



**The Kerala Medical Officers' Admission to Postgraduate Courses Under
Service Quota Act, 2008**

Act 29 of 2008

Keyword(s):

**Difficult Rural Area Service, Medical Officer, Postgraduate Course,
Postgraduate Course Selection Committee, Prospectus, Rural Area Service,
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ACT 29 OF 2008
THE KERALA MEDICAL OFFICERS' ADMISSION TO
POSTGRADUATE COURSES UNDER SERVICE QUOTA ACT, 2008

An Act to provide for quota of seats among Medical Officers of the State of Kerala and to have a selection procedure for admission to various Post graduate Courses in the Medical Colleges under the service quota considering their service under the Government and for matters connected therewith or incidental thereto.

Preamble .- WHEREAS, it is expedient to provide for quota of seats among Medical Officers of the State of Kerala and to have a selection procedure for admission to various Postgraduate Courses in the Medical Colleges under the service quota considering their service under the Government;

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

1. *Short title and commencement.*- (1) This Act may be called the Kerala Medical Officers' Admission to Postgraduate Courses under Service Quota Act, 2008.

(2) It shall come into force at once.

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

(a) 'difficult rural area service' means the service rendered by a Medical Officer in a rural area declared by the Government as 'difficult rural area';

(b) 'Government' means the Government of Kerala;

(c) 'Head of Department' means the Director of Medical Education or the Director of Health Services or the Director of Insurance

Medical Services or the Director of Municipal Administration of the State of Kerala, as the case may be, under whose control a Medical Officer serves;

(d) 'Medical Officer' means a doctor with M.B.B.S. qualification who is in service under the control of a Head of Department and includes a lecturer or any other doctor with a different designation as the Government may specify;

(e) 'Postgraduate Course' means the course of study after M.B.B.S. which may be a degree or diploma course declared as such in the prospectus;

(f) 'Postgraduate Course Selection Committee' means the committee constituted under section 4;

(g) 'prescribed' means prescribed by rules made under this Act;

(h) 'prospectus' means the prospectus issued by the Director of Medical Education under the direction of the Government every year for admission to Postgraduate Course;

(i) 'rural area service' means the service rendered by a Medical Officer in an area declared by the Government as 'rural area';

(j) 'service' means the service rendered by the Medical Officer under the Government for such period as may be prescribed;

(k) 'service quota' means the number of seats allotted for Medical Officers in the service of the State, from time to time, for admission to a Post Graduate Course of study, on such terms and conditions as may be prescribed;

(l) 'State' means the State of Kerala.

3. *Selection of Medical Officers for admission to Postgraduate Course Under the Service Quota.*- Notwithstanding anything contained in the Indian Medical Council Act, 1956 (Central Act 102 of 1956) or any rule or

regulation issued thereunder or in any judgment, decree or order of any court or authority, the selection of Medical Officers for admission to Postgraduate Course of study in the State under the service quota shall be made only under the provisions of this Act.

4. *Constitution of Post Graduate Course Medical Selection Committee.*- (1) The Government may constitute a Postgraduate Course Selection Committee for the purpose of selection of Medical Officers under the service quota with the following *ex-officio* members, namely:-

- (a) The Secretary to Government, Health and Family Welfare Department, Government of Kerala;
- (b) The Director of Medical Education;
- (c) The Director of Health Services;
- (d) The Director of Insurance Medical Services;
- (e) The Joint Director of Medical Education(M);
- (f) The Joint Director of Medical Education (G).

(2) The Secretary to Government, Health and Family Welfare Department shall be the Chairman and the Director of Medical Education shall be the Convenor of the Committee.

(3) The Committee shall discharge its functions in such manner as may be prescribed.

5. *Procedure for selection.*- (1) The Government may set apart seats not exceeding forty percent of the total seats available to state quota in an academic year, for selection of Medical Officers under service quota considering their service under the Government for admission to Post Graduate Medical Courses in the Medical Colleges of the State in such manner as may be prescribed.

(2) The academic qualification for admission to the Post Graduate Course shall be M.B.B.S. degree with minimum fifty percent marks and the other qualifications shall be such as may be prescribed.

(3) The details of eligibility for admission, the duration of courses, allotment, fee to be paid, reservations of seats and such other details shall be published every year in the prospectus before the commencement of admission.

(4) The Postgraduate Course Selection Committee shall finalise the selection list strictly based on the seniority in service of the Medical Officers and following such other criteria as may be prescribed.

(5) The selection list finalised under sub-section (4) shall be published by the Post Graduate Course Selection Committee for the information of the applicants.

6. *Weightage for rural service.*- Every Medical Officer who has 'rural area service' or 'difficult rural area service', as the case may be, in the State shall be given weightage in selection in such manner as may be prescribed.

7. *Protection of action taken in good faith.*- No suit, prosecution or other legal proceeding shall lie against the Government or any of its officers or employees for any act or omission which is done in good faith or intended or omitted to be done under this Act.

8. *Removal of difficulties.*- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion may require, by order, do anything not inconsistent with this Act or the rules made thereunder which appear to them to be necessary or expedient for the purposes of removing the difficulty:

Provided that no order under this sub-section shall be issued after the expiration of a period of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the Legislative Assembly.

9. *Power to make rules.*- (1) The Government may, by notification in the Official Gazette, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be, after it is made, before the Legislative Assembly while it is in session 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 in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, 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 modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

As per the practice hitherto followed in Post Graduate Medical Admission, forty percent of seats available in the State were earmarked to service candidates, which consist of doctors of Health Services Department, Medical College Lecturers and Employees' State Insurance doctors of the State. Admissions to these seats were made on the basis of seniority of service candidates in each category.

As per regulation 9 of the Post Graduate Medical Education Regulations of Medical Council of India 2000, it is mandatory for all candidates seeking admission to Post Graduate Medical Courses, to appear for Common Entrance Examination. Inorder to get qualified for admission to Post Graduate Medical Courses general category candidates have to secure fifty percent marks and SC/ST candidates have to secure forty percent marks in the Common Entrance Examination. The Hon'ble High Court of Kerala has also upheld the above stand of the Medical Council of India.

Accordingly from the year 2004 onwards Common Entrance Examination was made applicable to service candidates also.Hence they had to qualify with a minimum of fifty percent marks in the Entrance Examination for getting admission to Post Graduate Courses.

Requests from many quarters were received by Government pointing out that the in-service candidates are working round the clock for the health care of the public even in remote rural areas and they hardly get time to update their knowledge and hence they cannot compete with general merit candidates so as to secure fifty percent of

marks in the Common Entrance Examination to qualify for admission to Post Graduate Courses. Government have therefore decided to frame a legislation to overcome the difficulties faced by the in-service candidates for admission to the Post Graduate Courses by setting apart forty percent of the total seats available to State quota for selection of Medical Officers under service quota considering their service under the Government.

The bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

1. Sub-clause (3) of clause 4 of the Bill seeks to empower the Government to prescribe the manner in which the Committee constituted under the clause shall discharge its functions.

2. Sub-clause (1) of clause 5 of the Bill seeks to empower the Government to prescribe the manner for selection of Medical Officers under service quota considering their service under the Government for admission to Post Graduate Medical Courses in the Medical Colleges of the State. Sub-clause (2) of the said clause seeks to empower the Government to prescribe the qualifications other than academic qualification for selection of Medical Officers for admission to Post Graduate courses. Sub-clause (4) of the said clause also seeks to empower the Government to make rules regarding the other criteria to be followed for selection.

3. Clause 6 of the Bill seeks to empower the Government to prescribe the manner in which weightage in selection shall be given for rural service.

4. Clause 8 of the Bill seeks to empower the Government, by order, to do anything not inconsistent with the Act, to remove any difficulty that may arise, in giving effect to the provisions of the Act.

5. Clause 9 of the Bill seeks to empower the Government to make rules to carry out the purposes of the Act.

6. The matters in respect of which rules may be made or orders may be issued, are matters of procedure and are of routine and administrative nature. Further the rules and the order under clause 8, after they are made or issued, are subject to scrutiny of the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

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