

**PENDING PROPOSAL WITH GOVERNMENT OF INDIA
AND PENDING PROPOSALS FOR WHICH CLARIFICATIONS HAVE TO
BE FURNISHED BY THE STATE GOVERNMENT**

(As On 31.07.2015)

Department Name: DEPARTMENT OF PARLIAMENTARY AFFAIRS

PART I: PENDING PROPOSAL WITH GOVERNMENT OF INDIA

Subject (1) : The Karnataka State Universities (Second Amendment) Bill, 2013

Category Assent of the President to the Bill

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

| Reference Date | Reference Number | Ministry |
|-----------------------|-------------------------|--------------------------|
| 21.09.2013 | DPAL 09 Shasana 2013 | Ministry of Home Affairs |
| 19.03.2014 | DPAL 09 Shasana 2013 | Ministry of Home Affairs |
| 13.11.2014 | DPAL 09 Shasana 2013 | Ministry of Home Affairs |
| 21.02.2015 | DPAL 09 Shasana 2013 | Ministry of Home Affairs |
| 28.03.2015 | DPAL 09 Shasana 2013 | Ministry of Home Affairs |
| 04.06.2015 | DPAL 09 Shasana 2013 | Ministry of Home Affairs |

It is considered necessary to amend the Karnataka State Universities Act, 2000.

The subject matter of the Bill falls under entry 25 of list 3 and entry 32 of list II of seventh schedule to the Constitution of India and accordingly the State Legislature is competent to enact the measure.

The Karnataka State Universities (Second Amendment) Bill, 2013 has been passed by the both the Houses of State Legislature was submitted to His Excellency, the Governor of Karnataka under Article 200 of the Constitution of India for orders.

His Excellency, the Governor of Karnataka had reserved the Bill for consideration of the President of India with the following noting, namely:-

"Amendment is proposed to sub-section (1) of Section 8 to empower Pro-Chancellor to order for inspection by a Commission of Enquiry. Sub-section (3) is proposed to be substituted and consequential amendments are also proposed for sub sections (4) and (7) thereof. This amendment is totally unnecessary, as in the present dispensation also State Government may recommend for such an enquiry. All these amendment dilute the position of the Chancellor in the scheme of the Act, which is not desirable.

Section 9 is also proposed to be amendment to confer power on the Pro-Chancellor to issue direction. This amendment is unnecessary as this section already provides for Chancellor to issue direction ether suo-motu or on the recommendation of the State Government.

Section 13 is proposed to be amended to provide for conferring on the Pro-Chancellor additional powers under the Act.

Sub-section (3A) is proposed to be inserted in Section 14 to provide for inviting application from candidates seeking appointment as Vice Chancellor. Sub-sections (7) and (8) of Section 14 relate to removal of Vice Chancellor on the ground of willful omission or refusal to carryout provisions of the Act and abuse of powers. Now it is proposed to amend these sub-sections to empower the Pro-Chancellor to exercise powers along with Chancellor. Chancellor is the appointing authority of the Vice Chancellor. The power being a drastic in nature it has to be exercised in exceptional and deserving cases. As the Pro-Chancellor is not the appointing authority, he cannot be given the power of removal. Vesting Pro-Chancellor with these powers will give scope for exercise of power of removal on political grounds.

Section 16 provides for arrangement of work during vacancy in the office of the Vice-Chancellor. Now it is proposed to amend this Section to vest this power in Pro-Chancellor along with the Chancellor. As the Chancellor is the appointing authority of the Vice-Chancellor, the power to make arrangement of work during vacancy in office of the Vice Chancellor should vest solely with the Chancellor. Moreover he has primacy in the matter of appointment of Vice-Chancellor.

Amendments proposed to Sections 13, 14 and 16 to provide for exercise of similar power by the Pro-Chancellor is opposed to the very scheme and policy of the Act. This will certainly undermine the primacy of the Chancellor in the overall administration of the University.

Amendment is proposed to Section 20 to authorize Pro-Chancellor to make arrangement during temporary vacancy in the office of the Registrar, Registrar (Evaluation) and Finance Officer. The Chancellor being the key authority he is the right person to make arrangement in the case of temporary vacancy in the office of the Registrar, Registrar (Evaluation) and Finance Officer. Conferring these powers on the Pro-Chancellor will lead to interference in the internal administration of the University.

Amendment is proposed to Section 28 to provide for representation of members of Legislative Assembly and one Member of the Legislative Council in the Syndicate. Such a provision was there is repealed 1976 Act but this has been deliberately omitted in the present Act for some valid reason. Therefore this may be considered.

Section 58 provides for transfer of employees of the University from one University to another by the Chancellor in consultation with the State Government. Amendment is proposed to confer this power on the State Government and to constitute a Board for the purpose of transfer. Till now this power could be exercised sparingly by the Chancellor on the

administrative reasons. Now it may be exercised even for the reasons specified in the proposed Section 58A viz pooling of subject. This amendment will open Pandora box and give scope for indiscriminate transfer of both teaching and non-teaching staff without reference to necessity, resulting in total chaos in the administration of the University. Even creation of the Board cannot minimize the ill of transfer. The menace of transfer of Government servants has been adversely affecting administration. If the proposed amendment is carried out the ills of transfer of Government servants will spread to Universities also.

It is proposed to insert a new section 58A to provide for pooling of subjects if the number of students in a subject of department of PG course in a University is less than 10 in two consecutive years. Universities are established to provide for higher education to the needy persons in distant rural and backward areas. Implementing this provision would deprive them of the opportunity.

A mere glance at the amendments proposed would make it abundantly clear that the State Government is trying to increase its strangle hold on Universities which will result in academics giving way to politics.

The amendments are inconsistent with the regulations and guidelines issued under the University Grants Commission."

In the above circumstances, the Karnataka State Universities (Second Amendment) Bill, 2013 was reserved for consideration of the President of India by His Excellency the Governor of Karnataka in exercise of his powers conferred under 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: 21.09.2013 and 4.06.2015.

PRESENT STATUS

The Legal Cell, Karnataka Bhavan has sent a fax on 26.06.2015 enclosing the Status Report and has reported that the Bill has been referred to the Ministry of Legal Affairs for their opinion and pending with Ministry of Legal Affairs.

Subject (2): 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**

| Reference Date | Reference Number | Ministry |
|----------------|-----------------------------|--------------------------|
| 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 |

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.

PRESENT STATUS

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.

Subject (3): 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 |

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.

Therefore, the Government of India was requested to obtain previous consent of His Excellency the President of India under clause (2) of Article 348 of the Constitution of India to the said resolution vide letter No: DPAL 27 Shasana 2014, dated 24.01.2015.

The Resident Commissioner, Karnataka Bhavan, in the letter dated 26.06.2015 has requested to send a set of the entire correspondence regarding obtaining of previous consent of His Excellency the President of India for the use of Kannada Language in all the proceedings in the High Court of Karnataka.

A set of the entire correspondence regarding obtaining of previous consent of His Excellency the President of India for the use of Kannada Language in all the proceedings in the High Court of Karnataka had been sent vide letter dated 3.7.2015.

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 |

The State Government constituted the language policy regarding the medium of instruction from 1st std to 5th 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 (1st Std to 5th 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.

PRESENT STATUS

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.
