

**Andhra Pradesh Municipal Laws (Second Amendment) Act,
1987**

9 of 1987

[06 February 1987]

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**Andhra Pradesh Municipal Laws (Second Amendment) Act,
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PREAMBLE

An Act further to amend the Hyderabad Municipal Corporations Act, 1955, the Andhra Pradesh Municipalities Act, 1965, the Visakhapatnam Municipal Corporation Act, 1979 and the Vijayawada Municipal Corporation Act, 1981.

BE it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-eighth Year of the Republic of India as follows:-

* Received the assent of the Governor on the 5th February, 1987. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated 22nd January, 1987 at page 7.

1. Short title :-

This Act may be called the Andhra Pradesh Municipal Laws (Second Amendment) Act, 1987.

2. Amendment of act II of 1956 :-

In the Hyderabad Municipal Corporations Act, 1955,--

(1) in section 5,

(i) for sub-section (1-A), the following subsection shall be substituted, namely:--

"(1-A) In addition to the Councillors referred to in sub-section (1), every member of the Legislative Assembly of the State and every member of the House of the People elected from any constituency, which forms part, wholly or partly, of the Corporation, shall be an ex-officio Councillor of the Corporation.";

(ii) for sub-section (2), the following subsection shall be substituted, namely:-

"(2) In the Corporation, out of the total strength of the councillors, the election authority shall subject to such rules as may be prescribed, reserve,-

(a) six percent thereof to the members belonging to Scheduled Tribes;

(b) fifteen percent thereof to the members belonging to Scheduled Castes;

(c) nine percent thereof to Women; and

(d) twenty percent thereof to the members belonging to backward classes; and determine the division in respect of which reservation is made as aforesaid:

Provided that where the Corporation comprises more than one

Assembly Constituency wholly or partly, reservation to all categories put together in respect of the divisions wholly comprised in each such Assembly Constituency shall not exceed fifty per cent of such divisions in each such Assembly Constituency."

(iii) in the explanation after clause (ii), the following clause shall be added namely:--

"(iii) for the purpose of reserving the office of Councillor to the members belonging to the Backward Classes, the population figures of the Backward Classes gathered in the socio-economic survey conducted by the Andhra Pradesh Backward Classes Co-operative Finance Corporation Limited, Hyderabad, shall be taken as the basis.";

(2) after section 23, the following sections shall be inserted, namely:--

23A. "Disqualification on the ground of defection.--(1) Subject to the provisions of section 23B and 23C the Mayor or Councillor of a Municipal Corporation belonging to any political party shall cease to be such Mayor or Councillor.--

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such Municipal Corporation contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

(c) if he has been expelled from such political party in accordance

with the procedure established by the constitution, rules or regulations of such political party.

Explanation:--for the purposes of this sub-section the Mayor or elected councillor shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such Mayor or Councillor and ex-officio councillor shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as a Member of the Legislative Assembly, House of the people or the Council of States, as the case may be.

(2) A Mayor or Councillor who has been elected as such otherwise than as a candidate set up by a political party may join any political party within a period of six months and on such joining he shall be deemed to belong to such political party as if he was set up as a candidate for election as Mayor or Councillor by that political party for purposes of this section.

(3) An intimation that a Mayor or Councillor has ex-facie ceased to hold office under this section shall be given by the Government.

23B. Disqualification on ground of defection not to apply in case of split.--Where the Mayor or a Councillor makes a claim that he and any other members of his party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such party,-

(a) he shall not be disqualified under subsection (1) of section 23A on the ground-

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such Municipal Corporation contrary to any direction issued by such party or by

any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purpose of sub-section (1) of section 23A and to be his original political party for the purpose of this section

23C. Disqualification on grounds of defection not to apply in case of merger.--(1) A Mayor or Councillor of a Municipal Corporation shall not be disqualified under sub-section (1) of section 23A where his political party merges with another political party and he claims that he and any other members of his original political party,-

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group and from the time of such merger, such other political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-section (1) of section 23A and to be his original political party for the purposes of this sub-section.

(2) For the purposes of sub-section (1) of section 23A, the merger of the original political party of a Mayor or Councillor shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the party concerned have agreed to such merger.

Explanation:--For the purposes of sections 23B, and 23C, Original political party in relation to a Mayor or Councillor means the political party to which he belongs for the purposes of section 23A

23D. Authority to decide Questions of disqualifications of Councillors and Mayor.--(1) Where an allegation is made by any voter or authority to the Commissioner in writing that any person who is elected as a councillor has not qualified or has become disqualified under section 21, section 22 or section 23 and the Commissioner has given intimation of such allegation to the councillor and such councillor disputes the correctness of the allegation so made or where any councillor himself entertains any doubt whether or not he has become disqualified under any of those sections,-

(a) such councillor or any other councillor may, within a period of two months from the date on which such intimation is given or doubt is entertained, as the case may be, and

(b) the Commissioner shall, either on the direction of the councillor with the approval of the Government if no such direction is given within a period of two months from the date of placing of the matter by the Commissioner before the council, apply for a decision to the Chief Judge, City Civil Court, Hyderabad.

(2) Where an intimation is given by the Government under subsection (3) of section 23A that a person has ceased to be the Mayor or a Councillor, such a person may, within a period of two months from the date on which such intimation is given, apply to the Chief Judge, City Civil Court, Hyderabad for a decision on the correctness of the fact so intimated.

(3) The said judge, after making such inquiry as he deems necessary, shall determine whether or not such person is disqualified and his decision shall be final.

(4) Pending such decision, the councillor shall be entitled to act as if he was not disqualified".

(3) After section 25, the following section shall be inserted, namely:-

25A Returning Officer for the Corporation.--Such officer as the Commissioner may, with the approval of the Government designate shall be the returning officer for election to office of Mayor of the Corporation.";

(4) in section 26, in sub-section (1) for the words "Returning Officer", the words "Returning Officer designated either under section 25 or section 25A" shall be substituted;

(5) in section 36, in sub-section (3) for the proviso the following proviso shall be substituted, namely:--

"Provided that in a division where any seat is reserved for Scheduled Castes, Scheduled Tribes or as the case may be, backward class, a candidate shall not be deemed to be qualified to be chosen to that seat, unless his nomination paper contains a declaration by him specifying the particular caste or as the case may be the tribe or tribal community of which he is a member and the area in relation to which that caste is a Scheduled Caste or is a backward class or the tribe or tribal community is a Scheduled Tribe.";

(6) in section 88, in clause (g), the words "Save as otherwise provided in section 90" shall be omitted;

(7) in section 90-A, in sub-section (1), for the words "within fifteen days from the date of the election of the Mayor", the words "at the first meeting of the Corporation after the ordinary elections" shall be substituted;

(8) in Schedule-A. in form 8, in item 6, after the words "Scheduled Tribe", the words "or Backward Classes" shall be inserted.

3. Amendment of Act 6 of 1965 :-

In the Andhra Pradesh Municipalities Act, 1965,

(1) in section 5, in sub-section (2) clause (b) shall be omitted;

(2) for section 8, the following section shall be substituted, namely:--

8. Reservation of seats.--In every municipality out of the total strength determined under section 5 the election authority shall, subject to such rules as may be prescribed, reserve,-

(a) six percent thereof to the members belonging to Scheduled Tribes;

(b) fifteen percent thereof to members belonging to Scheduled Castes;

(c) nine percent thereof to women;

(d) twenty percent thereof to members belonging to backward classes; and determine the ward in respect of which reservation is made as aforesaid:

Provided that where a local area for which a municipality is constituted comprises more than one Assembly Constituency, wholly or partly, reservation to all categories put together in respect of the wards wholly comprised in each such Assembly Constituency shall not exceed fifty per cent of such wards in each such Assembly Constituency:

Provided further that for the purpose of reserving the office of Councillor to the members belonging to the Backward Classes, the population figures of the Backward Classes, gathered in the socio-economic survey conducted by the Andhra Pradesh Backward Classes Co-operative Finance Corporation Limited, Hyderabad, shall be taken as the basis."

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

(1) "Disqualification on the ground of defection".--Subject to the provisions of sections 16-B and 16-C the Chairman or the Councillor of a Municipal Council belonging to any political party shall cease to be such Chairman or Councillor-

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such Municipal Council contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

(c) if he has been expelled from such political party in accordance with the procedure established by the constitution, rules or regulations of such political party.

Explanation:-For the purposes of this sub-section, the Chairman or Councillor shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such Chairman or Councillor and an ex-officio councillor shall be deemed to belong to the political party, if any, by which he is set up as a candidate for election as a Member of the Legislative Assembly or as the case may be of the House of the People.

(2) A Chairman or Councillor who has been elected as such otherwise than as a candidate set up by any political party may join any political party within a period of six months and on such joining he shall be deemed to belong to such political party as if he was set up as a candidate for election as Chairman or Councillor by the

political party for purposes of this section.

(3) An intimation that a Chairman or a Councillor has ex-facie ceased to hold office under this section shall be given by the Director of Municipal Administration.

16-B. Disqualification on ground of defection not to apply in case of split.--Where the Chairman or a Councillor makes a claim that he and any other members of his party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the Members of such party,-

(a) he shall not be disqualified under sub-section (1) of section 16-A on the grounds-

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such Municipal Council contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purpose of sub-section (1) of section 16-A and to be his original political party for the purposes of this section.

16-C Disqualification on ground of defection not to apply in case of merger.--(1) A Chairman or Councillor of a Municipal Council shall not be disqualified under sub-section (1) of section 16-A where his political party merges with another political party and he claims

that he and any other members of his original political party,-

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-section (1) of section 16A and to be his original political party for the purposes of this sub-section.

(2) For the purposes of sub-section (1) of section 16-A the merger of the original political party of a Chairman or Councillor shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the party concerned have agreed to such merger.

Explanation:--For the purposes of section 16-B and 16-C, Original Political Party in relation to a Chairman or Councillor means the political party to which he belongs for the purposes of section 16-A";

(4) in section 17, after sub-section (1) the following sub-section shall be inserted, namely:-

"(1A) Where an intimation is given by the Director of Municipal Administration under sub-section (3) of section 16-A that a person is ceased to be a Chairman, or Councillor, such a person may, within a period of two months from the date on which such intimation is given, apply to the District Judge for a decision on the correctness of the fact so intimated.";

(5) in section 23, in sub-section (1) for the second, third, fourth and fifth provisos the following shall be substituted, namely:-

"Provided further that six per cent of the total number of offices of Chairman of the Municipalities in the State shall be reserved by rotation for the members belonging to the Scheduled Tribes in the manner prescribed; so however that the Municipality in respect of which the office of the Chairman is so reserved shall, as far as practicable, be the Municipality where the proportion of the population of the Scheduled Tribes to the total population of the Municipality is the largest:

Provided also that fifteen per cent of the total number of offices of Chairman of the municipalities in the State shall be reserved by rotation for the members belonging to the Scheduled Castes in the manner prescribed; so however, that the municipality in respect of which the office of Chairman is so reserved shall, as far as practicable, be the municipality, where the proportion of the population of the Scheduled Castes to the total population of the municipality is the largest:

Provided also that nine per cent of total number of offices of Chairman of the municipalities in the State shall be reserved by rotation for women in the manner prescribed; so, however, that the municipality in respect of which the office of chairman is so reserved shall, as far as practicable, be the municipality where the proportion of the population of women to the total population of the municipality is the largest:

Provided also that twenty per cent of the total number of offices of Chairman of the municipalities in the State shall be reserved by rotation for the members belonging to backward classes in the manner prescribed:

Provided also that the reservation of the office of Chairman to all categories under this section in each District shall not exceed, as far as practicable, fifty per cent of the total number of such offices in the District-

Explanation:--For the removal of doubts it is hereby declared that for reserving the office of Chairman to members belonging to the

Backward Classes, the population figures of the Backward Classes gathered in the Socio-Economic survey conducted by the Andhra Pradesh Backward Classes Co-operative Finance Corporation Limited, Hyderabad, shall be taken as the basis".

4. Amendment of Act 19 of 1979 :-

In the Visakhapatnam Municipal Corporation Act, 1979, in section 5,-

(i) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) in addition to the Councillors referred to in sub-section (1), every member of the Legislative Assembly of the State and every Member of the House of the People elected from any constituency, which forms part, wholly or partly of the corporation, shall be an ex-officio councillor of the Corporation.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Out of the total strength of the councillors, the Government shall subject to such rules as may be prescribed, reserve-

(a) six per cent thereof to the members belonging to Scheduled Tribes;

(b) fifteen per cent thereof to the members belonging to Scheduled Castes;

(c) nine per cent thereof to women; and

(d) twenty per cent thereof to the members belonging to backward

classes and determine the division in respect of which reservation is made as aforesaid:

Provided that in case the Corporation comprises more than one Assembly Constituency wholly or partly, reservation to all categories put together in respect of the divisions wholly comprised in each such Assembly Constituency shall not exceed fifty percent of such divisions in each such Assembly Constituency.

Explanation:--For the removal of doubts it is hereby declared that,--

(i) the expression Scheduled Castes and Scheduled Tribes shall have the same meanings respectively assigned to them in clause (24) and clause (25) of article 366 of the Constitution of India;

(ii) the expression Backward Classes means any socially and educationally Backward Classes of citizens recognised by the Government for purposes of clause (4) of article 15 of the Constitution of India;

(iii) for the purpose of reserving the office of Councillor to the members belonging to the Backward Classes, the population figures of the Backward Classes gathered in the socio-economic survey conducted by the Andhra Pradesh Backward Classes Co-operative Finance Corporation Limited, Hyderabad, shall be taken as the basis".

5. Amendment of Act 23 of 1981 :-

In the Vijayawada Municipal Corporation Act, 1981, in section 5,--

(i) in sub-section (1), for the words "shall not exceed fifty at any time", the words "shall not exceed fifty-five at any time" shall be substituted;

(ii) for sub-section (2), the following sub-section shall be

substituted, namely:--

"(2) In addition to the Councillors referred to in sub-section (1), every member of the Legislative Assembly of the State and every Member of the House of the People, elected from any constituency, which forms part, wholly or partly, of the Corporation shall be an ex-officio councillor of the Corporation.";

(iii) for sub-section (3), the following sub-section shall be substituted, namely:--

"(3) Out of the total strength of the Councillors, the Government shall, subject to such rules as may be prescribed, reserve,--

(a) six percent thereof to the members belonging to Scheduled Tribes;

(b) fifteen percent thereof to the members belonging to Scheduled Castes;

(c) nine percent thereof to Women; and

(d) twenty percent thereof to the members belonging to backward classes; and determine the division in respect of which reservation is made as aforesaid:

Provided that in case the Corporation comprises more than one Assembly constituency wholly or partly, reservation to all categories put together in respect of the divisions wholly comprised in each such Assembly Constituency shall not exceed fifty per cent of such divisions in each such Assembly Constituency.

Explanation:--For the removal of doubts it is hereby declared that,--

(i) the expression Scheduled Castes and Scheduled Tribes shall have the same meaning respectively assigned to them in clause (24) and clause (25) of article 366 of the Constitution of India;

(ii) the expression Backward Classes means any socially and educationally Backward Classes of citizens recognised by the Government for purposes of clause (4) of article 15 of the Constitution of India;

(iii) for the purpose of reserving the office of the councillor to the members belonging to the Backward Classes, the population figures of the Backward Classes, gathered in the Socio-Economic Survey conducted by the Andhra Pradesh Backward Classes Co-operative Finance Corporation Limited, Hyderabad shall be taken as the basis."

6. Amendment of Act 33 of 1986 :-

In the Andhra Pradesh Municipal Laws (Amendment) Act, 1986, in section 4, for the expression "by section 3" the expression "by section 3, except subsection (2) thereof" shall be substituted.

7. Application of section 2 to the Visakhapatnam and Vijayawada Municipal Corporations :-

The amendments made to the Hyderabad Municipal Corporations Act, 1955 by section 2, except sub-section (1) thereof, shall extend to and shall apply also to the Visakhapatnam and Vijayawada Municipal Corporations, subject to this variation that in the new section 23D inserted by sub-section (2) of section 2, for the words "Chief Judge, City Civil Court, Hyderabad", the words "District Judge having jurisdiction over the area in which the office of the Corporation is situated" shall be substituted.