

## **Bihar Municipal (Amendment) Act, 2011**

### **7 of 2011**

#### CONTENTS

1. Short Title, Extent And Commencement
2. Amendment Of Section 2
3. Amendment Of Section 12
4. Amendment Of Section 16
5. Amendment Of Section 16
6. Amendment Of Section 17
7. Amendment Of Section 18
8. Amendment Of Section 23
9. Amendment Of Section 25
10. Amendment Of Section 27
11. Addition Of New Section 27A
12. Amendment Of Section 30
13. Amendment Of Section 31
14. Amendment Of Section 32
15. Amendment Of Section 36
16. Amendment Of Section 38 In The English Version
17. Amendment Of Section 41
18. Amendment Of Section 44
19. Amendment Of Section 45
20. Amendment Of Section 48
21. Amendment Of Section 50
22. Amendment Of Section 51
23. Amendment Of Section 73
24. Amendment Of Section 82
25. Substitution Of Section 87
26. Amendment Of Section 88
27. Amendment Of Section 91
28. Amendment Of Section 92
29. Amendment Of Section 93
30. Amendment In Section 94
31. Amendment Of Section 98
32. Amendment Of Section 127
33. Amendment Of Section 128
34. Substitution Of Section 130
35. Addition Of New Sections
36. Amendment Of Section 317
37. Amendment Of Section 322
38. Amendment Of Section 416
39. Amendment Of Section 428

#### 40. Amendment Of Section 441

### **Bihar Municipal (Amendment) Act, 2011**

#### **7 of 2011**

An ACT To amend the Bihar Municipal Act, 2007 (Bihar Act 11, 2007) Be it enacted by the Legislature of the State of Bihar in the sixty-second year of the Republic of India as follows:-

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

This Act may be called the Bihar Municipal (Amendment) Act, 2011.

(1) It shall extend to the whole of the state of Bihar. (2) It shall come into force at once.

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

In section-2 of said Act the following Amendments shall be made, namely- (i) after sub-section-(100) the following new subsections shall be added, namely- (101) "Action Taken Report" means action taken by the Government on the Report of the State Finance Commission constituted by the Government under Article 243-Y, read with Article 243-I of the Constitution of India (102) "Area Sabha" means Area Sabha constituted under Section 31 of this Act; (103) "Basic Services for the Urban Poor" means water supply, sewerage and drainage, toilets, solid waste management, streetlight, and internal roads (104) "Board of Councillors" means the elected body of the Municipality consisting of Councillors elected in general election under Section- 12 of this Act or in a by-election of a Municipality. (105) "Examiner of Local Accounts" means the Examiner of Local Accounts under the Bihar and Orissa Local Fund Audit Act, 1925 (106) "Government" means the State Government of Bihar. (107) "Lok Prahari" means Lok Prahari to be appointed under Section-44 of this Act (108) "Property Tax Board" means the Bihar Property Tax Board created under Section 138A of this Act (109) "Slum" means a compact area of at least 100 people or about 20 households of poorly built congested tenements, in unhygienic environment usually with inadequate infrastructure and lacking proper sanitation and drinking water facilities. (110) "Vacant Land" means any land acquired through purchase, gift or otherwise on which building is not constructed after acquisition and also the appurtenant land of a building that exceed the permissible ground coverage under the building bye-laws" (ii) English version of the Act in the subsection- (57) of section-2 the number 100 shall be substituted by the number 98 (iii) English version of the Act in

the subsection- (58) of section-2 the number 89 shall be substituted by the number 87

**3. Amendment Of Section 12 :-**

In English version of the said Act in clause (b) of subsection-(2) of section-12 of the bracket and number (1) shall be substituted by the bracket and letter (a)

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

After clause (d) of section-16 of the said Act the following new clause (e) shall be added, namely- "(e) Recalled under section- 17 of this Act, disqualified under section- 18 or section- 475 of this Act or removed under section- 18 (A)."

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

After section- 16 of the said Act a new section-16 A shall be added, namely- "16 A - Powers and functions of the Councillor- (1) to attend Municipalitys meetings. (2) To carefully study the matters placed before the Municipality for consideration and take an active part in Municipalitys decision-making processes. (3) To take active part in determining Municipalitys objectives and policies to ensure that they are appropriate for the local area. (4) To carefully study Municipalitys resource allocation, expenditure incurred and efficiency and effectiveness of its service delivery especially to the poor and women and ensure equitable allocation of resources for service delivery to all sections of society. (5) To bring to the Municipalitys attention anything falling within the Bihar Municipal Act, 2007 that would promote the welfare of or protect the interests of the communities especially the poor. (6) To actively participate in Ward Committee meetings and facilitate preparation of development plans in consultation with Ward communities especially the poor and the women. (7) To observe implementation of development plans and programmes in his Ward and bring to the notice of the Municipality any gaps or shortcomings needing correction. (8) To help the Municipality in identification of beneficiaries of government programmers for the welfare of the communities, especially the poor and the women."

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

In section-17 of said Act the following the amendment said Act namely- (i) The first proviso of sub-section (1) shall be substituted by the following, namely- "Provided that no process of recall shall be initiated unless two-thirds of the registered electors of any ward submit a representation to the State Government alleging that the

Councillor representing the Ward is unfit to continue in office" Sub-section-(2) of Section-17 shall be substituted by the following -:  
"When the proposal to recall a Councillor is presented to the State Government under the first proviso to Sub-section (1), the State Government after making such enquiry as deemed fit and satisfying itself that majority of the registered voters of the ward desire the recall of the Councillor, shall make a reference to the state election commission" (ii) After sub-section-(3) the following the new subsections shall be inserted, namely- "(4) if a Councillor is found guilty of misconduct in discharge of his duties, or if he is convicted of any such offence, or subjected by a criminal court to any such order as implies moral turpitude which in the opinion of the State Government, renders him unfit to be a Councillor, he shall be removed by the State Government after giving him an opportunity of being heard."

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

In section-18 said Act the following amendments shall be made, namely- (i) Proviso to the section-18 (b) of the said Act shall be substituted by the following:- "Provided that no person shall be disqualified on the ground that he is less than twenty five years of age, if he has attained the age of twenty one years." (ii) Sub-section- (2) shall be substituted by the following, namely- "(2) If any question arises as to whether a Member of a Municipality at any level was disqualified before election or has incurred disqualification after election as provided in Article-243-V of the Constitution of India and subject to any of the disqualification mentioned in section -475 or the subject to any of the disqualification mentioned in sub-section (1) of section-18 the question shall be referred for the decision of State Election Commissioner. The matter of disqualification may be brought to the notice of the State Election Commission in the form of a complaint, application or information by any person or authority. The State Election Commission may also take suo-motu cognizance of such matters and decide such matters expeditiously after allowing sufficient opportunity to the affected parties of being heard."

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

In section-23 said Act the following amendments shall be made, namely- (i) In sub-section (1)- the words "elect in accordance with such procedure as may be prescribed" shall be substituted by the words "under supervision, direction and control of the State Election Commission, elect". (ii) Sub-section (2) shall be

substituted as follows, namely- "(2) If the Councillors fail to elect a Chief Councillor under Sub-section (1), the State Government shall suspend the Board of Councillors and appoint an Administrator. The Board of Councillors shall remain suspended till such time the Councillors elect the Chief Councillor or till the tenure of the municipal Councilors is over, whichever is earlier". "(iii) In Sub-section (3) after the words "chief councillor", the words " or, deputy chief councillor" shall be added, (iv) In Sub-section (3) after the words "fill up the vacancy" the words "and the Chief Councillor or the Deputy Chief Councillor so elected shall continue in office for the unexpired term of his predecessor" shall be inserted. (v) After Sub-section (3) the following new subsection-(4) shall be added, namely- "(4) If any casual vacancy occurs in the office of the Member of the Empowered Standing Committee, the Chief Councillor shall as soon as may, after the occurrence of such vacancy, nominate one of the elected members of the Municipality to fill the vacancy and every Councillor so nominated shall continue in office for the unexpired term of his predecessor."

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

In the said Act in section-25 the following amendments shall be made, namely- (i) In sub-section-(5) the words "divisional commissioner" wherever occur in section 25 of the said Act shall be substituted by the word "Government" and the words " having territorial jurisdiction over the municipality" shall be deleted. (ii) The following proviso shall be added after section-25 (5) of the Act as under:- "Provided that after appointment of Lok Prahari, under section-44, the Government, may pass order under this sub-section only on the basis of recommendation of such Lok Prahari." (iii) In sub-section-(6) the last line " appeal shall lie before the State Government against the order of divisional commissioner, shall be deleted

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

In the said Act section 27 shall be substituted by the following, namely- "27. The term of office of the chief councillor and the members of Empowered Standing Committee:- (1) Members of the Empowered Standing Committee as provided for in subsection (2) of section 21 of this Act and other members nominated by the Chief Councillor under subsection (3) of section 21 of this Act shall hold office until- (a) he ceases to be a 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 its

acceptance by the Chairman, or (c) he is removed from office by a written order of the Chairman, or provided that no member of empowered State Committee shall be removed from his post within two years of his nomination. (d) a newly elected Chief Councillor under sub-section (3) of section 23 enters upon his office in the case of any casual vacancy in the office of the Chairman of the Empowered Standing Committee caused by death, resignation, removal or otherwise. (2) The newly elected Chief Councillor under sub-section (3) of section 23 of this Act shall reconstitute the Empowered Standing Committee by nominating Members under sub-section (3) of Section 21.

**11. Addition Of New Section 27A :-**

In the said Act after 27 the following new sections shall be added, namely- "27 A- Powers and functions of the Chief Councillor- (1) The Chief Councillor shall head the Empowered Standing Committee and all the executive powers of the Municipality shall vest in the Empowered Standing Committee. The municipal administration shall function under its supervision and control and the Chief Councillor shall exercise such powers and functions as are delegated to him by the Empowered Standing Committee and conferred on him by or under this Act. (2) The Chief Councillor shall preside over the meetings of the Empowered Standing Committee as well as the Board of Councillors (3) Determine the matters to be discussed at a meeting of the Empowered Standing Committee as well as the Board of Councillors and circulate to the members of the Empowered Standing Committee as well as the Board of Councillors, as the case may be, in such manner as the Chief Councillor may determine. (4) The Chief Councillor shall, if he is of the opinion that in exceptional circumstance, immediate execution of any work is necessary and the same ordinarily requires the approval of the Board of Councillors or the Empowered Standing Committee, as the case may be, may direct the execution of such work. Provided that the Chief Councillor shall report forthwith but not later than fifteen days, to the Board of Councillors or the Empowered Standing Committee, as the case may be, the actions taken under this Section and the reasons there of. 27 B- Power and function of Chief Municipal Officer- (1) The Chief Municipal Officer shall be the Principal Executive Officer of the Municipality and all officers and other employees of the Municipality shall be subordinate to him. Powers of transfers & posting & disciplinary action against all officers and staff appointed by him under Sec.38

of this Act shall vest in the Chief Municipal Officer. (2) Subject to the supervision and control of the Empowered Standing Committee, and the provisions of this Act and of any Rules and Bye-laws made there under, executive functions for carrying on the administration of the municipality shall vest in the Chief Municipal Officer. (3) He shall be present at the meeting of the Board of Councillors, Empowered Standing Committee or of any committee except meetings convened for the purpose of considering the question of withdrawal of his service by the State Government and he shall have the right to make a statement or to explain facts, but he shall not vote for or against or make any proposition at such meeting. (4) Power, functions and duties delegated by the Municipality, the Empowered Standing Committee and under the provisions of this Act to the Chief Municipal Officer shall be exercised, discharged and performed by the Chief Municipal Officer. (5) Subject to provisions of this Act and Rules made under this Act, the Chief Municipal Officer may delegate any of his powers, duties and functions under this Act and any Rules and Bye-laws made there under to any officer subordinate to him. (6) The Chief Municipal Officer shall carry into effect every resolution of the Empowered Standing Committee or the Board of Councillor or of any Committee of the Municipality which is in conformity with provisions of law unless such resolution is set aside or suspended under this Act by the appropriate authority. (7) In the case of absence of the Chief Municipal Officer for any reason, the powers of the Chief Municipal officer as specified in the foregoing provisions of this section or elsewhere in this Act or the Rules made under this Act, shall be exercised by any officer of the Municipality as may be nominated by the Chief Councillor in this behalf till such time State Govt. makes a substitute arrangement."

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

In the said Act in the sub-section-6 of section-30 the number "369" shall be substituted by the number 342.

#### **13. Amendment Of Section 31 :-**

In the said Act the section-31 shall be substituted by the following:- "31: Ward Committee and Area Sabhas:- (1) Each Ward of a Municipality shall have a Ward Committee and such number of Area Sabha as may be determined by the State Government; (2) Composition and functions of Ward Committee and Area Sabha will be as prescribed by the Government under the Rules. Provided that, based on population and other relevant considerations, the

Government may restrict the creation of Area Sabha in any classification of Municipal area as provided for under Section 7 of this Act."

**14. Amendment Of Section 32 :-**

In the said Act in section-32 the following amendments shall be made, namely- (i) In clause (c) of sub-section (1) shall be substituted by the following, namely- "(c) slum up-gradation & basic services for urban poor" (ii) In Sub-Section (4) after the words "The manner of the constitution", shall be substituted by the words "reservation of women on the subjects committee. (iii) After Sub-section (4) the following new subsection (4a) shall be added, namely- "(4a) After the first meeting within one months after general election, the Board of Councillors shall elect from amongst its members, Subject Committees referred to in Sub-section (1)." "Provided that no Councillor shall be elected for more than two such Committees." (iv) Sub-section (6) shall be substituted as follows, namely- "(6) Every Subject Committee shall elect one of its Members to be its Chairman. Provided that no member shall at the same time be the Chairman of more than one Subject Committee; Provided further that no Member will be elected for more than two consecutive terms as Chairman of any Subject Committee:"

**15. Amendment Of Section 36 :-**

In said Act in section-36 the following amendments shall be made, namely- (a) In sub-clause (ii) of clause (a) of sub-section-(1) after the words Finance Service the words "or a member of Bihar Account Service" shall be added. (b) After sub-clause (vi) in clause (b) of sub-section-(1) a new sub clause (vii) shall be inserted, namely- (vii) The Municipal Internal Auditor (c) In sub-section-9 the word "Sixty" shall be substituted by the word "Sixty-five"

**16. Amendment Of Section 38 In The English Version :-**

In the English version of section 38 of the said Act amendment shall be made as follows- (i) In clause (a) after the letter "A" the words and letter "and B" shall be inserted and the words "the Chief Municipal Officer" shall be replaced by the word the Government. (ii) Clause (b) shall be deleted. (iii) Clause (c) shall be renumbered as clause (b)

**17. Amendment Of Section 41 :-**

In section-41 in said Act one more proviso shall be added, namely- "Provided further that resolution regarding withdrawal of the officer shall not be taken within one year of the posting of the officer."



**18. Amendment Of Section 44 :-**

In the said Act section 44 shall be substituted, namely- "44 Lok Prahari- (1) The State Govt. Shall appoint such number of Lok Prahari as the government may determine from time to time to inquire into any allegation of corruption, misconduct, lack of integrity, or any kind of malpractice or maladministration or misdemeanour of Chief Councillor/ Deputy Chief Councillor/ Officers and other employees of the Municipality, contained in a complaint in the form of an affidavit or on a reference from Government, or that has come to the notice of the Lok Prahari and pass order as soon as possible but not later than three months (2) The qualification, terms and conditions and tenure of appointment and the powers and duties of the Lok Prahari shall be as may be prescribed by the Government. (3) The State Government shall, by notification, entrust the responsibilities to the Lok Prahari, for conducting such inquiry or taking any other suitable action in the manner as may be prescribed under the Rules by the Government."

**19. Amendment Of Section 45 :-**

In section-45 in said Act in sub clause (iv) of clause (a) of subsection -(1) after the words "social justice" the words shall be added " slum up-gradation and provision of basic service to the urban poor " shall be added.

**20. Amendment Of Section 48 :-**

In the English version of the said Act subsection (2) of section 48 the following amendments shall be made, namely- (i) The words "one fifth" shall be substituted by number and letter "2/5th". (ii) After the word municipality the words "within fifteen days" shall be inserted.

**21. Amendment Of Section 50 :-**

In the said Act in section-50 the following amendment shall be made, namely- (i) In subsection-(1) the words "one-fifth" shall be substituted by the words "one-third" (ii) In subsection-(3) after the words, brackets and number "subsection-(2) the words "The presiding authority shall fix date, time and place for the same as he shall think convenient which shall not be earlier than three days from the date of adjournment. A notice of adjournment exhibited in the municipal office on the day on which the meeting is adjourned shall be sufficient notice of the subsequent meeting." shall be inserted

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

In section-51 the following shall be made, namely- (i) In sub-section-(1) after the words "the meeting" the words "and if both the chief Councillor and Deputy Chief Councillor are absent from the meeting, the members present shall choose one of their members to preside; shall be inserted. (ii) In subsection-(1) after the proviso a new proviso shall be added as follows, namely- "Provided further that if the meeting is convened for the removal of both Chief Councillor and Deputy Chief Councillor, the members present shall choose one of the members to preside."

**23. Amendment Of Section 73 :-**

In the said in sub-section (2) of section-73 the words "slum services" shall be substituted by the words " slum up gradation & basic services for urban poor"

**24. Amendment Of Section 82 :-**

In the said Act after subsection- (7) of section-82 a new subsection (8) shall be added, namely- "(8) Budget estimate shall be prepared, presented and adopted in such Form and in such manner, as may be prescribed,"

**25. Substitution Of Section 87 :-**

In said Act section-87 shall be substituted as follows, namely- " 87. Preparation of accounting manual- The State Government shall prepare, update and maintain, a Manual to be called the "Bihar Municipal Accounting Manual" for implementation of accrual based double entry accounting system containing details of all financial & accounting matters and procedures relating thereto in respect of the Municipalities."

**26. Amendment Of Section 88 :-**

In said Act sub-section-(1) section-88 shall be substituted as follows, namely- "(1) The Chief Municipal Officer shall, within four months of the close of a year, cause to prepare financial statements consisting of a Funds Flow Statement, an Income and Expenditure Account, receipt and expenditure Account and a Balance Sheet for the preceding year in respect of accounts of the Municipality."

**27. Amendment Of Section 91 :-**

In said Act in section- 91 the following amendment shall be made, namely- (i) Sub-section-(2) shall be substituted as follows, namely- " (2) An Annual Report prepared by the Examiner of Local Accounts, Patna shall be laid on the both Houses of State Legislature." (ii) In sub-section-(3) the letters "CAG" shall be

substituted by the words "Examiner of Local Accounts". (iii) In sub-section-(6) the letters "CAG" shall be substituted by the words "Examiner of Local Accounts".

**28. Amendment Of Section 92 :-**

In said Act in sub-section-(1) of section- 92 the letters "C&AG" shall be substituted by the words "Examiner of Local Accounts".

**29. Amendment Of Section 93 :-**

In said Act in sub-section-(1) of section- 93 the letters "C&AG" shall be substituted by the words "Examiner of Local Accounts".

**30. Amendment In Section 94 :-**

In the said Act in section-94 the words "C & AG" wherever occurs shall be substituted by the words "Examiner of Local Accounts".

**31. Amendment Of Section 98 :-**

In sub-section-(6) of section-98 after clause (c) a new clause (cc) shall be inserted as follows, namely- (cc) "To review and approve the Action Taken Report (ATR) following each report by the Auditor under Section 90 and the Internal Audit under section-97.

**32. Amendment Of Section 127 :-**

In said Act in section-127 the following amendments shall be made, namely- (i) In clause (a) in subsection-(1) after the words "Buildings" the words "including vacant Land" shall be inserted. (ii) In subsection (1) clause (l) shall be substituted as follows, namely- "(l) Communication towers and related structures/ Disc antennas." (iii) In first proviso to sub-section (3) after the words "provided that" the words "every person liable to pay Property Tax on lands and buildings shall within 30 days of acquiring land or building or both, intimate the Municipality of such acquisition of property for assessment of Property Tax. Failure to give such information shall make him liable to assessment from the date of acquisition of property together with penalty in the range of 25 percent to 100 percent of the arrears becoming due on account of suppression of information as may be prescribed under Rules by the State Government shall be inserted." (iv) In second proviso in sub-section-(3) the words "any discrepancy or under assessment" shall be substituted by the words "any willful suppression of material information essential for assessment of Property Tax" (v) In sub-section (4) a new clause (ii) shall be inserted as follows, namely- (ii) For the purpose of determining whether a holding is situated on Principal Main Road, on the Main Road or on any other Road, road

facing the main entrance of each holding shall be the deciding factor. In case where the properties are located on more than one road, Principal Main Road shall prevail over the Main Road and the Main Road shall prevail over other Road." (vi) In sub clause (ii) of clause (c) of sub-section (4) after the words "corrugated sheet" the oblique/and words"/stone or any other permanent material" shall be inserted. (vii) After clause (c) of sub-section (4) (1) the new clause (d) and (e) shall be inserted as follows, namely- "(d) Type of Occupancy:- (i) Self-occupied; (ii) Tenant Occupied (e) Type of non-residential use of Holdings (i) Hotels, restaurants, clubs, cinema houses, Guest Houses, Marriage Halls and all places of entertainment; (ii) Shops, show rooms; (iii) Commercial offices, banks, hospitals and nursing homes, dispensaries, laboratories, (iv) Government Offices and institutions (v) Industries, workshops; (vi) Schools, colleges and other educational institutions, research institutions; (vii) Educational and social institutions run by charitable trust on no-profit no-loss basis for the benefit of poor, physically challenged, social security of women and children; (viii) Religious places, and (ix) Any other holdings not covered under (i) to (viii)." (viii) In sub-section (6) a Proviso shall be inserted as follows, namely- "Provided that in cases where the property is found locked, or is not accessible for the measurement of carpet areas for any reason whatsoever, the Municipality shall take into consideration 75 percent of the plinth area of the property as carpet area for the purposes of assessment of Property Tax until the property becomes accessible in subsequent year." (ix) In clause (i) of Sub-section (7) the words "and the type of construction of holdings" shall be substituted by the words type of construction, occupancy of the holdings and type of non-residential use of holdings." (x) After clause (iv) in Sub-section (8) of a new clause (v) shall be inserted as follows, namely- "(v) Property Tax on vacant land shall be levied annually within minimum and maximum of Re. one and Rs. 5 respectively per square meter of vacant land depending on the situation of land falling in the criteria given in Section-127(4)(1)(a). The rates to be levied shall be determined from time to time under the under Rules to be framed by the State Government"

### **33. Amendment Of Section 128 :-**

In the said Act in section-128, after the words "The Municipality shall" the words and figure "besides levy of Property Tax under Section- 127," shall be inserted:-

#### **34. Substitution Of Section 130 :-**

In the said Act section-130 shall be substituted as follows, namely- "130 Levy of surcharge on tax or fee.- Subject to the approval of the State Government, the Municipality may levy a surcharge at the rate of 2.5 percent on a tax a user charge or fee or fines or on electricity consumption within the municipal area."

#### **35. Addition Of New Sections :-**

In said Act after section-138 the following new sections shall be added, namely- "138 A. State Property Tax Board- State Government shall put in place a state level Property Tax Board, which may assist all municipalities in the state to put in place an independent and transparent procedure for assessing property tax. 138 B. Chairman and Members of the State Property Tax Board- Qualification and disqualification of the Chairman and the members of the Property Tax Board, their appointment and functions shall be in such manners as may be prescribed."

#### **36. Amendment Of Section 317 :-**

In the Hindi text of the said Act in section 317 after the word "???(I)" the word "???(I)" shall be inserted.

#### **37. Amendment Of Section 322 :-**

In the Hindi text of the of the said Act in sub-section (2) of section-322 the words "???(I)" shall be substituted by the word "???(I)".

#### **38. Amendment Of Section 416 :-**

In the Hindi text of the said Act in proviso to section-416 the word "???(I)" shall be inserted after the word "???(I)".

#### **39. Amendment Of Section 428 :-**

In section-428 of the Hindi text of the Act the word "???(I)" shall be substituted by the word "???(I)".

#### **40. Amendment Of Section 441 :-**

(1) In section-441 of the said Act the following amendments shall be made as follows, namely: - (i) The word "Governor" shall be substituted by words "State Government" (ii) After the proviso to the section-441 the following new proviso shall be added, namely- "Provided also that no such notification shall be required to be issued to hold elections, against such posts, which after general election have subsequently become vacant due to resignation, death, removal from post, judicial order or some other reason. The State Election Commission, as per its convenience, after consultation with the concerned District Magistrate and intimation

to the Government, shall be free to take action to hold election against such posts as sooner as may be."