention of a person earlier to commission of such crime also. Therefore, the Bill has to be reserved for the assent of the President.

Therefore, His Excellency, the Governor of Karnataka has been pleased to reserve the said Bill for the consideration of the President under Article 200 of the Constitution of India, as required by clause (2) of Article 254 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 17.10.2014.

The Legal Cell, Karnataka Bhavan has sent a fax on 12.12.2014 enclosing the Government of India letter No. 17/26/2014-Judl. & P.P., dated: 02.12.2014 and confirmed the receipt of the above mentioned Bill.

The Legal Cell, Karnataka Bhavan has sent a fax on 26.06.2015 enclosing the Status Report as on 23.06.2015 and has reported that the comments of all Administrative Departments were received by the Ministry of Home Affairs and the comments are being scrutinised by the Ministry of Home Affairs.

The Legal Cell, Karnataka Bhavan has sent a fax on 18.08.2015 has reported that the observations of the Union Ministries (i) Environment, Forest and Climate Change (ii) Communications and IT (Department of Electronics and Information Technology) were sent for clarifications of MHA and pending with Government of Karnataka.

As the Bill is on the similar lines of the Kerala Anti-Social Activities (Prevention) Act, 2007, it was decided to send a reminder to obtain the assent of His Excellency the President vide meeting held on 4.8.2015.

Clarifications of the State Government have been sent to the Government of India vide letter dated 30.09.2015.

The Resident Commissioner, Karnataka Bhavan vide letter dated 29.03.2016 has stated that the clarifications have been submitted by State Government on 30.09.2015 and the Ministry of Home Affairs had been required a copy of the Kerala Act, said Bill is pending with the Ministry of Home Affairs.

The Government of India vide letter No.17/26/2014-Judl.P.P dt:22.04.2016 has requested to furnish the date of assent/ date of notification of the Kerala Anti-Social Activities (Prevention) Act, 2007. Accordingly a request was made to Kerala Government to furnish the same vide letter dt: 11/05/2016.

In the letter dated 22.06.2016 the Kerala Anti Social Activities (Prevention) Act, 2007 had been sent to Government of India. Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India.

The Ministry of Home Affairs, Government of India, vide its letter dated: 14.06.2016 has requested to send the clarifications on the observations of the Department of Legal Affairs (Ministry of Law and Justice). This letter has been sent to Home department, Government of Karnataka, with letter No. DPAL 30 Shasana 2014, dated: 15.07.2016.

The clarifications have been provided to Government of India vide D.O. letter No. DPAL 30 Shasana 2014, dated: 12.08.2016, 22.09.2016 and 11.11.2016 with a request to obtain the assent of His Excellency the President.

The ministry of Home Affairs vide letter at 10.11.2016 asked to withdraw the Bill. The same has been sent to Home Department to clarify the stand of that Department in letter dated: 16.12.2016, 21.01.2017 and 08.06.2017.

A Copy of Anitha Bruse vs. State of Kerala (MANU/KE/0074/2008) in which the High Court of Kerala upheld the constitutional validity of Kerala Anti Social Activities (Prevention) Act, 2007 has been sent to the ministry of Home Affairs vide letter at 08.03.2017. A reminder has been sent vide letter dt.01.06.2017

A reminder letter No.CM 270 GOI 2017 dated 20.06.2017 has been sent on 22.06.2017 by the Hon'ble Chief Minister to the Hon'ble Prime Minister of India. The Ministry of Home Affairs vide its letter dated 08.06.2017 has again requested for the clarification of the State Government on views of Ministry of Environment, Forest and Climate Change, GOI and the same has been forward to the Home Department vide even letter No. dated: 29.06.2017. Main File of even Number has been sent to Home Department on 18.07.2017 to consider the modifications in the Bill as suggested by the Government of India.

**PRESENT STATUS:**

The GOI vide its letter dated: 11.10.2017 and 16.11.2017 has sought clarifications and the same has been forwarded to Home Department vide letter dated: 06.12.2017.

**Subject (2): Obtaining previous consent of His Excellency the President for the use of Kannada Language in all the proceedings in the High Court of Karnataka.**

**Category** Assent of the President to the Resolution

**Proposal Classification** A **Proposal Code** DPAL

| Reference Date | Reference Number     | Ministry                 |
|----------------|----------------------|--------------------------|
| 24.01.2015     | DPAL 27 Shasana 2014 | Ministry of Home Affairs |
| 16.05.2015     | DPAL 27 Shasana 2014 | Ministry of Home Affairs |

|  |                                       |   |
|--|---------------------------------------|---|
| 03.07.2015   | DPAL 494/D-1/2015                     | Resident Commissioner                     |
| 15.10.2015   | DPAL 27 Shasana 2014                  | Ministry of Home Affairs                  |
| 07.12.2015   | No. L.11025/03/2015-Jus.1             | Ministry of Law and Justice               |
| 24.03.2016   | DPAL 27 Shasana 2014                  | Ministry of Law and Justice               |
| 29.03.2016   | No.RCK.PS.61.2016                     | Resident Commissioner                     |
| 21.04.2016   | No. L.11025/03/2015-Jus.              | Ministry of Law and Justice               |
| 11.08.2016<br>25.10.2016<br>17.12.2016<br>15.04.2017 | DPAL 27 Shasana 2014                  | Ministry of Home Affairs                  |
| 01.08.2016<br>25.10.2016<br>17.12.2016<br>15.04.2017 | DPAL 27 Shasana 2014                  | Govt. of Tamil Nadu, Gujarat, Chattisgarh |
| 21.04.2017   | No.80105/Cts.III 2016, Dt. 21.04.2017 | Govt. of Tamil Nadu.                      |
| 06.06.2017   | DPAL 27 Shasana 2014                  | Ministry of Home Affairs                  |
| 30.11.2017   | CM 508 GOI 2017                       | Ministry of Law and Justice               |

Article 348 (2) of the Constitution of India is as following, namely:-

"(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi Language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State: Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court"

Accordingly, the cabinet in its meeting held on 09.07.2014 has taken a decision to recommend Honourable Governor to send the proposal to the Government of India for the approval of His Excellency the President to authorize the use of Kannada Language in all the proceedings of the High Court of Karnataka.

Accordingly, a resolution was moved in the Karnataka Legislative Assembly on 22.07.2014 and the Karnataka Legislative Council on 30.07.2014. The said resolution was approved in the Karnataka Legislative Assembly and in the Karnataka Legislative Council unanimously.

Therefore, Honourable Governor was pleased to seek the approval of His Excellency the President under clause (2) of Article 348 of Constitution of India.

Therefore, copies of the resolutions (both in Kannada and English Language) as passed by the Karnataka Legislative Assembly on 28.07.2014 and Karnataka Legislative Council on 30.07.2014 are enclosed and sent to Government of India to obtain previous consent of His Excellency the President for authorization of the use of Kannada Language in all the proceedings in the High Court of Karnataka. The submission note as approved by the Honourable Governor was also sent to Government of India.

The Government of India vide Letter dated: 07.12.2015 has informed that the proposal of the Government of Karnataka seeking previous consent of the President to the use of Karnataka Language in all the proceedings of the High Court of Karnataka was referred to the Supreme Court for conveying approval of the Chief Justice of India on the proposal on 20.03.2015.

The Government of India vide Letter dated: 21.04.2016 has informed that the Chief Justice of India has disapproved the proposal.

The Cabinet in its meeting on 13.07,2016 (c:327/2016) had decided that the Hon'ble Chief Minister has to write a letter to Central Law Minister.

The Secretary DPAL had written D.O letter dt. 01.08.2016 to 25.10.2016, 17.12.2016, 15.04.2017 to Government of India requesting to provide the copies of the resolution referred by Chief Justice.

The Secretary, DPAL had written D.O.letters dt. 01.08.2016, 25.10.2016, 17.12.2016 and 15.04.2017 to the states of Gujarath, Chattisgarh, Tamil Nadu to collect more information in this regard as to what steps those State Government have taken.

The state of Tamil Nadu vide letter dt: 21.04.2017 has informed that the Government of India, in their letter dt:09.08.2016 has communicated that the full bench of the Supreme Court, after extensive deliberations on 16.12.2015 disapproved the proposals of Tamil Nadu for the use of Tamil and reiterated the resolution which was adopted earlier on 11.10.2012.

#### **PRESENT STATUS:**

The Secretary DPAL, Government of Karnataka has written D.O letter of even number dated: 06.06.2017 to the Ministry of Home Affairs, Government of India requesting to provide the copies of the resolution referred by Chief Justice of India. Hon'ble Chief Minister had written a letter dated: 30.11.2017 requesting Hon'ble Lw Minister GOI to obtain the concent of His Excellency the President of India.

**Subject (3): The Karnataka Transgenic And Genetically Modified Cotton Seeds (Fixation Of Sale Price And Payment Of Compensation) Bill, 2015.**

**Category** Assent of the President to the Bill

| <b>Proposal Classification</b> |                         | <b>A</b>                 | <b>Proposal Code DPAL</b> |
|--------------------------------|-------------------------|--------------------------|---------------------------|
| <b>Reference Date</b>          | <b>Reference Number</b> | <b>Ministry</b>          |                           |
| 29.08.2015                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 09.11.2015                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 20.01.2016                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 18.03.2016                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 29.03.2016                     | No.RCK.PS.61.2016       | Resident Commissioner    |                           |
| 18.04.2016                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 04.05.2016                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 25.05.2016                     | NO.17/38/2015.Judl&PP   | Ministry of Home Affairs |                           |
| 20.06.2016                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 16.07.2016                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 26.09.2016                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 30.12.2016                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 07.02.2017                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 28.03.2017                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 28.04.2017                     | DPAL 42 Shasana 2015    | Ministry of Home Affairs |                           |
| 24.07.2017                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 28.10.2017                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |
| 11.10.2017                     | NO.17/38/2015.Judl&PP   | Ministry of Home Affairs |                           |
| 18.12.2017                     | DPAL 42 Shasana 2015    | Agriculture Department   |                           |

At present there are no provisions in the present Seed laws to fix price for transgenic and genetically modified cotton seeds and payment of compensation in case of crop failure of such cotton seeds in the Karnataka State. As a result, the vendor and producers of transgenic and genetically modified cotton seeds are exploiting poor farmers by collecting exorbitant prices from the farmers. Further, as there is no provisions in the present Seed Laws to pay compensation, to farmers in case of crop failure due to defective or sub standard transgenic and genetically modified cotton seeds, the farmers face problems and incur financial loss.

Hence, it has become imperative on the part of the State in the interest of the farmers in the Karnataka State to fix sale price of transgenic and genetically modified cotton seeds and also make provisions to compensate farmers in case of failure of transgenic and genetically modified cotton crops by fixing the responsibility on the concerned seeds producer to compensate farmers suitably thus mitigating their hardship, evolve adequate and effective mechanism to prove the quality of the transgenic and genetically modified cotton seeds.

During Khaarif 2013, when instances of transgenic and genetically modified cotton crop failure in an area of 60,450 ha. in the districts of Haveri, Dharwad, Gadag, Belgaum, Chitradurga, Davanagere and Bellary. It was very difficult to

provide compensation to the aggrieved farmers, as there was no adequate provisions in the existing laws to compensate the aggrieved farmers, in case of crop failure. As a special case, the State Government has compensated the farmers to the tune of Rs. 36.35 crores.

The present Seed Laws implemented in the State are enacted by the Central Government. Hence amendments in this regard and other lacunae to the present Central Seed Legislation were proposed by the State Government to the Central Government during last two decades, but it is yet to be passed.

Accordingly, the Karnataka Transgenic And Genetically Modified Cotton Seeds (Fixation Of Sale Price And Payment Of Compensation) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 31.07.2015. The said Bill was passed in the Legislative Assembly on 31.07.2015 and passed in the Legislative Council on 01.08.2015.

The subject matter of the Bill falls under entry 14 and 26 of list II and entry 33 of list III of the Seventh Schedule to the Constitution of India. The provisions of the Bill are repugnant to the Essential Commodities Act, 1955 and the Seed (Control) Order, 1983 and the Seed Act, 1966 (Central Act 54 of 1966) which are Central laws in force. Therefore, it is required to be reserved for the assent of His Excellency the President of India as required by clause (2) of Article 254 of the Constitution of India.

Therefore, the Honourable Governor has been pleased to reserve the Karnataka Transgenic and Genetically Modified Cotton Seeds (Fixation Of Sale Price And Payment Of Compensation) Bill, 2015 under Article 200 of the Constitution of India for the consideration of the President as required by clause (2) of Article 254 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 29.08.2015.

The Ministry of Home Affairs vide its letter dated : 25.02.2016 has sought the comments / clarifications of the State Government to process the said bill.

The said letter was sent to the Agriculture Department with a request to furnish the information sought by Government of India.

The Ministry of Home Affairs vide its Office Memorandum dated 4.2.2016 has issued guidelines on State Legislations on time limits and modalities to be adhered to by the State Government.

The Resident Commissioner, Karnataka Bhavan vide letter dated 29.03.2016 has stated that the Department of Agriculture, Government of Karnataka needs to respond to the observation of Ministry of Home Affairs through its letter dated 23.02.2016 and they are also writing a letter to the Secretary, Department of Agriculture to sent the clarification to the Ministry of Home Affairs.

The MHA had required clarification from the State Government and Secretary, DPAL Govt. of Karnataka has also written to Principal Secretary, Agriculture on 18-04-2016 to expedite the clarifications. It would be desirable that Agriculture Department provides the clarification at the earliest which would enable us getting Presidential assent.

Reminders were sent to Agriculture Secretary to furnish clarification sought by Government of India vide letter no dated 16.07.2016.

The clarification of State Government has been communicated to Government of India vide letter No. DPAL 42 Shasana 2015, Dated: 16.07.2016 and reminders had been sent vide letters at 26.09.2016 and 30.12.2016.

The comments of ministry of Agriculture and Farmers Welfare has been sent to administration Department vide letter of even number dt.07.02.2017.

The Department of Agriculture (Planning) Government of Karnataka had furnished its comments in the prescribed template and the same has been forwarded to the ministry of Home Affairs, Government of India vide letter No.DPAL 42 Shasana 2015, Dt. 28/03/2017.

A reminder letter No.CM 270 GOI 2017 dated 20.06.2017 has been sent on 22.06.2017 by the Hon'ble Chief Minister to the Hon'ble Prime Minister of India. A letter No. 17/38/2015-Judl &PP for Clarification sought by Ministry of Home Affairs Government of India has been send to Department of Agriculture on 24.07.2017 and reminder letter sent to Agricultural Department on dated: 28.10.2017

**PRESENT STATUS:**

The Ministry of Home Affairs Government of India vide letter dated: 11.10.2017 has sought clarification and same has been forwarded to Department of Agriculture vide letter dated: 18.12.2017.

**Subject (4): The Right of Children to Free and compulsory Education (Karnataka Amendment) Bill, 2015**

**Category** Assent of the President to the Bill

**Proposal Classification** A **Proposal Code** DPAL

| Reference Date  | Reference Number         | Ministry  |
|---|--------------------------|---|
| 22.05.2015  | DPAL 05 Shasana 2015     | Ministry of Home Affairs                        |
| 07.07.2015<br>24.07.2015<br>05.08.2015<br>and<br>05.11.2015 | No. 17/26/2015-judl & PP | Ministry of Home Affairs                        |
| 04.08.2015  | DPAL 05 Shasana 2015     | Education Department<br>(Primary and Secondary) |

|            |                      |   |
|------------|----------------------|---|
| 26.10.2015 | DPAL 05 Shasana 2015 | Education Department<br>(Primary and Secondary) |
| 09.12.2015 | DPAL 05 Shasana 2015 | Education Department<br>(Primary and Secondary) |
| 29.03.2016 | No.RCK.PS.61.2016    | Resident Commissioner                           |
| 05.06.2017 | DPAL 05 Shasana 2015 | Education Department<br>(Primary and Secondary) |
| 16.08.2017 | DPAL 05 Shasana 2015 | Education Department<br>(Primary and Secondary) |
| 21.10.2017 | DPAL 05 Shasana 2015 | Education Department<br>(Primary and Secondary) |

The State Government constituted the language policy regarding the medium of instruction from 1<sup>st</sup> std to 5<sup>th</sup> std in 1994. In Government order No. ED 24 PGC 1994 dated 29.04.1994 the State Government ordered that the mother tongue or Kannada shall be the medium of instruction in all schools recognized by the State Government from the academic year 1994-95.

But, some private schools had taken permission to run the school in Kannada medium and are running in English medium, by violating the language policy.

Karnataka State unaided School Management Association has Questioned the language policy in different stages in the court. The full bench of the Hon'ble High court of Karnataka has quashed the Government order No. ED 24 PGC 1994, dated 24.4.1994 in W.P.No 14863/1994 (Education) dated 2.7.2008.

State Government questioned the above order dated 2.7.2008 before the Hon'ble Supreme Court of India vide WP No. 290/2009. The Hon'ble Supreme Court has issued an interim order dated 21.07.2009, directing to maintain the status quo. The case was then transferred to the Constitutional Bench on 5.7.2013. The Hon'ble Supreme Court in Civil Appeal No. 5166-5190/2013 dated 6.5.2014 has ordered that "government cannot impose mother tongue for teaching children at primary level".

In the present situation, as the language policy of the State was rejected by the Hon'ble Supreme Court of India, the State Government has filed a Review Petition No. 1878-1911/2014. The Review Petition was dismissed on 9.9.2014.

Article 350A of Constitution reads as follows:-

“350A. facilities for instruction in mother-tongue at primary stage.- It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.”

It is the constitutional duty of the concerned states to provide primary school education to the child in his/her mother tongue as per the Article 350A of the constitution. It was discussed in detail with Educationists, intellectuals and writers who unanimously opined the necessity of primary education in mother tongue.

Article 21A reads as follows, namely:-

“21A. Right to education.—The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

Therefore, this Government would like to determine by law, the manner of compulsory education to children from the age of six to fourteen years.

Therefore, it is considered necessary to amend the Right of children to Free and Compulsory Education Act, 2009, (Central Act 35 of 2009) to provide Primary Education (1<sup>st</sup> Std to 5<sup>th</sup> Std) in Child's mother tongue or in Kannada" in the State of Karnataka.

Accordingly, The Right of Children to Free and compulsory Education (Karnataka Amendment) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 26/03/2015. The said Bill was passed in the Legislative Assembly on 31/03/2015 and in the Legislative Council on 01/04/2015.

The subject matter of the Bill falls under entry 25 of List III of the Seventh Schedule to the Constitution of India. The provisions of the Bill are repugnant to item (f) of sub-section (2) of section 29 of the Right of Children to Free and compulsory Education Act, 2009 (Central Act 35 of 2009) which is a central law in force. Therefore, the Bill has to be reserved for the assent of His Excellency the President of India as required by clause (2) of Article 254 of the Constitution of India.

Therefore, Hon'ble Governor of Karnataka is pleased to reserve the said Bill for the consideration of the President under Article 200 and as required by clause (2) of Article 254 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 22.05.2015.

The Legal Cell, Karnataka Bhavan has sent a fax on 26.06.2015 enclosing the Status Report as on 23.06.2015 and has reported that the above said Bill has been referred to the Legislative Department, Ministry of Human Resources Development (School Education) and Ministry of Home Affairs (Human Rights Division), and the comments of the Legislative Department had been sent to Ministry of Home Affairs on 23.06.2015.

The Legal Cell, Karnataka Bhavan has sent a fax on 18.08.2015 and has reported that the above said Bill has been referred to the Legislative Department, Ministry of Human Resources Development (Department of School Education and Literacy) dated 2.7.2015 for clarifications/views of the State Government and pending with Government of Karnataka.



A letter dt.07.04.2017 and 03.06.2017 has been sent to Karnataka Legislative Assembly and Council requesting them to send an action plan in this regard.

**Subject (6): The Registration (Karnataka Amendment) Bill, 2015.**

**Category** Assent of the President to the Bill

| <b>Proposal Classification</b> |                         | <b>A</b>                 | <b>Proposal Code DPAL</b> |
|--------------------------------|-------------------------|--------------------------|---------------------------|
| <b>Reference Date</b>          | <b>Reference Number</b> | <b>Ministry</b>          |                           |
| 18.08.2015                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 26.10.2015                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 26.12.2015                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 04.02.2016                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 29.03.2016                     | No.RCK.PS.61.2016       | Resident Commissioner    |                           |
| 02.04.2016                     | DPAL 18 Shasana 2015    | Revenue Department       |                           |
| 02.05.2016                     | DPAL 18 Shasana 2015    | Revenue Department       |                           |
| 31.05.2016                     | DPAL 18 Shasana 2015    | Revenue Department       |                           |
| 28.06.2016                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 12.09.2016                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 21.10.2016                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 14.12.2016                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 21.01.2017                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 23.02.2017                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 31.05.2017                     | DPAL 18 Shasana 2015    | Revenue Department       |                           |
| 03.07.2017                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |
| 29.08.2017                     | DPAL 18 Shasana 2015    | Revenue Department       |                           |
| 03.07.2016                     | DPAL 18 Shasana 2015    | Ministry of Home Affairs |                           |

It is considered necessary to amend the Registration Act, 1908 (Central Act 16 of 1908) in its application to the State of Karnataka to provide for online Registration of Agreement for Sale, Lease Deed and Leave and License Agreements and for online filing of true copies of Court orders, Decrees and Mortgages by way of Deposit of Title Deeds etc., sent by Banks and other Financial Institutions and to make certain consequential amendments.

Accordingly, the Registration (Karnataka Amendment) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 30.03.2015. The said Bill was passed in the Legislative Assembly on 30.03.2015 and passed in the Legislative Council on 30.03.2015.

The subject matter of the Bill falls under entry 6 of List III of the Seventh Schedule to the Constitution of India. Certain provisions of the Bill are repugnant to the provisions of the Registration Act, 1908 (Central Act 16 of 1908), which is Central Law. Therefore, the Bill has to be reserved for consideration of the President.

Therefore, the Honourable Governor has been pleased to reserve the Registration (Karnataka Amendment) Bill, 2015 under Article 200 of the Constitution of India for the consideration of the President as required by clause (2) of Article 254 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 18.08.2015.

The Resident Commissioner, Karnataka Bhavan vide letter dated has stated that they are writing a letter to the Principal Secretary, Revenue Department to expedite the clarifications so that it could be communicated to the Ministry of Home Affairs.

The Ministry of Home Affairs vide its letter dated : 26.02.2016 and 22.03.2016 has sought the views / clarifications of the State Government to process the said bill.

The said letter was sent to the Revenue Department with a request to furnish the information sought by Government of India.

The MHA had required the State Government to comment on the observations of various Union Ministries. On 02/5/2016, the Secretary, Dept. of Parliamentary Affairs has also written to Principal Secretary, Revenue Department to expedite the replies to the comments made by MHA.

The Ministry of Home Affairs vide its letter dt.21.04.2017 has requested for clarifications and the same has been forwarded to Revenue Department vide letter dt. 31.05.2017.

The clarification had been communicated to Government of India for further necessary action vide letter dated 28.06.2016 and a reminder had been sent vide letter dated: 12.09.2016 21.10.2016 14.12.2016 21.01.2017 23.02.2017 and 03.07.2017.

A letter dated 03.07.2017 sent clarifications of State Government with the request that the assent of His Excellency President of India, may kindly be obtained to the Bill and communicated to us early.

**Present Status:**

Main file of even number has been sent to the Department of Revenue on 29.08.2017 to withdrawal the said bill for the modification as suggested by the Government of India and to take an administrative decision.

**Subject (7) : The Karnataka Good Samaritan and Medical Professional (Protection and Regulation during Emergency Situations) Bill, 2016**

**Category** Assent of the President to the Bill

| <b>Proposal Classification</b> |                         | <b>A</b> | <b>Proposal Code DPAL</b> |
|--------------------------------|-------------------------|----------|---------------------------|
| <b>Reference Date</b>          | <b>Reference Number</b> |          | <b>Ministry</b>           |
| 18.02.2017                     | DPAL 30 Shasana 2016    |          | Ministry of Home Affairs  |

|                              |                      |                                 |
|------------------------------|----------------------|---------------------------------|
| 23.05.2017                   | DPAL 30 Shasana 2016 | Ministry of Home Affairs        |
| 21.06.2016                   | 17/10/2017 Judl & PP | Ministry of Home Affairs        |
| 12.07.2017                   | DPAL 30 Shasana 2016 | Dept of Health & Family Welfare |
| 04.08.2017                   | DPAL 30 Shasana 2016 | Ministry of Home Affairs        |
| 20.09.2017                   | DPAL 30 Shasana 2016 | Ministry of Home Affairs        |
| 27.10.2017                   | DPAL 30 Shasana 2016 | Ministry of Home Affairs        |
| 17.10.2017 and<br>20.11.2017 | 17/10/2017 Judl & PP | Ministry of Home Affairs        |
| 16.12.2017                   | DPAL 30 Shasana 2016 | Dept of Health & Family Welfare |

The incidents of accidental deaths are on the rise globally. At this point of time, there is a higher likelihood of saving a life within the Golden Hour. The persons who are on the spot at the time of the accident, can play a crucial role in taking the victim to the nearest hospital. However, due to likely harassment arising from Police or Legal proceedings, on lookers do not volunteer to assist the victim and bystanders are hesitant to render immediate help to the road accident victims. Hence, there is a need to build confidence amongst the public to help road accident victims. It is therefore intended to bring an Legislation to provide protection of Good Samaritans and Medical Professionals from civil and criminal liabilities by establishing supporting legal environment and sufficient resources. The proposed Legislation also spells out, the obligations of hospitals and clinics and for matters connected therewith to ensure that there is no wastage of time in providing medical treatment and to save the patient's life.

Further, it was considered necessary to bring the following Legislation in pursuance of the directions of the Hon'ble Supreme Court in S.Rajshekharan Vs Union of India W.P (Civil) 295/2012 and Save Life Foundation Vs Union of India W.P(Civil) 235/2012 and Pt. Paramanand Katara Vs Union of India & Others (1989) 4 SCC 286.

Accordingly, the Karnataka Good Samaritan and Medical Professional (Protection and Regulation During Emergency Situations) Bill, 2016 was introduced in the Karnataka legislative Assembly on 30.11.2016 and was passed in Legislative Assembly on 01.12.2016 and was passed in Karnataka Legislative Council on 02.12.2016. Accordingly, the Karnataka Good Samaritan and Medical Professional (Protection and Regulation During Emergency Situations) Bill, 2016 was passed by both Houses of the State Legislature.

The subject matter of the Bill falls under entries 1, 2 and 6 of List II and entries 25 and 26 of list III of the Seventh Schedule to the Constitution of India. The State Legislature is competent to enact the proposed measure. Clauses 3, 4, 5, 9 and 13 of the said Bill are repugnant to Chapter XII, XXIII and XXIV of the Code of Criminal Procedure Act, 1973 (Central Act 2 of 1974) which is a Central Legislation. Therefore, the Bill has to be reserved for the consideration of His Excellency the President as required under clause (2) of Article 254 of the Constitution of India.

The Hon'ble Governor has therefore pleased to reserve the Karnataka Good Samaritan and Medical Professional (Protection and Regulation During Emergency Situations) Bill, 2016 under Article 200 of the Constitution of India for the consideration of His Excellency the President of India as required under Article 254 (2) of the Constitution of India.

A reminder letter No.CM 270 GOI 2017 dated 20.06.2017 has been sent on 22.06.2017 by the Hon'ble Chief Minister to the Hon'ble Prime Minister of India.

A letter dt:18/02/2017 was sent with a request that the assent of His Excellency the President of India, may kindly be obtained to the Bill and communicated to us early. A reminder dt. 23.05.2017 has been issued.

A reminder letter No.CM 270 GOI 2017 dated 20.06.2017 has been sent on 22.06.2017 by the Hon'ble Chief Minister to the Hon'ble Prime Minister of India. A letter No.17/10/2017-Judl& PP dated:21.06.2017 for Clarification sought by Ministry of Home Affairs Government of India has been send to Department of Health and Family Welfare on 12.07.2017

Clarifications of State Government had been sent in a letter dated 04.08.2017 with the request that the assent of His Excellency President of India, may kindly be obtained to the Bill and communicated to us early. A reminder dated. 27.10.2017 has been issued.

**PRESENT STATUS:**

The GOI vide letter dated: 17.10.2017 and 20.11.2017 has sought clarification and the same has been forwarded to Health and Family Welfare Department vide letter dated: 16.12.2017.