

## **Assam Municipal (Amendment) Act, 1994**

**19 of 1994**

**[06 May 1994]**

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## **Assam Municipal (Amendment) Act, 1994**

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### PREAMBLE

AN

Act

farther to amend the Assam Municipal Act. 1956.

Whereas it is expedient further to amend the Assam Municipal Act, 1956 (Assam Act XV of 1957) hereinafter referred to as the principal Act in conformity with the Constitution (Seventy-fourth Amendment) Act, 1992, in the manner hereinafter appearing;

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:-

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Assam Municipal (Amendment) Act, 1994

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

### **2. Amendment of section 3 :-**

In the principal Act, in section 3, after Clause (43), the following Clauses shall be inserted, namely:--

(44) "Committee" means a Committee constituted under Article 243 S of the Constitution.

(45) "Nagar Panchayat" or "Town Committee" means a Local Self Governing Body constituted for a transitional area as defined in Article 243 Q (2) of the Constitution.

(46) "Director" mean the Director of Municipal Administration appointed by the Government of Assam for performing the functions and exercising powers provided in this Act;

(47) "State Finance Commission" means the Finance Commission constituted under Article 243--I of the Constitution of India.

(48) "State Election Commission" means the Election Commission constituted by the Government of Assam and as referred to in Article 243-ZA of the Constitution of India.

### **3. Amendment of section 11 :-**

In the principal Act, in section 11,--

(1) Sub-section (2) shall be substituted as follows:--

"(2) The State Government may appoint persons having special knowledge or experience in Municipal Administration as members who shall have the right to attend and speak at all meetings of the Beard but shall have no right to vote. Such persons shall not be

deemed to be Commissioners for the purposes of this Act".--

(2) Sub-section (3) shall be substituted as follows, namely:--

"(3) (a) The Member of the House of the People and the Legislative Assembly of the State of Assam representing the Constituencies which comprise fully or partly the Municipal Area, shall be the Ex-Officio Members of the Board.

(b) The Members of the Council of States registered as Elector within the Municipal area shall be the Ex-Officio Members of the Board.

(c) Chairman of the Ward Committee constituted under section 48.

(d) Reservation of seats in every Municipality for the Scheduled Castes and the Scheduled Tribes and the number of seats so reserved shall bear as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or the Scheduled Tribes in the Municipal area bears to the total population of that area as per the latest census figures and such seats may be allotted by rotation to different constituencies in a Municipality;

Provided that not less than one third of the total number of seats reserved under this sub-section shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes:

Provided further that not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in any Municipality shall be reserved for women and such seats may be allotted by rotation to different Constituencies in a Municipality:

Provided further that reservation of seats for the Scheduled Castes and Scheduled Tribes in the Municipalities and Town Committee shall continue for so long as special representation for the Scheduled Castes and the Scheduled Tribes continue to be provided for in the Constitution of India".--

#### **4. Amendment of section 15 :-**

In the principal Act, in section 15,--

(1) after clause (viii), the following new clause (ix) shall be inserted, namely:--

"(ix) if he is so disqualified by or under any law for the time being in force for the purpose of elections to the State Legislature.

or

If he is so disqualified by or under any law made by the State Legislature for this purpose

(2) The existing provision shall be renumbered as sub-section (1) and after so renumbered the following sub-section (2) shall be inserted namely:--

"(2) If any question arises as to whether a Commissioner has become subject to any disqualifications mentioned in clause (i) to (ix), of sub-section (1) the question shall be referred for determination to the District Judge of the District in which the Municipality is located."

#### **5. Amendment of section 24 :-**

In the principal Act, section 24 shall be deleted.

#### **6. Amendment of section 25 :-**

In the principal Act, in section 25,

(1) sub-section (1) shall be substituted as follows:--

"(1) Every person who is elected to be Commissioner of the Board or who become Commissioner of the Board by virtue of office, shall before taking his seat at a meeting of the Board first attended, make an oath or affirmation of his allegiance to the Union of India in the following form, namely:--

"I.A.B., having been elected/Ex-officio Commissioner of this Board do swear in the name of God or solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by Law established, and will faithfully discharge the duty upon which I am about to enter."

(2) In sub-section (2), the words, "or appointed" occurring between the words "been elected" and "a commissioner" shall be deleted.

#### **7. Amendment of section 26 :-**

In the principal Act, in section 26, the provisions shall be substituted as follows:--

"26(1) Every Municipality unless sooner dissolved under section 298, shall continue for five years from the date of first meeting of newly constituted Board after a general election at which quorum is present".--

(2) An election to constitute a Municipality shall be completed--

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Municipality for such period.

(3) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (1) had it not been so dissolved."

(4) If the term of the office of the Commissioner expires and for any reason the election cannot be held, the Board shall be deemed to have been dissolved under section 298 with effect from the date of expiry of the term and thereafter the provision of section 299 shall apply."

**8. Amendment of section 27 :-**

In the principal Act, in section 27, sub-section (1) shall be deleted.

**9. Amendment of section 28 :-**

In the principal Act in section 28, sub-section (1) shall be deleted.

**10. Amendment of section 32 :-**

In the principal Act, in section 32, the existing provision shall be substituted as follows:--

"32. If the electorate in any Municipality fails within the prescribed time to elect the number of Commissioners to constitute the Board in accordance with the provision of section 11, the election to elect the Commissioner shall be held again on any date and time to be decided by the State Election Commission."

**11. Amendment of section 33 :-**

In the principal Act, in section 33, sub-section (1) shall be substituted as follows:--

"(1) The State Government shall, by notification determine from time to time as to which of the Municipalities and Town Committees shall have Scheduled Castes, Scheduled Tribes or Women as Chairman. The percentage of Municipalities and Town Committees with the Scheduled Castes and the Scheduled Tribes as Chairman will be broadly in conformity with the percentage of population of

the Scheduled Castes and Scheduled Tribes Communities in the State as per the latest census figure and in respect of women, irrespective of the Scheduled Castes and Scheduled Tribes the number of women Chairman will be approximately 30 percent of the Municipality, and Town Committees. The Municipality and Town Committees having women as Chairman shall be so rotated that this percentage is preserved:

"Provided that the reservation of Office of Chairman in the Municipalities and Town Committees for the Scheduled Castes and the Scheduled Tribes (except women) shall continue for so long as the special representation for the Scheduled Castes and Scheduled Tribes continue to be provided for in the Constitution of India."

#### **12. Amendment of section 34 :-**

In the principal Act, section 34 shall be substituted as follows:--

"34. Except as otherwise provided in this Act every Chairman and every Vice-Chairman shall hold office from the date of his election to the date of the election of the Chairman of the Board after the next general election including the former but excluding the later of these dates and shall be eligible for re-election"

#### **13. Amendment of section 40 :-**

In the principal Act, in proviso to section 40, the words "by appointment or" occurring between the words "filled up" and "by a fresh shall be deleted.

#### **14. Amendment of section 41 :-**

In the principal Act, in section 41 sub-section (1) shall be substituted by the following:--

"(1) If any Chairman or Vice-Chairman of a Board be unable to complete his full term of office or avails himself of leave granted under section 40, the vacancy caused by his resignation, removal, death or absence on leave shall be filled up by election and the person be elected shall fill such vacancy for the unexpired portion of the term for which such Chairman or as the case may be, Vice-Chairman would otherwise have continued in office:

Provided that no person appointed under sub-section (2) of section 11 shall be elected as the Chairman or Vice-Chairman."

#### **15. Amendment of section 43 :-**

In the principal Act, in section 43 A,--

(1) In the proviso, the words, "the Commissioner" occurring between the words "Town Committee" and "may on" shall be substituted by the words "The Director of Municipal Administration".

(2) After the first proviso, the following proviso shall be inserted:

"Provided further that the annual budget of the Board passed in the meeting of the Board shall be approved by the Director of Municipal Administration within 31st March of the preceding year".

#### **16. Insertion of new section 48 A :-**

In the principal Act, after section 48, the following new Section as "48 A" shall be inserted, namely:--

"48 A. (1) There shall be constituted Ward Committee consisting of one or more wards but not more than four within the territorial area of a Municipality having a population of 3 (three) lakhs or more.

(2) The territorial area of a Ward Committee in the Municipality shall be contiguous to each other. The area of such Ward Committee shall be notified by the State Government within three months from the date of receipt of proposals in this regard from the concerned Municipal Board.

(3) The total number of members of each such Ward Committee shall not be more than eight consisting of four Ward Commissioners and four other representing interest groups, leading citizens of the concerned Ward who may be nominated by the Deputy Commissioner of District in which the Municipality is located.

(4) The Chairman of the Ward Committee shall be elected from amongst the elected members of the Ward Committee.

(5) The Ward Committee will mainly look after the needs of the residents in more intimate manner making it unnecessary for the residents to go to the Municipality.

(6) The decision of the Ward Committee with regard to election of schemes for development in the area shall be binding on the part of the Municipality while such schemes are taken up for execution by the Board subject to Budget provision.

(7) The tenure of Ward Committee shall be co-terminus with the tenure of the Municipal Board and on dissolution of the Municipal Board the Ward Committee shall automatically stand dissolved".

#### **17. Amendment of section 58 :-**

In the principal Act, in section 58, in sub-section (2), after clause

(c) a new clause shall be inserted as clause (d), namely:--

"(d) All such sums as the State Government may sanction as grants-in-aid from time to time subject to such terms and conditions as may be specified."

**18. Amendment of section 60 :-**

In the principal Act, in section 60, (1) in sub-section (1), clause (a) and (b) shall be substituted as follows:--

"(a) Firstly, such sum as may be required to meet the charges of its own establishment including in the case of Government Officers whose services are wholly or partly employed by the Board, the payment of such contribution to the pension, gratuity, provident fund and leave allowances may be required by the conditions of their services under the Government to be made by them or on their behalf;

(b) Secondly, such sum as may be required for the payment of, and the payment of interest on, or any loan incurred under the provisions of any law;"

(2) In sub-section (2), for the words "Commissioner of Divisions" occurring between the words "sanction of the" and the words "outside the Municipality" the words "Director of Municipal Administration" shall be substituted.

**19. Amendment of section 61 :-**

In the principal Act, in section 61, for the words "five hundred rupees", occurring between the words "not above" and "shall be signed" by the words "five thousand rupees" shall be substituted.

**20. Amendment of section 148 :-**

In the principal Act, in section 148,--

(1) subsection (1) and (2) shall be substituted as follows.--

"(1) The Board, if decided in a meeting, may use their own land or land with building or land purchased, taken on lease or otherwise acquired with or without building for the purpose of establishment of a Municipal Market, Bus Stand, Truck Stand, Taxi Stand, Auto Stand and Parking yard for improving any existing Municipal Market, Bus Stand, Truck Stand, Taxi Stand, Auto-Rickshaw or Rickshaw Stand and Parking Yard.

(2) The Board, if decided at a meeting may levy rent, tolls and fees at such rates as it may think proper for the right to expose goods



for sale in a Municipal market and for the use of Shops, Stalls and Standings therein and also in respect of parking lots and may also regulate such rules in respect of private markets or places used or declared by the Board as a market place, parking lot by public notice in the locality."

(2) In sub-section (3) the words "and parking lots" shall be inserted in between the words "Municipal market" and "at the rates."

(3) In sub-section (5), for the word "fifty" occurring between the words "extent to" and "rupees", the words, "two thousands shall be substituted.

(4) In sub-section (7), for the word "fifty" occurring between the words "not exceeding" and "rupees" the words "two hundred" shall be substituted.

#### **21. Amendment of section 293 :-**

In the principal Act, in section 293, the words "The Director of Municipal Administration" shall be inserted in between the words "The Deputy Commissioner" and "The Sub-Divisional officer".

#### **22. Amendment of section 296 :-**

In the principal Act, in Section 296, the words "The Director of Municipal Administration" shall be inserted in between the words, "The Deputy Commissioner" and "The Additional Deputy Commissioner".

#### **23. Amendment of section 296A :-**

In the principal Act, in Section 296 A, in sub-section (1), between the words "the Deputy Commissioner" and "shall see that", the words "The Director of Municipal Administration" shall be inserted.

#### **24. Amendment of Section 298 :-**

In the principal Act, in section 298, the existing provision shall be substituted as follows:

"298, Power to dissolve the Board in case of incompetence, defaults or abuse of power--

If, in the opinion of the State Government, any Board is not competent to perform or persistently makes default in the performance of the duties imposed on the Board by or under this Act or otherwise by law or exceeds or abuses its power or in the

event of failure on the part of the Board to provide such services as the State Government may, by notification in the Official Gazette, declare to be the essential Services, the State Government after giving the Municipal Board a reasonable opportunity of being heard, may by notification, stating the reasons for so doing, declare such Board to be incompetent or in default or to have exceeded or abused its power as the case may be, and dissolve the Board and hold election within a period of six months from the date of dissolution."

## **25. Substitution of section 299 :-**

In the principal Act, section 299 shall be substituted as follows, namely:--

"299. Consequence of dissolution

When an order of dissolution has been passed under section 298, the following consequences shall ensue:--

(a) all Commissioners of the Board shall, as from the date of the order of dissolution, vacate their offices as such Commissioners;

(b) all powers and duties which under this Act may be exercised and performed by the Board whether at a meeting or otherwise shall, during the period of dissolution be exercised and performed by such person as the State Government may direct till Commissioner and Chairman are elected:

Provided that the officer so appointed after dissolution of the Board shall obtain prior approval of the Director of Municipal Administration on the matter on which but for the dissolution, the decision of the Board is necessary.

(c) all properties vested in such Board shall during the period of dissolution vest in the State Government."

## **26. Amendment of section 301 :-**

In the principal Act, in section 301, the clause (vii) (1) of the sub-section (2) shall be deleted.

## **27. Amendment of section 335 :-**

In the principal Act, section 335 shall be substituted as follows:--

"335, (1) There shall be established for each of the area notified under section 334(1) (defined as transitional area in article 243 of the Constitution of India) a Committee for the purposes of clauses (a) and (b) of sub-section (1) of section 336 consisting of such

number of members as may fix by the State Government from time to time.

(2) A Committee established under this section shall be called a Town Committee."

**28. Amendment of section 336 :-**

In the principal Act, in Section 336, in clause (d) of sub-section (1) the figures "11(2), 11(3), 12 and 13" shall be inserted in appropriate places.

**29. Deletion of Schedule-I :-**

In the principal Act, the Schedule I shall be deleted.

**30. Repeal and saving :-**

(1) The Assent Municipal (Amendment) Ordinance 1994 (Assam Ordinance No VII of 1994) is hereby repealed.

(2) Notwithstanding such repeal, any order passed, notification issued anything done or any action taken under the Ordinance so repealed shall be deemed to have been passed, issued, done or taken under the corresponding provisions of the principal Act as amended by this Act.