

# KARNATAKA ACT NO. 25 OF 2021

## THE KARNATAKAGRAM SWARAJ AND PANCHAYAT RAJ (AMENDMENT) ACT, 2021

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## **STATEMENT OF OBJECTS AND REASONS**

**ACT 25 OF 2021.**-Whereas the Hon'ble Supreme Court in the case of DravidaMunetraKazhagam (DMK) Vs Secretary, Governor's Secretariat and others case reported in (2020) 6 sec 548 date 06.12.2019 has held that while making delimitation the object of maintaining ratio between the population and territory cannot be effectively achieved without any research or proposal by the Delimitation commission; and delimitation exercise for constitution of local bodies at all leaves is properly undertaken as per criteria for delimitation of Constituencies.

And whereas several writ petitions have been filed before the Hon'ble High Court of Karnataka challenging the delimitation notification and reservation notification made by the Karnataka State Election Commission as arbitrary, irrational, illegal and ultra vires of the constitution.

Now therefore, it is considered necessary to further amend the Karnataka Gram Swaraj and Panchayat Raj Act,1993 to provide for,-

- (i) Constitution of Delimitation Commission;
- (ii) Participation of experts in the process of Delimitation;
- (iii) Powers of theDelimitation Commission;
- (iv) Functions of the Delimitation Commission;
- (v) Delimitation Commission shall call for objections from the public before making recommendation to the Government; and
- (vi) Certain consequential amendments are also made.

Hence the Bill.

[L.A. Bill No. 35 of 2021, File No. Samvyashae37 Shasana 2021]

[Entry 5 of List II of the Seventh Schedule to the Constitution of India.]

[Published in Karnataka Gazette Extra-ordinary No. 782 in part-IVA dated: 18.09.2021]

## **KARNATAKA ACT NO. 25 OF 2021**

(First Published in the Karnataka Gazette Extra-ordinary on the Eighteenth day of September 2021)

### **THE KARNATAKAGRAM SWARAJ AND PANCHAYAT RAJ (AMENDMENT) ACT, 2021**

(Received the assent of the Governor on the Eighteenth day of September 2021)

An Act further to amend the Karnataka Gram Swaraj and Panchayat Raj Act, 1993.

Whereas, it is expedient further to amend the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the seventy second year of the Republic of India, as follows:-

**1. Short title and commencement.**-(1) This Act may be called the Karnataka Gram Swaraj and Panchayat Raj (Amendment) Act, 2021.

(2) It shall come into force at once.

**2. Amendment of section 5.**-In section 5 of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993) (hereinafter referred to as the Principal Act),-

(i) in sub-section (1), for the words "State Election Commission" the word "Government" shall be substituted;

(ii) in sub-section (2), for the words "State Election Commission" the word "Government" shall be substituted;

(iii) in sub-section (3), for the words "State Election Commission" the word "Government" shall be substituted;

(iv) in sub-section (4), for the words "State Election Commission" the word "Government" shall be substituted; and

(v) in sub-section (5), for the words "State Election Commission" the word "Government" shall be substituted.

**3. Amendment of section 121.**-In section 121 of the Principal Act, for the words "State Election Commission" the word "Government" shall be substituted.

**4. Amendment of section 122.**-In section 122 of the Principal Act, for the words "State Election Commission" the word "Government" shall be substituted.

**5. Amendment of section 123.**-In section 123 of the Principal Act, for

the words “State Election Commission” wherever they occur, the word “Government” shall be substituted.

**6.Amendment of section 124.**-In section 124 of the Principal Act,-

(i) for the words “State Election Commission” the word “Government” shall be substituted; and

(ii) in clause (c), the words “or constituencies in which seats are reserved for the Scheduled Castes, Scheduled Tribes, Backward Classes and Women” shall be omitted.

**7.Amendment of section 161.**-In section 161 of the Principal Act, for the words “State Election Commission” the words “Government based on the recommendation of the Karnataka Panchayat Raj Delimitation Commission ” shall be substituted.

**8.Amendment of section 162.**-In section 162 of the Principal Act,for the words “State Election Commission” wherever they occur, the word “Government” shall be substituted.

**9.Amendment of section 163.**-In section 163 of the Principal Act,-

(i)for the words “State Election Commission” the words “Government on the recommendation of the Karnataka Panchayat Raj Delimitation Commission” shall be substituted; and

(ii) in clause (c), the words “or constituencies in which seats are reserved for the Scheduled Castes, Scheduled Tribes, Backward Classes and Women” shall be omitted.

**10.Amendment of section 308.**-In section 308 of the Principal Act, in sub section (1), the words “delimitation of territorial constituencies and”shall be omitted.

**11. Insertion of new sections 308-E to 308-M.**-After section 308-D of the Principal Act, the following sections shall be inserted, namely:-

**“308-E. Constitution of the Karnataka Panchayat Raj Delimitation Commission.**-(1) The State Government shall constitute a Commission called theKarnataka Panchayat Raj Delimitation Commission consisting of the following members, namely:-

Retired Chief Secretary or Additional Chief Secretary to be appointed by the Government	Chairman
Retired Secretary to Government or a retired officer equivalent in the rank of Secretary to Government with experience in Rural Development, Decentralization	Member

and Panchayat Raj issues to be appointed by the Government .	
One expert in Rural Development and Panchayat Raj sector to be nominated by the Government.	Member
Commissioner of Panchayat Raj Department.	Ex-Officio Member
Director, Panchayat Raj, and ex-officio Joint Secretary to Government, dealing with Taluk Panchayat and Zilla Panchayat in Rural Development and Panchayat Raj Department.	Ex-Officio Member Secretary

(2) The headquarters of the Karnataka Panchayat Raj Delimitation Commission shall be at Bengaluru.

**308-F. Functions of the Karnataka Panchayat Raj Delimitation Commission.**- The Karnataka Panchayat Raj Delimitation Commission shall perform the following functions, namely:-

(i) to make recommendations for fixing the total number of members to be elected to every Grama Panchayat, Taluk Panchayat and Zilla Panchayat on the basis of population as ascertained at the last preceding census of which the relevant figures have been published in the Official Gazette;

(ii) to make recommendations for dividing the area of every Grama Panchayat or Taluk Panchayat or Zilla Panchayat into as many wards or constituencies as the number of members required to be elected to that Grama Panchayat or Taluk Panchayat or Zilla Panchayat on the basis of the relevant census figures at the last preceding census that have been published;

(iii) to make recommendations for determining the boundaries of the Wards or Constituencies of every Grama Panchayat or Taluk Panchayat or Zilla panchayat;

(iv) to make recommendations with a view to ensuring that the population of each ward or constituencies in every Grama Panchayat or Taluk Panchayat or Zilla panchayat shall, as far as practicable, be the same throughout that Grama Panchayat or Taluk Panchayat or Zilla Panchayat;

(v) to make recommendations to have every territorial wards or constituencies, as far as practicable, be geographically compact area; and

(vi) to perform such other functions as the Government may specify from time to time:

Provided that, the Commission before making recommendations to the Government shall invite objections and give an opportunity of being heard to the public under this section.

**308-G Powers of the Karnataka Panchayat Raj Delimitation Commission.-** (1) The Karnataka Panchayat Raj Delimitation Commission shall determine its own procedure and shall, in the Performance of its functions, have all the powers of a Civil Court under the Code of Civil Procedure, 1908, (Central Act V of 1908) while trying a suit, in respect of the following matters, namely:-

- (i) summoning and enforcing the attendance of witnesses;
- (ii) requiring the production of any document; and
- (iii) requisitioning any public record from any Office.

(2) The Karnataka Panchayat Raj Delimitation Commission shall have power to require any person to furnish any information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Karnataka Panchayat Raj Delimitation Commission may authorize any of its members to exercise any of the powers conferred on it by clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2), and any order made or act done in exercise of any of those powers by the member authorized by the Delimitation commission in that behalf shall be deemed order of the Commission or the Act, as the case may be, of the Delimitation Commission.

**308-H.Meeting of the Karnataka Panchayat Raj Delimitation Commission.-** The Delimitation Commission shall meet, as often as may be necessary, at such time and place and observe such rules of procedure as may be provided in the Act.

**308-I.Employees of the Karnataka Panchayat Raj Delimitation Commission.-** The Government shall appoint or depute such number of employees as may be necessary for the efficient performance of its functions.

**308-J.Power to issue Directions.-** The Government may issue to the Delimitation Commission such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act and the Delimitation Commission shall give effect to all such directions.

**308-K.Proceedings of the Delimitation Commission not to be invalidated by vacancies or absence.-** The Delimitation Commission shall have power to act notwithstanding the temporary absence of a member or the existence of a vacancy in the Commission and no act or proceeding of the Delimitation commission shall be invalid or called in question on the

ground merely of such temporary absence or of the existence of such vacancy.

**308-L. Protection of action of taken in good faith.-** No suit or other legal proceeding shall lie against the Government, the Delimitation Commission or any member thereof or any employee or person acting under the direction of the Government or the Delimitation Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or regulations, orders or directions made or issued under this Act.

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

**12. Transitory Provisions.-** On and from the date of commencement of the Karnataka Gram Swaraj and Panchayat Raj (Amendment) Act, 2021,-

(i) All delimitation notifications of constituencies of Taluk Panchayats and Zilla Panchayats, in force, shall stand lapsed;

(ii) All notifications reserving the constituencies of Taluk Panchayats and Zilla Panchayats, in force, based on existing delimitation of constituencies shall also stand lapsed; and

(iii) The State Government shall immediately take steps to constitute the Karnataka Panchayat Raj Delimitation Commission.

The above translation of ಕರ್ನಾಟಕ ಗ್ರಾಮ ಸ್ವರಾಜ್ಯ ಮತ್ತು ಪಂಚಾಯತ್ ರಾಜ್ (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2021 (2021ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ : 25) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

**THAAWARCHAND GEHLOT  
GOVERNOR OF KARNATAKA**

By Order and in the name of  
the Governor of Karnataka,

**G. SRIDHAR**  
Secretary to Government  
Department of Parliamentary Affairs  
and Legislation