

**Mizoram Municipalities (Amendment) Act, 2009**

**14 of 2009**

**[09 November 2009]**

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AN ACT to amend the Mizoram Municipalities Act, 2007 (Act No. 6

of 2007) (hereinafter referred to as the Principal Act). It is enacted by Legislative Assembly of Mizoram in the Sixtieth year of the Republic of India as follows:-

### **1. Short Title, Extent And Commencement :-**

- (1) These Act shall be called the Mizoram Municipalities (Amendment) Act, 2009.
- (2) It shall have like extent as the Principal Act.
- (3) It shall come into force from the date of publication in the Official Gazette.

### **2. Amendment Of Section 2 :-**

- (1) In section 2 of the Principal Act, after sub-section (18), a new sub-section (18-A) may be added, namely.-  
"(18-A)"Director of Local Bodies" means an officer of the State Government not below the rank of Secretary designated as such by the State Government by Notification."
- (2) In section 2 of the Principal Act, after sub-section (48) a new sub-section (48-A) shall be added, namely.-  
"(48-A)"Population" means the population as ascertained at the last preceding census of which the relevant figures have been published."

### **3. Amendment Of Section 3 :-**

- (1) In section 3 of the Principal Act, the words "a population of not less than fifty thousand" occurring in first and second line of clause (a) of sub-section (2) shall be substituted by the words "a population of not less than ten thousand".
- (2) In section 3 of the Principal Act, after sub-section (2), a new sub-section (2-A) shall be added, namely.-  
"(2-A) "Provided that a Municipality under the section may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township."

### **4. Amendment Of Section 5 :-**

In section 5 of the Principal Act, for the words "the State Government" the words "the Governor" shall be substituted.

## **5. Amendment Of Section 7 :-**

In section 7 of the Principal Act, in the proviso, for the words "District Headquarters" and "Fifty thousand," the words "Town" and "ten thousand" respectively shall be substituted.

## **6. Amendment Of Section 12 :-**

In clause (a) of sub-section (1) of section 12 of the Principal Act, the word "or" shall be substituted by the word "as".

## **7. Amendment Of Section 12 :-**

Clause (b) of sub-section (1) of section 12 of the Principal Act shall be substituted as follows, namely.-

"The member of the House of the People and the members of the Legislative Assembly of the State representing the constituencies comprising wholly or partly of the Municipal area.

Provided that the members referred to in sub-section (1)

(b) of section 12 above shall not have the right to vote in the meeting of the Municipality".

## **8. Amendment Of Section 13 :-**

Section 13 of the Principal Act shall be substituted as follows, namely.-

"Constitution of the Municipalities.

(1) The Councillors elected in a general election or a bye-election of a Municipality in accordance with the provisions of any law relating to municipal elections in the State, shall constitute the Municipality.

(2) The Municipality shall, unless dissolved earlier, continue for a period of five years from the date of its first meeting after the general election and no longer.

(3) An election to constitute a Municipality shall be completed, as the case may be.-

(a) before the expiry of the period specified in the subsection (2), or

(b) before the expiry of a period 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 an election for constitution of the Municipality for such period.

(4) The Municipality constituted upon its dissolution before the expiration of the period specified in sub-section (2) shall continue only for the remainder of the period for which the dissolved Municipality would have continued under subsection (2) had it not been so dissolved.

(5) In a Municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6, as may be necessary for holding elections.

(6) If, for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of five years specified in sub-section (2), the Municipality shall stand dissolved on the expiration of the said period and all the powers and functions vested in the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such person or persons to be designated as Administrator or Board of Administrators as the State Government may, by notification, appoint.

(7) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality 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 and such seats may be allotted by rotation to different constituencies in a Municipality.

(8) Not less than one-third of the total number of seats reserved under clause (1) of Article 243T of the Constitution shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(9) 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 every Municipality shall reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(10) The offices of Chairmen in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(11) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairmen (other than the reservation for

women) under clause (4) of Article 243T of the Constitution shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

(12) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairmen in the Municipalities in favour of backward class of citizens."

#### **9. Amendment Of Section 14 :-**

The words "the Vice Chairman and" appearing in sub-section (2) of section 14 of the Principal Act shall stand deleted.

#### **10. Amendment Of Section 16 :-**

Sub-section (1) of section 16 of the Principal Act shall be substituted by the following, namely.-"Election of Chairman and Vice Chairman. (1) The Chairman and the Vice Chairman shall be elected by the elected Councillors from amongst themselves in accordance with such procedure as may be prescribed".

#### **11. Amendment Of Section 16 :-**

Sub-section (2) of section 16 of the Principal Act shall be substituted by the following, as follows.-

"In the event of the Board of Councillors failing to elect a Chairman or a Vice Chairman in the manner prescribed, the State Government shall appoint the Executive Officer of the Municipality to act as the Chairman or the Vice Chairman, as the case may be".

#### **12. Amendment Of Section 18 :-**

In section 18 of the Principal Act, after sub-section (3), a new sub-section (4) shall be added as follows, namely:-

"(4)"The procedure adopted for the removal of Chairman as provided under this Act shall be adopted in the case of Vice-Chairman".

#### **13. Amendment Of Section 21 :-**

Section 21 of the Principal Act shall be substituted as follows, namely.-

"Term of office of member of Executive Council: A member of the Executive Council shall hold office until -

- (a) he ceases to be Councillor, or
- (b) he resigns his office by writing under his hand addressed to the Chairman in which case the resignation shall take effect from the date of his acceptance, or
- (c) he is removed from office by a written order of the Chairman, or
- (d) the Chairman ceases to hold office, or
- (e) in the case of the death of the Chairman, a newly elected Chairman enters upon his office.

**14. Amendment Of Section 23 :-**

(1) Sub-section (1) of section 23 of the Principal Act shall be substituted by the following, namely.-

"(1) (i) Every Municipality shall, at its first meeting after the election of Councillors thereto or as soon as may be thereafter form a Ward Committee for every ward.

(ii) Each ward Committee shall consist of.-

(a) The elected Councillor from the concerned Ward who shall be the chairman of the Ward Committee

(b) Two members each representing Local Councils in each Ward."

(2) Sub-section (2) of section 23 of the Principal Act shall stand deleted.

(3) Sub-section (3) of section 23 of the Principal Act shall be substituted as follows, namely.-

"The Municipality shall form a Local Council in every, locality within the ward for matter of local and internal nature according to the Mizo traditions, customs and practices and such other matters necessary for effective functioning of the local councils."

(4) Sub-section (4) of section 23 of the Principal Act shall stand deleted.

**15. Amendment Of Section 31 :-**

Section 31 of the Principal Act shall be substituted by the following, namely.-

"Appeal. Any person aggrieved by any order of the Municipal Electoral Registration Officer with regard to any entry in, or omission from, the electoral roll may, within fifteen days from the date of final publication of the electoral roll appeal to the District Municipal Election Officer. The decision of such appellate authority shall be final and binding."

**16. Amendment Of Section 35 :-**

Sub-section (1)(a), (b), (c), (d), (e), (f), (g) and (h) and proviso (i), (ii), (iii) and (iv) of section 35 of the Principal Act shall stand deleted.

**17. Amendment Of Section 35 :-**

In sub-section (1) of section 35 of the Principal Act, after clause (h), a new clause (i) shall be added, as follows namely.-

" (i): "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 disqualified under any law made by the State Legislature for this purpose."

**18. Amendment Of Section 37 :-**

Clause (i) of section 37 of the Principal Act shall be substituted by the following, namely.-

"(i) When a poll is taken at any election of a Councillor, the voting at such election shall be by ballot or by Electronic Voting Machine to be conducted in the manner prescribed, and."

**19. Amendment Of Section 51 :-**

Sub-section (2) of the section 51 of the Principal Act shall be substituted as follows, namely:-

"(2) The first meeting of a Municipality after the general election of Councillors to the Municipality shall be convened within thirty days from the date of publication of the names of elected Councillors in the Official Gazette under sub-section (3) of section 26."

After sub-section 51(2), a new sub-section (3) shall be inserted as follows, namely.-

"(3) Seven days" notice shall be given for the meeting".

**20. Amendment Of Section 57 :-**

Section 57 of the Principal Act shall be substituted as follows, namely.-

"Section 57.

(1) Every Municipality shall -

(a) Provide on its own or arrange to provide through any agency the following core municipal services.-

- (i) water supply for domestic, industrial, and commercial purposes,
- (ii) drainage and sewerage.

- (iii) solid waste management,
  - (iv) preparation of plan for economics development and social justice,
  - (v) communication systems including construction and maintenance of roads, footpaths, pedestrian pathway, transportation terminals, both for passengers and goods, bridges, over-bridges, subway, ferries and inland water transport system,
  - (vi) transport system accessories including traffic engineering schemes, street furniture, street lighting, parking areas and bus stops,
  - (vii) community health and protection of environment including planting and caring of trees on road sides and elsewhere,
  - (viii) markets and slaughter house.
  - (ix) promotion of educational, sport and cultural activities, and
  - (x) aesthetic environment, and
- (b) perform such other statutory or regulatory functions as may be provided by or under this Act or under any other law for the time being in force.
- (2) The Municipality may, having regard to its managerial, technical, financial and organizational capacity, and the actual condition obtaining in the municipal area, decide not to take up, or postpone the performance of, any of the function as aforesaid.
- (3) The State Government may direct a Municipality to perform any of the functions as aforesaid, if such function is not taken up, or is postponed, by the Municipality.
- (4) The Municipality may plan, build, operate, maintain or manage the infrastructure required for the discharge of any of the functions, as aforesaid, either by itself or by agency under any concession agreement referred to in 58 -A."

## **21. Amendment Of Section 58 :-**

Section 58 of the Principal Act shall be substituted as follows, namely.-

"A Municipality may, having regard to the satisfactory performance of its core functions which shall constitute the first charge on the Municipal Fund, and subject to its managerial, technical and financial capabilities, undertake or perform, or promote the performance of, any of the following functions.-(1) in the sphere of town planning, urban development and development of commercial infrastructure, -

- (a) Planned Development of new areas for human settlement.



- (b) Measures for beautification of the municipal area by setting up parks and fountains, providing recreational area, improving river banks, and landscaping.
  - (c) Collection of statistics and data, significant to the community, and
  - (d) Integration of the development plans and schemes of the municipal area with the district or regional development plan, if any.
- (2) in the sphere of protection of environment,-
- (a) reclamation of waste lands, promotion of social forestry and maintenance of open spaces.
  - ( b ) Establishment and maintenance of nurseries for plants, vegetables and trees and promotion of greenery through mass participation.
  - (c) organization of flower-show and promotion of flower-growing as a civic culture, and.
  - (d) promotion of measures for abatement of all forms of pollution;
- (3) in the sphere of public health and sanitation.-
- (a) Mass inoculation campaigns for eradication of infectious diseases.
  - (b) Construction and maintenance of municipal markets and slaughterhouse and regulation of all markets and slaughterhouses.
  - (c) Reclamation of unhealthy localities, removal of noxious vegetation and abatement of all nuisances.
  - ( d ) Maintenance of all public tanks and regulating the re-excavation, repair and up-keep of all private tanks, wells and other sources of water- supply on such terms and conditions as the Municipality may deem proper,
  - (e) Construction and maintenance of cattle pounds,
  - (f) Provision for unfiltered water supply for non-domestic uses,
  - (g) Advancement of civic consciousness of public health and general welfare by organizing discourses, seminars and conferences, and
  - (h) Measures for eradication of addiction of all kinds including addiction to drug and liquor:
- (4) in the sphere of education and culture, -
- (a) promotion of civic education, adult education, social education and non-formal education,
  - (b) promotion of culture activities including music, physical education, sport and theaters and infrastructure therefore,
  - (c) advancement of science and technology in urban life,
  - (d) publication of municipal journals, periodicals and souvenirs, purchase of book, and subscription to journal, magazines and

newspapers,

(e) installation of statues, portraits and pictures in appropriate manner,

(f) organization, establishment and maintenance of art galleries and botanical or zoological collections, and

(g) maintenance of monuments and places of historical, artistic and other importance;

58 -A. Notwithstanding anything contained in this Act but subject to the provisions of any State law relating to planning, development operation, maintenance and management of Municipal infrastructure and services, a Municipality may, in the discharge of its functions specified in section 47, section 48, and section 49, -

(a) promote the undertaking of any project for supply of Urban environmental infrastructure or services by participation of a company, firm, society, trust or any body corporate or any institution, or government agency or any agency under any other law for the time being in force, in financing, construction, maintenance and operation of such project of a Municipality irrespective of its cost,

(b) consider and approve the undertaking of any project relating to urban environmental infrastructure or services by a company, or firm, or society, or body corporate in terms of a private sector participation agreement or jointly with any such agency, and

(c) consider and approve the undertaking of any project relating to urban environmental infrastructure or service by any institution, or government agency or any agency under any other law for the time being in force, or jointly with any such agency.

58 -B: (1) Private sector participation agreements shall be such as may be prescribed

(2) Without prejudice to the generality of the foregoing provisions of this section, such agreements include the following.

(a) Build-Own-Operate-Transfer Agreement,

(b) Build-Own-Operate- Maintain Agreement.

(c) Build and Transfer Agreement,

(d) Build- Lease-Transfer Agreement,

(e) Build-Transfer-Operate Agreement.

(f) Lease and Management Agreement,

(g) Management Agreement,

(h) Rehabilitate-Operate-Transfer Agreement,

(i) Rehabilitate-Own-Operate-Maintain Agreement,

(j) Service Contract Agreement, and

(k) Supply-Operate-Transfer Agreement.

58 - C. In the discharge of its obligations for providing urban environmental infrastructure and services in relation to water-supply, drainage and sewerage, solid waste management, communication systems and commercial infrastructure, the municipality may, wherever considered appropriate in the public interest, -

(a) discharge any of its obligations on its own, or

(b) enter into any private sector participation agreement."

## **22. Amendment Of Section 61 :-**

In sub-section (1) of section 61 of the Principal Act, clauses (g), (h), (i), (j), (k), (l), (m), (n) and (o) shall stand deleted.

## **23. Amendment Of Section 63 :-**

Sub-section (1) of the section 63 of Principal Act shall be substituted as follows, namely.-

"The state Government may appoint a Selection Board consisting of a Chairman, a Secretary, and three other members for selection of municipal officers and employees as may be required from time to time as under:-

Chairman - Secretary to the Govt. of Mizoram, Urban Development & Poverty Alleviation Department.

Secretary - Director, Urban Development & Poverty Alleviation Department.

Members - Executive Officer and two Councillors of the concerned Municipality".

## **24. Amendment Of Section 71 :-**

Section 71 of the Principal Act shall stand deleted.

## **25. Amendment Of Section 346 :-**

Sub-section (2) of section 346 of the principal Act shall be substituted as follows, namely.-

"Notwithstanding anything contained in this Act for the purpose of the first election to a new municipality, the electoral rolls used in the last election to the local bodies in Mizoram as it existed then in the area shall be used as may be updated and corrected according to the rules governing preparation of electoral Rolls of the said local bodies."

## **26. Amendment Of Section 348 :-**

In section 348 of the Principal Act, the words "in consultation with the State Government" occurring in the third line of sub-section (1) shall stand deleted.

## **27. Amendment Of Section 350 :-**

Section 350 of the Principal Act shall be substituted as follows, namely.-

"Fixing date and time for poll. The State Election Commission may, in consultation with the State Government, by notification, fix the date or dates on which, and the hours during which, the poll will be taken:

Provided that the poll on any day shall continue for a period of not less than eight hours without interruption."

## **28. Amendment Of Section 377 :-**

Sub-section (2) of section 377 of the Principal Act shall stand deleted.

## **29. Amendment Of Section 384 :-**

In section 384 of the Principal Act, after sub-section (2), a new sub-section (3) shall be added as follows, namely:-

"(3) Having regard to the provision of Article 243 ZD of the Constitution of India and of any State Law enacted under this Article, the Municipality shall participate in the election of members of the District Planning Committee and such members shall actively represent the interest of the municipality in such committees.

Having regards to the draft development plan as prepared by the District Planning Committee and as approved by the State Government, the Municipality shall implement such components of such development plan as relates to its jurisdiction and carry out such as may be assigned to it in this behalf".

## **30. Amendment Of Section 387 :-**

Sub-section (2) of section 387 of the Principal Act shall be amended by incorporating the following proviso as follows, namely.-

"Provided that till such time as Building Rules are made by the State Government under section 146 the Aizawl Development Authority Building Regulations. 2008 made under the provisions of

the Aizawl Development Authority Act, 2005 shall continue to be in force".