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**VISAKHAPATNAM MUNICIPAL CORPORATION ACT, 1979**

**19 of 1979**

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**VISAKHAPATNAM MUNICIPAL CORPORATION ACT, 1979**

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[ ]

An Act to provide for the establishment of a Municipal Corporation for the city of Visakhapatnam. Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirtieth Year of Republic of India as follows

**1. Short title and commencement :-**

- (1) This Act may be called the Visakhapatnam Municipal Corporation Act, 1979.
- (2) It shall be deemed to have come into force on the 16th April, 1979.

**2. Definitions :-**

- (1) In this Act, unless the context otherwise requires:-

- (a) "Corporation" means the Municipal Corporation of Visakhapatnam deemed to have been constituted under Section 3;
- (b) "Council" means the Municipal Council of Visakhapatnam;
- (c) "Municipality" means the Visakhapatnam Municipality;
- (d) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in Clauses (24) and (25) of Article 366 of the Constitution of India.

(2) All words and expressions used in this Act and not defined but defined in the Hyderabad Municipal Corporation Act, 1955, shall have the meanings respectively assigned to them in the Act.

### **3. Establishment of a Municipal Corporation for the city of Visakhapatnam :-**

(1) With effect on and from the commencement of this Act, the local area included in the Visakhapatnam Municipality shall constitute the city of Visakhapatnam for purposes of this Act; and from such commencement, a Municipal Corporation shall be deemed to have been established for the said city by the name of Visakhapatnam Municipal Corporation:

Provided that the Government may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the limits of the city constituted under this sub-section so as to include therein or to exclude therefrom, the areas specified in the notification;

Provided further that the power to issue a notification under this sub-section shall be subject to previous publication.

(2) The Corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued.

(3) The Visakhapatnam Municipality functioning immediately before the commencement of this Act shall be deemed to have been abolished from such commencement.

### **4. Municipal Authorities :-**

The municipal authorities charged with carrying out the provisions of this Act shall be:-

- (a) a Corporation;
- (b) a Standing Committee;
- (c) a Commissioner.

## **5. Constitution of Corporation :-**

(1) Subject to the provisions of sub-section (2), the Corporation shall consist of such number of Councillors as may be fixed by the government by notification in the Andhra Pradesh Gazette, from time to time, so however, that the total number of Councillors of the Corporation shall not exceed fifty at any time.

(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.

(3) Out of the total strength of the Councillors, the Government which forms part, wholly or partly of the Corporation 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 percent 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 per cent of such divisions in each such Assembly Constituency.

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

(i) the expressions 'Scheduled Castes' and 'Scheduled Tribes' shall have the same meanings respectively assigned to them in Clauses (24) and (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.

## **6. Andhra Pradesh Municipalities Act, 1965 not to apply to the city :-**

(1) Subject to the provisions of sub-sections (2) and (3), the Andhra Pradesh Municipalities Act, 1965, shall, with effect on and from the commencement of this Act, cease to apply to the local area comprised within the city of Visakhapatnam.

(2) Such ceasor shall not affect:-

(a) the previous operation of the Andhra Pradesh Municipalities Act, 1965 in respect of the local area comprised within the city of Visakhapatnam

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Andhra Pradesh Municipalities Act, 1965, or

(c) any investigation, legal proceedings or remedy in respect of such penalty, forfeiture or punishment, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Notwithstanding anything contained in sub-section (1), all notifications, rules, bye-laws, regulations, orders, directions and powers, made, issued or conferred under the Andhra Pradesh Municipalities Act, 1965, and in force at the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act continue to be in force in the local area comprised within the city of Visakhapatnam, until they are replaced by the notifications, rules, bye-laws, regulations, orders, directions and powers to be made or issued or conferred under this Act.

## **7. Application of the provisions of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956) to the Corporation**

:-

(1) Save as otherwise expressly provided herein, all the provisions of the Hyderabad Municipal Corporations Act, 1955 (hereinafter in this section called "the said Act") including the provisions relating to the levy and collection of any tax or fee \*[xxxx] are hereby extended to and shall apply mutatis mutandis to the Corporation and the said Act shall, in relation to the Corporation be read and construed as if the provisions of the Act had formed part of the said Act.

(2) For the purpose of facilitating the application of the provisions of the Hyderabad Municipal Corporation Act, 1955 to the Corporation, the Government may, by notification, make such adaptations and modifications of the said Act and the rules and bye-laws made thereunder whether by way of repealing, amending or suspending any provision thereof, as may be necessary or expedient and thereupon the said Act and the rules made thereunder, shall apply to the Corporation subject to the adaptations and modifications so made.

(3) Notwithstanding that no provision or insufficient provision has been made under sub-section (2) for the adaptation of the provisions of the said Act, or the rules made thereunder any Court, Tribunal or authority required or empowered to enforce these provisions may, for the purpose of facilitating their application to the Corporation, construe these provisions in such manner, without affecting the substance, as may necessary or proper regard to the matter before the Court, Tribunal or authority.

**7A. Levy and collection of pipeline service charges :-**

The Government may, by notification, direct the Corporation to levy and collect pipeline service charges from every owner or occupier of a premises to which water connection has been given at such rate as may be prescribed to the different categories as may be specified in this regard to defray the capital cost of pipeline service works undertaken by the Corporation and the operation and maintenance of the pipeline system from time to time:

Provided that no such charges shall be levied on the owner or occupier of any premises situated in the areas which are not served by the pipeline system of the Corporation.

**8. Transitional provisions :-**

(1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by or for the Council, with all rights of whatever kind used, enjoyed or possessed by the said Council as well as all liabilities legally subsisting against the said Council, shall, on and from the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, pass to the Corporation.

(2) All arrears of taxes or other payment by way of composition for a tax or due for expenses or compensation, or otherwise due to the said Council at such commencement may be recovered as if they had accrued to the Corporation and may be recovered as if the said arrears or payments had become due, under the provisions of this Act.

(3) Save as otherwise provided in sub-section (3-A) all taxes, fees and duties, which immediately before the commencement of this Act, were being levied by the said Council, shall be deemed to have been levied by the Corporation under the provisions of this Act and shall continue to be, in force accordingly until such taxes, fees and duties are revised, cancelled or superseded by anything done or any action taken under this Act.

(3A) In the case of land and buildings vested in the trustees of the Visakhapatnam Port Trust, it shall be lawful for the Corporation to levy by resolution in any year, a property tax at the rate of four per centum of the annual gross earnings of the said Trust, in the year immediately preceding such levy.

(4) All proceedings taken by or against the Council or authority or any person under the Andhra Pradesh Municipalities Act, 1965, may be continued by or against the Corporation, authority, or person as if the said proceeding had been started under the provisions of this Act.

(5) Any action taken under the Andhra Pradesh Municipalities Act, 1965, by any authority before such commencement shall be deemed to have been taken by the authority competent to take such action under this Act as if this Act had then been in force.

(6) Notwithstanding anything in this Act, every officer or employee who, immediately before such commencement was in the service of the municipality shall be deemed to be an officer or employee of the Corporation:

Provided that -

(i) the terms and conditions applicable to such officers and employees consequent on their absorption in the service of the Corporation shall not be less favourable than those applicable to such employees immediately before such commencement, as respects pay and allowances, leave, pension, gratuity, provident fund and age of superannuation; and

(ii) the service rendered by any such officer or other employee under the municipality upto such commencement shall be deemed to be service under the Corporation and he shall be entitled to count service for the purpose of increments, leave, pension or provident fund and gratuity:

Provided further than any officer or other employee serving in the municipality shall be given an option to be exercised within such time and in such manner as may be prescribed either to be absorbed in the service of the Corporation or to be retained in the service constituted, under Section 72 of the Andhra Pradesh Municipalities Act, 1965, or to be retrenched from the service of the Municipality on such retrenchment benefits as may be prescribed.

(7) Any division of the Visakhapatnam Municipality into wards made under the Andhra Pradesh Municipalities Act, 1965 and in force at the commencement of this Act shall, be deemed to be a division of the Corporation.

(8) The electoral roll prepared for the Visakhapatnam Municipality under the Andhra Pradesh Municipalities Act, 1965, and in force at the commencement of this Act, shall be deemed to be the electoral roll for the Corporation until a new electoral roll is prepared and published; and the part of the said electoral roll relating to each ward of the municipality shall be deemed to be the list of the electoral roll for the corresponding division of the Corporation.

#### **9. Appointment of Special Officer :-**

(1) There shall be appointed by the State Government, by a notification in the Andhra Pradesh Gazette, a Special Officer to exercise the powers, perform the duties and discharge the functions of:

(a) the Corporation;

(b) the Standing Committee; and

(c) the Commissioner.

(1A) The Government shall cause elections to be held to the Corporation so that the newly elected Councillors may come into office on such date as may be specified by the Government in this behalf by a notification in the Andhra Pradesh Gazette:

Provided that the Government may, from time to time advance or postpone the date specified under this sub-section and specify instead another date;

Provided further that the term of office of the Special Officer shall expire on the date of election of the Mayor.

(2) The Special Officer shall exercise the powers, perform the duties and discharge the functions of the Corporation until the elected Councillors come into office, of the Standing Committee until a Standing Committee is appointed by the Corporation and of the Commissioner, until a Commissioner is appointed by State Government as the case may be, and any such officer may, if the State Government so direct receive remuneration for his services from the municipal fund.

(3) Until a new Special Officer is appointed by the Government under sub-section (1), the Special Officer of the municipality functioning immediately before the commencement of this Act shall be deemed to be the Special Officer of the Corporation and he shall exercise the same powers and perform the same duties and discharge the same functions as those exercised, performed and discharged by the Special Officer appointed under sub-section (1).

#### **10. Power to remove difficulties :-**

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification in the Andhra Pradesh Gazette, do anything not inconsistent with such provisions, which appears to them to be expedient or necessary for the purpose of removing the difficulty.

(2) Every notification issued under this section shall be laid before both Houses of the State Legislature as soon as may be after it is issued and if both Houses agree in making any modification in the notification or in the annulment of notification, the notification, shall thereafter have effect only in such modified form or shall

stand annulled, 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 notification.

**11. Power to make rules :-**

(1) The State Government may, by notification in the Andhra Pradesh Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette, have effect only in such modified form or shall stand annulled, 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.

**12. Repeal of Ordinance 8 of 1979 :-**

The Visakhapatnam Municipal Corporation Ordinance, 1979, is hereby repealed.