

THE CREATIVE COMMUNICATION (OF LAW DECLARED BY SUPREME COURT AND HIGH COURTS) AND JUDICIAL COMPLIANCE BILL

A bill to create an instrument for communicating law declared by superior courts for early information of the Government. WHEREAS the Supreme Court lays down the Law under Article 141 which is binding on all Courts within the territory of India;

AND WHEREAS the decisions of the High Court of Kerala are ordinarily binding on the State until varied or reversed whether the State is party to the ruling or not;

AND WHEREAS the rulings of High Courts other than of the Kerala State, although not directly binding on it, still have persuasive value and deserve to be within the active informational range of the State.

AND WHEREAS it has become necessary that the lethargic attitudes of the Government Servants in complying with the judgments have increased.

NOW THEREFORE it is of practical importance to have an instrumentality to ascertain and communicate the rulings of the Supreme Court and the Kerala High Court and Other High Courts which declare the Law, for appropriate action by the State of Kerala.

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

1. Short title, extent and commencement.—(1) This Act may be called The Creative Communication (of Law Declared by Supreme Court and High Courts) and Judicial Compliance Act—.

(2) It shall come into force at once.

(3) It shall apply to the whole of the State of Kerala.

2. Definitions.— In this Act, unless the context otherwise requires,

(a) “Committee” means committee appointed under Sec. 4 of this Act;

(b) “Prescribed” means prescribed by rules made under this Act.

3. Duty of the Advocate General as courier.—(1) The Advocate General shall examine all the judgments delivered by the Supreme Court, High Court of Kerala and other High Courts against the Government during a particular period and shall make a report to the State Government and the Legislature.

(2) While making the report the Advocate General shall specifically point out the observations of the Supreme Court, the High Court of Kerala and other High Courts which require implementation by the State Government or any other authorities, with his comments and interpretation and the nature of the action required in pursuance of the said observations.

4. Judgment Compliance Committee.—(1) The Advocate General shall constitute a committee of three persons for ensuring the compliance of the judgments pronounced by the High Court of Kerala and Supreme Court of India.

(2) The Advocate General shall be the Chairman of the Committee and the additional two members can be appointed by the Government on his recommendation.

(3) If any person intends to file any contempt petition for the non-compliance of judgment he shall file a petition before the said Committee.

(4) Immediately on receipt of the petition to take contempt action, the Committee or any person so authorized shall send a communication by messenger, by fax or e-mail or speed post or by any recognized courier to the alleged contemnor the copy of the said petition seeking comments of the alleged contemnor.

(5) The said reply shall be given by the alleged contemnor, who will be liable for answering the contempt if filed, within ten days of the receipt of the same.

(6) On receipt of the same, the committee shall consider the same and will give appropriate directions to the alleged contemnor, at any rate, within ten days of the receipt of the said reply.

(7) A copy of the communication of the Committee shall also be given to the concerned person who has filed the complaint before the Committee.

5. *Effect of non-compliance of directions.*—If any officer of the State who fails to comply with the directions given by the High Court in any of the judgments of which a report had been made by the Advocate General, and in case a contempt petition is filed in the Court, the Advocate General or any of the Government Pleaders shall not appear in such cases so as to defend the said officer.

6. *Power to make rules.*—(1) The Government may from time to time in consultation with the Advocate General of the State appoint other personnel and organizations for the purpose of effective fulfillment of the objectives of the provisions of this Act.

(2) Every rule under this Act shall be laid as soon as may be after it is made or issued before the legislative assembly for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session to which it is so laid or the session immediately following, the legislative assembly makes any modification in the rule or decided that the rule should not be made or issued, the rule shall thereafter have effect only in

such modified form or be of no effect, as the case may be; so however that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

Statement of Objects and Reasons

The Legislature makes the laws, the Executive implements them and the Judiciary interprets them. Instances are a legion where, in the discharge of the functions of the Judiciary, Judiciary notices lacunae in the laws, issues directions, recommends correction of laws and points out the need for enacting appropriate legislations to implement the objects with which a law is enacted. As a matter of fact, the Court's directions remain dead letter in most cases for want of appropriate follow-up action on the part of the Executive and Legislature.

In order to bring to the notice of the Government and the Legislature such judgments and orders of Courts—High Court and the Supreme Court—which need to be implemented as directed by the Courts in the interest of the public at large, there exists the need for a machinery in the form of a Courier to study the judgments and orders passed by the High Courts and the Supreme Court and to communicate the views of the Courts to the Government and the Legislature for appropriate action.

The Bill also seeks to introduce a new provision to prevent action by resort to the jurisdiction of the Courts as far as possible for contempt of Court under the Contempt of Courts Act. The creation of a “Judgment Compliance Committee” to look into the complaints of non-compliance with the judgments of Court in the first instance is necessary to achieve the above said purpose.
