

Andhra Pradesh Municipal Laws (Amendment) Act, 1994

3 of 1994

[15 January 1994]

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Andhra Pradesh Municipal Laws (Amendment) Act, 1994

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PREAMBLE

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH MUNICIPALITIES ACT, 1965 AND THE HYDERABAD MUNICIPAL CORPORATIONS ACT, 1955.

Be it enacted by the legislative assembly of the State of Andhra Pradesh in the Forty-fourth Year of the Republic of India as follows:-

* Received the assent of the Governor on the 15th January, 1994. For Statement of objects and Reasons, Please see the Andhra Pradesh Gazette, Part IV-A, Extra-ordinary, dated the 6th August, 1993 at Page 23.

1. Short title and Commencement :-

(1) This Act may be called the Andhra Pradesh Municipal Laws (Amendment) Act, 1994.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Amendment of Act 6 of 1965 :-

In the Andhra Pradesh Municipalities Act, 1965:

(1) in section 23, in sub-section (5), for the words "within three months", the words "within six months", shall be substituted;

(2) in section 43, in sub-section (1), for the Table thereunder, the following Table shall be substituted, namely:--

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"TABLE

Municipality	Monetary limits	Authority
(1)	(2)	(3)
Second or third grade Municipality.	(a) Not exceeding Rs. 5,000/-	Commissioner.
	(b) Exceeding Rs. 5,000/- but not exceeding Rs.20,000/-	Committee consisting of the Chairman, Commissioner and not less than three but not more than seven councillors, chosen in this behalf by the council
First Grade Municipality.	(a) Not exceeding Rs. 10,000/-	Commissioner.
	(b) Exceeding Rs. 10,000/-but not exceeding Rs. 50,000/-	Committee consisting of the Chairman, Commissioner and not less than three but not more than seven

		councillors, chosen in this behalf by the Council.
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Special or Selection Grade Municipality.	(a) Not exceeding Rs. 25,000/-	Commissioner.
	(b) Exceeding Rs. 25,000/-but not exceeding Rs. 75,000/-	Committee consisting of the Chairman, Commissioner and not less than three but not more than seven Councillors chosen in this behalf by the Council.";

(3) in section 45, in sub-section (1), for the words "five hundred rupees", the words "one thousand rupees" and for the word "Chairman", the word "Commissioner", shall be substituted;

(4) in section 56,-

(i) in sub-section (1), alter clause (c), the following clause shall be inserted, namely: -

"(CC) exercise disciplinary control over the employees of the Municipal Council, who shall be subordinate to the Commissioner;"

(ii) in sub-section (5), in clause (a), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted, namely:-

"(i) in the case of a third grade or a second grade Municipality, not exceeding one thousand rupees;

(ii) in the case of a first grade Municipality, not exceeding fifteen hundred rupees; and

(iii) in the case of a special grade or a selection grade municipality, not exceeding two thousand rupees.";

(5) in section 72, to sub-section (2), the following proviso shall be added, namely:-

"Provided that no such resolution shall be moved before the expiry of one year from the date of assumption of charge by such officer.";

(6) in section 74,-

(i) for the words "shall be made by the Chairman", the words "shall be made by the Commissioner", shall be substituted;

(ii) for the two provisos, the following proviso shall be substituted, namely:-

Provided that appointment to all the posts of officers and employees sanctioned under section 73, and to the posts of headmaster or headmistress of a High School maintained by a council shall be made from a panel prepared by a committee constituted for the purpose by the Government, by notification, from time to time.";

(7) in section 77,-

(i) in sub-section (1), for the words "or reduce in rank", the words "reduce in rank, remove or dismiss", shall be substituted;

(ii) sub-section (2) shall be omitted;

(8) in section 87, in sub-section (4)

(i) after the words "buildings above the age of 25 years", the words "and thirty percent for buildings above the age of 40 years" shall be inserted;

(ii) after the proviso and before the explanation thereunder, the following proviso shall be inserted, namely:-

"Provided further that in respect of such municipalities on the sea-shore as may be specified by notification from time to time, a rebate of five percent of the annual rental value shall be allowed in addition to the rebates allowed under the other provisions of the Act in respect of all the buildings.";

(9) in section 88,-

(1) in sub-section (1),-

(i) for clauses (bb) and (c), the following clause shall be substituted, namely:-

"(c) recognised educational institutions including hostels, public buildings and places used for the charitable purpose of sheltering destitute or animals and libraries and play-grounds which are open to the public;"

(ii) in the proviso, for the expression "clauses (a), (bb), (c) and (e)", the expression "clauses (a), (c) and (e)" shall be substituted;

(2) sub-section (1A) shall be omitted;

(10) in section 91, for the proviso, the following provisos shall be substituted, namely:-

"Provided that a simple interest at the rate of two percent per mensem shall be charged in case of failure to pay property tax within the due date:

Provided further that when payment of property tax is not made within the due date, the Commissioner may, after giving notice to the owner or occupier, disconnect the essential services to the premises:

Provided also that all the taxes and dues to the Municipality including the property tax payable to the Municipality shall be liable to be recovered as if they were arrears of land revenue.";

(11) after section 91, the following section shall be inserted, namely-

91A. "Power to correct the assessment records.--

(1) If at any time it appears to the council, that any person or property has been inadvertently omitted from the assessment records or inadequately or improperly assessed relating to any tax, or a clerical or arithmetical error is committed in the records maintained in relation to such assessment, it may direct the Commissioner to assess or reassess or correct the errors as the case may be.

Provided that no such direction shall be given where it involves an increase in the assessment unless the person affected is afforded an opportunity to show cause against the proposed action.

(2) such assessment or reassessment or correction of records shall not relate, to a period earlier than the five half years immediately preceding the current half year.";

(12) in section 140, in sub-section (2), for the words "two hundred rupees", the words "three hundred rupees" shall be substituted;

(13) after section 142, the following section shall be inserted, namely:-

142A. Penal action for meddling with water mains.--

(1) Whoever unlawfully breaks, or other-wise causes any damage to any public channel, tank, reservoir, cistern, well, fountain or stand pipe or diverts water or the work connected with water supply or without due authority, opens or removes any lock, cock or pipe belonging to, or under the management or control of the Municipal Council; or

(2) unlawfully draws or takes water from any water works belonging to the Municipal council or under their management or control; shall, be punishable with a fine which may extend upto five hundred rupees but which shall not be less than one hundred rupees or with imprisonment not exceeding six months."

(14) after section 156, the following section shall be inserted, namely:-

156A. "Licensing of Public latrines and urinals.--

(1) On receipt of an application from any person in the prescribed form and on payment of the fee prescribed, the Commissioner may issue a license for a period not exceeding one year for maintaining a latrine or urinal for public use.

(2) No person shall keep or maintain a public latrine or urinal without a license under sub-section (1).

(3) Every licensee of a public latrine or urinal shall maintain it

cleanly and keep it in proper order.";

(15) after section 170, the following section shall be inserted, namely :-

170A. "Disposal of waste.--

Every municipal council shall arrange for the disposal of the waste collected by it in such manner as may be prescribed.";

(16) after section 199, the following section shall be inserted, namely:-

199A. "Punishment for destroying road direction.--

Whoever, without authorisation from the Commissioner, defaces, disturbs or destroys or damages any municipal direction post, lamp post, or lamp or extinguishes any municipal light in a public place, shall be punishable with fine which may extend to rupees five hundred.";

(17) for sections 328 and 329, the following section shall be substituted, namely:-

328. "Power to amend Schedules.--

(1) The Government may, by notification, alter, add to or cancel Schedules I, II, III, IV, V, VI and VII.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of the Legislative Assembly following the date of the issue of the notification, a Bill on behalf of

the Government, to give effect to the alteration, addition or cancellation, as the case may be, of the Schedules specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder:

Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly during that session;

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly the notification shall cease to have effect on the expiration of the said period of six months.

(3) All references made in this Act, to any of the Schedules shall be construed as relating to the Schedules as for the time being amended in exercise of the powers conferred by this section.";

(18) after section 330, the following section shall be inserted, namely:-

330A. "Power of Government to make rules in lieu of bye-laws.--

(1) If, in respect of any matters specified in section 330 the council has failed to make any bye-laws or if the bye-laws made by it are not, in the opinion of the Government, adequate, the Government may make rules providing for such matters as they may think fit.

(2) The rules made under this section may add to alter or cancel any bye-laws made by the council.

(3) If any provision of bye-laws made by the council is repugnant to any provision of a rule made under this section, the rule shall

prevail, and the bye-laws, to the extent it is repugnant, be void.

(4) The provisions of sections 331, sub-section (2) of section 333 and section 333A shall apply to the rules made under this section as they apply to the bye-laws made under section 330.

(5) Before making any rule under this section the Government shall, give the council an opportunity of showing cause against the proposal.";

(19) after section 333, the following section shall be inserted, namely:-

333A. --"Penalty for breaches of bye-laws.

In making bye-laws the municipal council may, subject to the provisions of clause (1) of article 20 of the Constitution, provide that a breach thereof shall be punishable,-

(a) with fine which may extend to fifty rupees and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach; or

(b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from the executive authority to discontinue such breach."

(20) after section 339, the following section shall be inserted namely:-

339A. "Penalty for wilful prevention of distraint.--

Any person wilfully preventing distraint or sufficient distraint of

property Subject to distraint for any tax due from any person, shall on conviction be liable to a fine not exceeding twice the amount of the tax found to be due.";

(21) in section 362, for the words "at the rate not exceeding nine per centum", the words "at such rate as may be prescribed" shall be substituted;

(22) in section 365, in sub-section (1) for the words "six years", the words "nine years" and for the words "two years" the words "six years" shall be substituted;

(23) in section 370,-

(i) in the opening paragraph the words "with the approval of the council except in respect of matters falling under clauses (a), (b) and (h)" shall be omitted;

(ii) the proviso to clause (e) shall be omitted;

(24) in section 376, after sub-section (3), the following shall be inserted, namely:-

"(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), no suit shall be entertained by any court of law unless the assessee pays fifty percent of the tax levied and demanded."

(25) after section 389A, the following section shall be inserted, namely:-

389B "Power to transfer functions of Municipalities to Andhra Pradesh Industrial Infrastructure Corporation.--

notwithstanding anything contained in this Act, or in any other law

for the time being in force relating to the Municipalities or the notified area Committees, the Government may, in consultation with any Municipality or the notified area Committee, as the case may be, and also the Andhra Pradesh Industrial Infrastructure Corporation, by notification in the Andhra Pradesh Gazette, and subject to such restrictions and conditions including those relating to the remittance of such percentage of the property tax to a Municipality or to a notified area Committee and to such control and revision as may be specified therein direct that any power or function vested in the Municipality or the notified area Committee by or under this Act shall be transferred to an exercised and performed by the Andhra Pradesh Industrial Infrastructure Corporation.";

(26) in Schedule II,--

(i) rule 4 shall be omitted;

(ii) in rule 28, in sub-rule (1), for the expression "rules 4 and 23", the expression "section 91A and rule 23", and the for the expression "rules 4, 23 and 27", the expression "section 90A and rules 23 and 27" shall be substituted;

(iii) in rule 29, in the proviso, for the expression "rule 4", the expression "section 91A" shall be substituted.

3. Amendment Act II of 1956 :-

In the Hyderabad Municipal Corporations Act, 1955,-

(1) for section 105, the following shall be substituted, namely:-

105. "Appointment of Additional and Deputy Commissioners.--

The Government may appoint Additional and Deputy Commissioner to the Corporation. The persons so appointed shall be subject to the same liabilities, restrictions and conditions to which the

Commissioner is subject.";

(2) in section 106 --

(i) for the words "Deputy Commissioner", wherever they occur, the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(ii) for the marginal heading "Functions of a Deputy Commissioner", the marginal heading "Functions of an Additional Commissioner and Deputy Commissioner" shall be substituted;

(3) in the heading above section 107, for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(4) in section 107.

(i) for the words "Deputy Commissioner", wherever they occur, the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(ii) in the marginal heading, for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(5) in the heading above section 108, for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(6) in section 108, in the marginal heading for the words "Deputy Commissioner" the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(7) in section 109, for the words "a Deputy Commissioner", wherever they occur the words "an Additional Commissioner and Deputy Commissioner" shall be substituted;

(8) in section 110,-

(i) for the words "Deputy Commissioner", wherever they occur, the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(ii) in the marginal heading for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(9) in the heading above section 111, for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(10) in section 111,--

(i) for the words "a Deputy Commissioner", the words "an Additional Commissioner and Deputy Commissioner" and for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(ii) in the marginal heading for the words "Deputy Commissioner", the words "Additional Commissioner and Deputy Commissioner" shall be substituted;

(11) in section 119,-

(i) in sub-section (1), the words "subject to the provisions of sub-section (2)" shall be omitted;

(ii) sub-section (2) shall be omitted.

(12) to section 123, the following proviso shall be added, namely:-

"Provided that during any financial year the renewals of previous sanctions or the fresh sanctions for any works, purchases and constructual services, as the case may be, shall not exceed the sum provided in the budget estimates for that financial year.";

(13) in section 124 clause (d) shall be omitted;

(14) in section 125, in sub-section (2), for the words "the Commissioner and two members of the Standing Committee", the words "the Commissioner or his nominee" shall be substituted;

(15) in section 130, in sub-section (1), the words "in consultation with the Corporation shall be omitted;

(16) in section 132, in sub-section (3) for the words "by the Government", the words "by the Commissioner" shall be substituted;

(17) in section 134 the words "or the Standing Committee" shall be omitted;

(18) in section 135,-

(i) in clause (a), for the words "by the Corporation or by the Standing Committee", the words "by the Commissioner" shall be substituted;

(ii) in clauses (b) and (c) for the words "Standing Committee", the word "Commissioner" shall be substituted;

(19) in section 136,-

(i) in clause (a), for the words "as shall be required of him by those bodies respectively", the words "as shall be required of him by the Commissioner" shall be substituted;

(ii) in clauses (c) and (d), for the words "Standing Committee", the word "Commissioner", shall be substituted;

(20) in section 137, in sub-section (5),-

(a) in clause (i), for the words "without the sanction of the Standing Committee", the words "without the sanction of the Standing Committee and the Government" shall be substituted;

(b) in clause (ii) for the words "without the sanction of the Corporation", the words "without the sanction of the Corporation and the Government", shall be substituted;

(21) to section 140, the following proviso shall be added, namely:-

"Provided that in the case of posts carrying such scale of pay as may, from time to time, by notification be specified by the Government, the appointing authority shall be the Commissioner.";

(22) in section 141,-

(i) in sub-section (1), in the proviso, clauses (c) and (d) shall be omitted;

(ii) in sub-section (4) for the proviso, the following proviso shall be substituted, namely:-

"Provided that for the purpose of this sub-section the Corporation shall be the authority immediately superior to the Commissioner.";

(23) for section 142, the following section shall be substituted, namely:-

142. "Leave of absence.--

Leave of absence to any Municipal employee by whomever appointed, may be granted by the Commissioner, subject to the rules applicable to him.";

(24) in section 146, in sub-section (5), for the words "two members of the Standing Committee", the words "two officers nominated by the Commissioner" shall be substituted;

(25) in section 148,-

(i) in sub-section (1) for the words "rupees five hundred", the words "rupees twenty five thousand" shall be substituted;

(ii) in sub-section (2) for the words "the value of which does not exceed rupees five thousand", the words "the Value of which exceeds rupees twenty five thousand but does not exceed such sum as may be specified by the Government by notification, from time to time" shall be substituted;

(iii) in sub-section (3) for the words "the Commissioner", the words "in cases not covered by sub-section (1) or sub-section (2), the Commissioner" shall be substituted;

(26) in section 171, in sub-section (1), for clause (a) the following shall be substituted, namely: -

"(a) by either the Commissioner, Additional Commissioner, Deputy Commissioner, Accounts Officer-cum-Financial Advisor or any other officer authorised by the Government.";

(27) in section 191, in sub-section (3),-

(i) for the words "rupees five thousand", the words "rupees five lakhs" shall be substituted;

(ii) in the proviso thereunder, for the words "rupees five hundred", the words "rupees fifty thousand" shall be substituted;

(28) for section 196, the following section shall be substituted, namely:-

196. "Audit of Accounts.--

The Accounts of the Municipal Corporation shall be audited by the Director of state Audit, or by any officer nominated by him and a certificate of the accounts as audited shall be issued by the end of October every year duly marking a copy thereof to the Government and also to the Accountant General;

Provided that the Government may, at any time, for reasons to be recorded in writing appoint an Auditor for the purpose of making a special audit of the accounts and to report to the Government thereon";

(29) in section 220, after sub-section (2) the following shall be added, namely:-

"(3) Notwithstanding anything contained in this Act and the rules made thereunder, where a building is constructed, or

reconstructed, or some structures are raised unauthorisedly, it shall be competent to the assessing authority to levy property tax on such building or structure with a penalty of ten percent on the amount of tax levied till such unauthorised construction is demolished or regularised. A separate receipt for the penalty levied and collected shall be issued.";

(30) in section 221, to sub-section (1), the following proviso shall be added, namely:-

"Provided that the Commissioner may waive any delay in making the complaint under sections 220 or 221 in case such complaint is made in the same financial year explaining the delay to the satisfaction of the commissioner.";

(31) to section 238, the following proviso shall be added, namely:-

"Provided that all the taxes and dues to the Corporation including the property tax payable to the Corporation shall be liable to be recovered as if they were arrears of land revenue.";

(32) in section 248, in sub-section (1), for the words "rupees five per annum", the words "rupees ten per annum" shall be substituted;

(33) in section 269, for the proviso to sub-section (2) the following proviso shall be substituted, namely:-

"Provided that a simple interest at the rate of two percent per mensem shall be charged in case of failure to pay property tax within the due date:

Provided further that when payment of property tax is not made within the due date, the Commissioner may, after giving notice to the owner or occupier, disconnect the essential services to the

premises.";

(34) after section 670, the following shall be inserted, namely:-

670a. "Assessment etc. not to be questioned.--

(1) No assessment or demand made, and no charge imposed under the authority of this Act shall be questioned or effected by reason of any clerical error or by reason of any mistake (a) in respect of the name, residence, place of business or occupation of any person or (b) in the description of any property or thing or (c) in respect of the amount assessed, demanded or charged; provided, that the provisions of this Act have been, in substance and effect, complied with; and no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any court:

Provided that the person or property so assessed or charged is reasonably ascertainable.

(2) Notwithstanding anything contained in sub-section (1), no suit shall be entertained by any court of law unless the assessee pays fifty percent of the tax levied and demanded.";

(35) after section 679E, the following section shall be inserted, namely:-

679F. "Power to transfer functions of the Corporation to the Andhra Pradesh Industrial Infrastructure Corporation.--

Notwithstanding anything contained in this-Act, or in any other law for the time being in force relating to the Municipal Corporations, the Government may, in consultation with the Corporation and also the Andhra Pradesh Industrial Infrastructure Corporation, by notification in the Andhra Pradesh Gazette, and subject to such restrictions and conditions including those relating to the

remittance of such percentage of the property tax to the Corporation and to such control and revision as may be specified therein direct that any power or function vested in the Corporation by or under this Act shall be transferred to and exercised and performed by the Andhra Pradesh Industrial Infrastructure Corporation.";

(36) "Schedule-B" shall be omitted;

(37) for "Schedule-C", the following "Schedule" shall be substituted namely:-

"SCHEDULE - C

(See Section 130)

Officers and servants of the Corporation belonging to Local Government Services :

1. Commissioner
2. Additional Commissioners
3. Deputy Commissioners
4. Chief Engineer
5. Superintending Engineers
6. Executive Engineers
7. Deputy Executive Engineer.

8. Chief Medical Officer of Health.
9. Medical Officer of Health.
11. Additional District Medical Officer of Health.
12. Chief Entomologist,
13. Senior Entomologist.
14. District Extension and Mass Media Officer.
15. Chief City Planner.
16. Additional City Planner.
17. Land Scape Architect.
18. Assistant City planners.;
19. Examiner of Accounts,
20. Assistant Examiner of Accounts.
21. Accounts Officer-cum-Financial Advisor.
22. Divisional Accounts Officer.
23. Public Relation Officer.

24. Estate Officer.
25. Chief Valuation Officer.
26. Valuation Officers.
27. Assistant Directors (Veterinary)
28. Chief Horticulturist.
29. Senior Horticulturist.
30. Junior Horticulturist.
31. Chief Transport Officer.
32. Land Acquisition Officer.
33. Forest Officer.
34. Foreman.
35. Metropolitan Magistrate."

4. Application of the Acts to the Visakapatnam and Vijayawada Municipal Corporations :-

The amendments made to the Hyderabad Municipal Corporations Act, 1955 by section 3 shall extend to and shall apply also to the Visakhapatnam and Vijayawada Municipal Corporations.

