

Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019

Central laws and rules made thereunder which are applicable to the existing State of Jammu and Kashmir are continued to be made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh;

**MINISTRY OF HOME AFFAIRS
(Department of Jammu and Kashmir Affairs)
ORDER**

New Delhi, the 30th October, 2019

S.O. 3912(E).—WHEREAS, the **Jammu and Kashmir Reorganisation Act, 2019** (34 of 2019) (hereinafter referred to as the principal Act) received the assent of the President on the 9th day of August, 2019 and notified in the Official Gazette on the same day;

AND WHEREAS, the 31st day of October, 2019 has been notified as the appointed day for all purposes of the principal Act;

AND WHEREAS, the principal Act was enacted to provide for reorganisation of the existing State of Jammu and Kashmir into the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh;

AND WHEREAS, there are certain Central laws and rules made there under which are applicable to the existing State of Jammu and Kashmir are continued to be made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh;

AND WHEREAS, those Central laws, Ordinance and rules which are applicable to the whole of India except the existing State of Jammu and Kashmir are to be made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh in addition to the Central laws specified in TABLE -1 of the of Fifth Schedule to the principal Act;

AND WHEREAS, the Jammu and Kashmir Bovine Breeding (Regulation of Production, Sale of Bovine Semen and Artificial Insemination) Act, 2018 (Governor's Act No. LV of 2018), the Jammu and Kashmir Single Window (Industrial Investment and Business Facilitation) Act, 2018 (Governor's Act No. X of 2018), the Jammu and Kashmir Metropolitan Region Development Authorities Act, 2018 (Governor's Act No. XLIX of 2018) and the Jammu and Kashmir National Law University Act, 2018 (Act No. II of 2019) which are applicable to the existing State of Jammu and Kashmir are continued to be made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh;

AND WHEREAS, after application of all the Central laws and relevant State laws to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh, the adaptation of laws to the successor Union territories with required modifications cannot be restricted to

laws specified in the Fifth Schedule to the principal Act but required to be extended to any law made applicable before the appointed day;

AND WHEREAS, the references to the “State of Jammu and Kashmir” with respect to the laws specified in the Fifth Schedule to the principal Act and other State laws and Central laws and rules made thereunder, shall be construed as references to the Union Territory of Jammu and Kashmir or the Union Territory of Ladakh, as the case may be;

AND WHEREAS, the references to the “State Legislature including Legislative Council of the State” which has been abolished by the principal Act shall be construed as “Legislative Assembly of the Union Territory of Jammu and Kashmir”;

AND WHEREAS, the Judges of the High Court of Jammu and Kashmir for the existing State of Jammu and Kashmir have been appointed under the Constitution of Jammu and Kashmir and have taken oath or affirmation under the said Constitution. However, section 75 of the principal Act provides that the Judges of the High Court of Jammu and Kashmir of the existing State of Jammu and Kashmir holding office immediately before the appointed day of the principal Act shall become on that day the Judges of the common High Court for the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh and all the provisions of the Constitution of India, including the provisions relating to appointment of Judges of High Court are to be applicable to the Judges of the common High Court for the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh;

AND WHEREAS, there are other persons or authorities who have taken oath under the Constitution of Jammu and Kashmir or any other law and their actions and proceedings are required to be validated till the appointed day of the principal Act;

AND WHEREAS, sections 84 and 85 of the principal Act provides that the Central Government may, by order, establish one or more Committee or Advisory Committees for the purposes of those sections. However, for smooth transition of the State to successor Union Territories, the Central Government had already appointed the Advisory Committee before the appointed day of the said Act and therefore there is a need to validate the proceedings and actions taken by such Advisory Committee;

AND WHEREAS, sub-section (2) of section 93 of the principal Act provides that the Union Public Service Commission, with the approval of President, shall serve the needs of the Union Territory of Ladakh, however, the Union Public Service Commission makes recruitment only for the Group ‘A’ and Group ‘B’ (Gazetted) posts;

AND WHEREAS, the authority constituted under the State laws which are repealed or adopted by the principal Act shall be deemed to be constituted by or under the corresponding Central laws;

AND WHEREAS, all the provisions of the Constitution as amended from time to time have become applicable to the existing State of Jammu and Kashmir with effect from the 5th day of August 2019, and any notification issued or order, rule or appointment made during the period between the 5th day of August, 2019 and the appointed day under the principal Act are required to be protected, as if such actions have been taken in accordance with law;

AND WHEREAS, entry 1 of TABLE – 2 of the Fifth Schedule to the principal Act applies the Transfer of Property Act, Svt. 1977 (1920 AD) in a modified manner. However, the Jammu and Kashmir Transfer of Property Act, Svt.1977 has been repealed by TABLE-3 of that Schedule;

AND WHEREAS, the laws specified in TABLE – 3 of the Fifth Schedule to the principal Act which were applicable to the existing State of Jammu and Kashmir have been repealed and the proceedings and actions taken under those laws are required to be protected;

AND WHEREAS, the **Jammu and Kashmir State Goods and Services Tax Act, 2017** has been made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh as specified in the Fifth Schedule to the principal Act. However, the Union Territory of Jammu and Kashmir, being a Union Territory with Legislature shall have its own Goods and Services Tax, Act, 2017 whereas the Union Territory of Ladakh, being a Union Territory without Legislature shall be governed by the **Union Territory Goods and Services Tax Act, 2017**;

AND WHEREAS, there are references in the State laws that have been applied to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh to the expressions ‘permanent residents’ or ‘hereditary state subjects’ and after application of all the provisions of the Constitution to the existing State of Jammu and Kashmir, these references are required to be omitted;

AND WHEREAS, the matter regarding implementation of the principal Act has been taken up with the Central Government Ministries, Departments and the Government of Jammu and Kashmir and they have pointed out the aforementioned difficulties in proper implementation of various provisions of the principal Act;

AND WHEREAS, the aforementioned difficulties have arisen in giving effect to various provisions of the principal Act;

NOW, THEREFORE, in exercise of the powers conferred by section 103 of the Jammu and Kashmir Reorganisation Act, 2019, the President, hereby makes the following Order, namely: –

1. Short title and commencement.—(1) This Order may be called the Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. Removal of difficulties.—The difficulties arising in giving effect to the provisions of the principal Act have been removed in the following manner, namely: –

(1) The Judges of the High Court of Jammu and Kashmir for the existing State of Jammu and Kashmir holding office immediately before the appointed day shall be deemed to have been appointed under article 217 of the Constitution and they shall be deemed to have taken oath or affirmation under article 219 of the Constitution and shall continue to function as

Judges of common High Court of the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh from the appointed day.

(2) Anything done or any action taken by the Advisory Committee established before the appointed day, shall for all purposes, be deemed to be valid and operative, as if such things had been done or such actions had been taken after the appointed day under the principal Act.

(3) The Union Public Service Commission shall make recruitment for the Group ‘A’ and Group ‘B’ (Gazetted) posts only in respect of the Union Territory of Ladakh.

(4) All Central laws which were applicable to the existing State of Jammu and Kashmir immediately before the appointed day shall continue to apply to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh in addition to the laws mentioned in Table-I of the Fifth Schedule.

(5) All those Central laws, Ordinance and rules which are applicable to the whole of India except the existing State of Jammu and Kashmir immediately before the appointed day, shall now be applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh in addition to the Central laws specified in TABLE -1 of the Fifth Schedule to the principal Act;

(6) The Jammu and Kashmir Bovine Breeding (Regulation of Production, Sale of Bovine Semen and Artificial Insemination) Act, 2018 (Governor’s Act No. LV of 2018), the Jammu and Kashmir Single Window (Industrial Investment and Business Facilitation) Act, 2018 (Governor’s Act No. X of 2018), the Jammu and Kashmir Metropolitan Region Development Authorities Act, 2018 (Governor’s Act No. XLIX of 2018) and the Jammu and Kashmir National Law University Act, 2018 (Act No. II of 2019) shall continue to apply to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh until altered, repealed or amended by a competent Legislature or other competent authority.

(7) The Jammu and Kashmir Goods and Services Tax Act, 2017 shall be applicable to the Union Territory of Jammu and Kashmir and the Union Territory Goods and Services Tax Act, 2017 shall be applicable to the Union Territory of Ladakh.

(8) With respect to any law in force or rules made thereunder immediately before the appointed day in the State of Jammu and Kashmir, –

(a) the references, by whatever form, of words to the “State of Jammu and Kashmir” or “Jammu and Kashmir” or “State” thereof shall, as from the appointed day, except where it is unless otherwise provided, be construed as “Union Territory of Jammu and Kashmir” or “Union Territory of Ladakh, as the case may be”;

(b) the references, by whatever form, of words to the “Government of Jammu and Kashmir”, except where it is otherwise expressly provided, in such law or rules, shall be construed as references to “the Government of Union Territory of Jammu and Kashmir” or “the Administration of Union Territory of Ladakh, as the case may be”.

(9) Any reference in any existing law to the “Legislature of the State (or any House or Houses thereof)” shall be construed as references to the Legislative Assembly or Legislature of the Union Territory of Jammu and Kashmir.

(10) The Central Government may before the expiration of one year from the appointed day by order may adapt or modify any law made applicable to the successor Union Territories before the appointed day.

(11) If any Act made after the commencement of this Act, repeals or re-enacts, with or without modification, any provision of a previous Act, references to such modifications in any other enactment or instrument, shall be construed as references to the provision so modified.

(12) In the Acts including Governor’s Acts contained in TABLE – 4 of the Fifth Schedule to this Act or notifications issued or rules, orders, made thereunder, any reference, by whatever form to the “permanent residents of the State or hereditary State subject”, wherever they occur, shall be omitted with necessary grammatical variations.

(13) The Acts repealed in the manner provided in TABLE -3 of the Fifth Schedule, shall not affect—

(a) the previous operation of any law so repealed or anything duly done or suffered there under;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

(14) Anything done or any action taken including any appointment or delegation made, notification, instruction or direction issued, form, bye-law or Scheme framed, certificate obtained, permit or licence granted or registration effected or agreement executed under any law shall be deemed to have been done or taken under the corresponding provisions of the Central laws now extended and applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Central laws now extended.

(15) Anything done or any action taken including any notification issued or order, rule or appointment made during the period between the 5th of August, 2019 and the appointed day shall, for all purposes, be deemed to be valid and operative as if such things had been done

or actions had been taken in accordance with law, and no suit or other legal proceeding shall be instituted or maintained against any person or authority whatsoever, on the ground that such things or actions were not done or taken in accordance with law.

(16) Any person who has taken an oath or made an affirmation before holding office or position as such under the Constitution of Jammu and Kashmir or any other law in force in the existing State of Jammu and Kashmir immediately before the appointed day shall be deemed to have taken such oath or affirmation under the Constitution of India or any other law applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh, and shall continue to hold office or position as such till the appointed day.

(17) Any authority constituted under any law in the existing State of Jammu and Kashmir immediately in force before the appointed day shall be deemed to have been constituted under the corresponding provisions of the Central laws applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh, until a new authority is constituted under the law applicable to the Union Territory of Jammu and Kashmir or the Union Territory of Ladakh, as the case may be, and any proceedings initiated or action taken by such authority, shall for all purposes be deemed to be valid and operative.

(18) In TABLE – 1 of the Fifth Schedule, in serial number 40, for “The Indian Boilers Act, 1923” shall be read as “The Boilers Act, 1923.

(19) In TABLE -2 of the Fifth Schedule, serial number 1 and the entries relating thereto shall be omitted.

New Delhi

30th October, 2019.

RAM NATH KOVIND

President

[F. No. 11014/05/2014-K.I]

AJAY KUMAR BHALLA, Home Secy.