

L. A. Bill No. 51 of 1958

**THE KERALA CONTROL OF POISON CONTAMINATED
ARTICLES (VALIDATION) BILL, 1958**

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A

BILL

to validate orders issued and action taken to prevent danger to life and health by the consumption of articles contaminated with poisonous substances and to provide for certain matters connected therewith.

Preamble.—WHEREAS it is necessary to validate orders issued and action taken to prevent danger to life and health by the consumption of articles contaminated with poisonous substances and to provide for certain matters connected therewith;

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

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Control of Poison Contaminated Articles (Validation) Act, 1958.

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

(3) It shall come into force at once.

2. *Validation of orders, directions and actions for preventing danger to life and health by consumption of articles contaminated with poisonous substances.*—(1) All orders and directions issued by the Government on or after 3rd May, 1958,—

(a) authorising officers of the Government—

(i) to inspect shops, godowns, hotels, restaurants and other places where articles of food and cattle fodder are stored;

(ii) to take samples of articles of food and cattle fodder forming part of the cargo of S. S. JAI HIND in her 166th Voyage or other articles suspected to be contaminated with folidol or other poisonous substances, and other articles transported along with or stored in contact with such articles; and

(iii) to analyse and test such samples for folidol or other poisonous substances;

(b) freezing and prohibiting the movement, sale and disposal in any other manner of the said articles;

(c) directing the surrender of the said articles to the Government; and

(d) empowering officers of the Government to seize and take over the said articles compulsorily on refusal to surrender in accordance with such directions.

(2) all orders issued by the District Collectors and other officers in pursuance of the orders or directions of the Government referred to in clauses (1); and

(3) all actions taken in pursuance of the orders or directions referred to in clauses (1) and (2), shall be deemed to have been lawfully issued and taken and shall not be liable to be questioned in any court of law on the ground that they were not in accordance with or under the authority of the provisions of any law for the time being in force or on any other ground.

3. *Compensation for articles taken over or surrendered.*—

(1) Where, in pursuance of any order or direction referred to in section 2,—

(i) any article of food or cattle fodder was surrendered to the Government,—

(a) in the case of articles which formed part of the cargo of S. S. JAI HIND, on or before 22nd May, 1958, and,

(b) in the case of articles transported along with or stored in contact with articles which formed part of the cargo of S. S. JAI HIND, on or before 5th June, 1958, and such surrender was accepted by an officer authorised in that behalf or any such article was taken over by the Government compulsorily; and

(ii) such article was subsequently destroyed, the Government shall pay to the person who surrendered such article or from whom such article was taken over compulsorily, compensation in accordance with the provisions of sub-sections (2) and (3).

(2) The compensation payable under sub-section (1) in respect of any article surrendered or taken over shall be the price paid for such article by the person who surrendered it or from whom it was taken over.

Explanation.—For the purpose of this sub-section, the expression 'price paid' shall include the insurance and the transport charges, if any, paid or incurred by the person surrendering the article or from whom it was taken over, in respect of the insurance of such article or the transport of it from the place from where it was purchased by such person to the place at which it was surrendered or taken over.

(3) Any payment made before the commencement of this Act towards compensation in respect of any article surrendered or taken over shall be taken into account and the balance amount alone shall be deemed to be payable.

(4) The amount of compensation payable shall be determined by the Revenue Divisional Officer or the Inspecting Assistant Commissioner of Agricultural Income-tax and Sales-tax who verified the stocks under the orders of the District Collector.

(5) Any person aggrieved by the orders of the Revenue Divisional Officer or the inspecting Assistant Commissioner of Agricultural Income-tax and Sales-tax fixing the amount of compensation under sub-section (4) may, within thirty days

from the date of the order, appeal to the Board of Revenue. The orders of the Board of Revenue on such appeal shall be final.

(6) Where any article surrendered to or taken over by the Government is found, after test, to be free from condemnation with poisonous substances, it may be returned to the person by whom it was surrendered or from whom it was taken over, on repayment by such person of the amount, if any, paid to him towards compensation. If any such article is not so returned, compensation shall be paid in accordance with the provisions of sub-sections (2) and (3) in respect of such article.

(7) If any person refuses to accept any article returned in accordance with the provisions of sub-section (6), it shall be sold in public auction. Any amount already paid to such person towards compensation and the cost incurred in conducting the sale shall be deducted from the proceeds of the sale and the balance amount shall be paid to the person.

4. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order or direction referred to in section 2.

(2) No suit or other proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order or direction referred to in section 2.

5. *Repeal and savings.*—(1) the Kerala Control of Poison Contaminated Articles (Validation) Ordinance, 1958 (4 of 1958), is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken, any right accrued or any liability incurred under the said Ordinance shall be deemed to have been done, taken, accrued or incurred under this Act as if this Act had commenced on the 3rd day of August, 1958.

STATEMENT OF OBJECTS AND REASONS.

In connection with the recent folidol poison incidents, orders were issued—

- (i) authorising officers to inspect shops, godowns, etc. and to take samples of suspected articles and get them analysed;
- (ii) freezing the movement and sale of suspected articles; and
- (iii) directing the surrender of such articles and authorising the taking over of articles on failure to surrender.

2. The orders referred to above were not in strict accordance with any existing law and action taken in pursuance of those orders had to be validated by appropriate legislation. Since the Legislative Assembly was not in Session and the matter could not be delayed, validation was effected by means of an Ordinance promulgated by the Governor on the 6th August 1958 and published in the Gazette Extraordinary dated 8th August 1958 as Ordinance No. 4 of 1958.

3. This Bill is intended to replace the Ordinance by an Act of the Legislature.

FINANCIAL MEMORANDUM

Clause 3 (1) of the Bill provides for the payment of compensation for articles surrendered or taken over compulsorily in pursuance of an order or direction referred to in Clause 2. The amount of compensation that may have to be paid for articles already destroyed or decided to be destroyed is estimated at about Rs. 5,66,110.

2. Articles of the value of about Rs. 5 lakhs are being tested to see whether they are contaminated with folidol or other poisonous substances. An amount of about Rs. 70,000 will have to be required by way of allowances to the testing staff, cost of chemicals, etc., in connection with the testing of such articles. Under sub-clause (6) of clause 3 compensation will have to be paid for such of those articles as will be found to be contaminated with folidol or other poisonous substances. The amount of compensation that will have to be paid on this account cannot be estimated at present.

DR. A. R. MENON.