

Chhattisgarh Municipal Corporation (Amendment) Act, 2004

15 of 2004

CONTENTS

1. Short Title and Commencement
2. Insertion of Definition
3. Amendment of Section 14-C
4. Insertion of Section 14-1
5. Insertion of para (n) in Section 17(1)
6. Insertion of New Section 17-B
7. Insertion of Section 18-A
8. Amendment of Section 25
9. Insertion of Section 25-A
10. Amendment of Section 30
11. Amendment of Section-37
12. Amendment of Section 73
13. Insertion of New Section 82-A
14. Amendment of Section 83
15. Insertion of Section 83-A
16. Amendment in Section 131-A
17. Omission of Sub-Section (6) of Section 131-A
18. Insertion of Section 133-B
19. Amendment of Section 410

Chhattisgarh Municipal Corporation (Amendment) Act, 2004

15 of 2004

An Act further to amend the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956). Be it enacted by the Chhattisgarh Legislature in the Fifty-fifth year of Republic of India as follows:--

1. Short Title and Commencement :-

(1) This Act may be called the Chhattisgarh Municipal Corporation (Amendment) Act, 2004. (2) It shall come into force from the date of its notification in the official Gazette.

2. Insertion of Definition :-

After Sub-section (10) of Section 5 of the Chhattisgarh Municipal Corporation Act 1956 (No. 23 of 1956) hereinafter referred to as Principal Act, following new sub-section (10-a) shall be inserted, namely -- (10-a) "Collector" means the District Collector appointed

by the State Government under Section 16 of Chhattisgarh Land Revenue Code, 1959. After sub-section (52) of Section 5 of the Principal Act, following new subsection (52-A) shall be inserted, namely -- "(52-a) "Recognised Political Party" means a political party for the time being recognized by the Election Commission of India as National Party or as a State Party in the State of Chhattisgarh under the Election Symbols (Reservation & Allotment) Order, 1968,"

3. Amendment of Section 14-C :-

In clause (b) of Section 14-C of the Principal Act, for words "member of the Corporation" the words "Mayor or Councillor" shall be substituted and for the words "for a period of five years" the words "for a period not exceeding five years" shall be substituted.

4. Insertion of Section 14-1 :-

After Section 14-C of the Principal Act, following Section 14-D) shall be inserted, namely -- "Section 14-D. Removal or reduction of period of disqualification -- The State Election Commission, on making an application within thirty days from the date of publication of the order, passed under clause (b) of Section 14-C, in the official Gazette may for reasons to be recorded in writing remove any disqualification or reduce the period of any such disqualification."

5. Insertion of para (n) in Section 17(1) :-

After para (m) of sub-section (1) of Section 17 of the Principal Act, the following para (n) shall be inserted, namely -- "(n) has been disqualified under Section 14-C."

6. Insertion of New Section 17-B :-

After Section 17-A of the Principal Act, the following new Section 17-B shall be inserted, namely -- "Section 17-B. Oath or affirmation by the Mayor and the Councillor -- (1) Every Mayor and every Councillor shall before taking part in the election of Speaker in the first meeting of the Corporation or before entering upon his office, as the case may be, shall make and subscribe in the presence of the Collector an oath or affirmation in the following form -- I.....Mayor/elected councillor/nominated councillor of Municipal Corporation....., swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will uphold the sovereignty and integrity of India, and I will faithfully and impartially perform my duties. (2) If the Mayor or Councillor does

not take an oath under sub-section (1), it shall be deemed that such Mayor or Councillor as the case may be, has not assumed his office : Provided that except with permission of the Director if any Mayor or Councillor, as the case may be, does not take an oath within 30 days from the date of his election or nomination, as the case may be, his seat shall be deemed to have fallen vacant ipso facto."

7. Insertion of Section 18-A :-

After Section 18 of the Principal Act, following new section 18-A shall be inserted, namely -- "Section 18-A. Powers and functions of the Speaker -- (1) Subject to the provisions of the Act, the Speaker shall have the following powers and functions -- (i) to preside over the meetings of the Corporation and send the copy of proceedings to the commissioner within seven days from the date of meeting; (ii) to fix the date of the meeting of the Corporation with the consent of the Mayor and arrange to send the notice thereof along with the Agenda as approved by the Mayor, and (iii) to have administrative control over the officers and servants of his office including the Corporation Secretary. (2) The Speaker shall have power to call the execution report from the Commissioner, on the decisions taken in the meeting of the Corporation, and may take steps to include in the agenda of the next meeting of the Corporation such matter in which execution has been delayed beyond three months."

8. Amendment of Section 25 :-

In sub-section (2) of Section 25 of the Principal Act, following words shall be substituted -- For the words "the Speaker" the words "such member of the Mayor-in-Council, as may be appointed by the Mayor" shall be substituted.

9. Insertion of Section 25-A :-

After Section 25 of the Principal Act, following new Section 25-A shall be inserted, namely -- "Section 25-A. Duties of the Councillors -- Subject to provisions of the Act, every Councillor shall have the following duties -- (i) to be present and take part in the meetings of the Corporation and on requirement cast vote. (ii) to draw the attention of the Mayor or Commissioner towards any loss to the Corporation property or any short comings in any scheme or service or any work being executed by the corporation.

10. Amendment of Section 30 :-

In Section 30 of the Principal Act, after the word "special meeting"

the words "to discuss any emergent and burning issues of the down" shall be inserted, After proviso following shall be inserted :
"Provided further that such special meeting shall not be more than three in a year."

11. Amendment of Section-37 :-

Sub-section (2) of Section 37 of the Principal Act, shall be substituted by the following -- (2) "The Mayor-in-Council shall consist of the Mayor and twenty percent of the total number of elected Councillors. At the time of calculation of twenty percent number, fraction less than half shall be ignored and fraction equal to half or more shall be counted as one. Provided that all the members shall be nominated by the Mayor from amongst the elected Councillors of the Corporation and out of which at least one member from Scheduled Caste or Scheduled Tribes, one member from Other Backward Classes and one member from women category shall be nominated."

12. Amendment of Section 73 :-

Section 73 of the Principal Act, shall be substituted by the following -- Section. 73. Contracts by or on behalf of the Corporation -- (1) Contracts by or on behalf of the Corporation shall be expressed to be made by the Commissioner in accordance with the following provisions -- (a) every such contract shall be made on behalf of the Corporation by the Commissioner. (b) no such contract for any purpose which, in accordance with any provision of this Act, the Commissioner may not carryout without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has been duly obtained. (c) the Mayor-in-Council and the Commissioner may sanction any estimate or contract (including technical and administrative) involving such amount, as may be prescribed. (d) all other estimates or contracts shall be sanctioned by the Corporation. (2) The manner and procedure for giving contract, shall be such as may be prescribed. (3) The Corporation, in order to take assistance in technical or other matters, may engage the services of a qualified consultant and the procedure for the appointment of such consultant shall be subject to rules made in this behalf. (4) The Corporation can take assistance of a company, firm, society, trust or any other agency or any Government agency that is established under any existing rules, to execute any type of project relating to urban infrastructure related with facilities. The Corporation, can also execute works with the help of such private agency. (5) Private sector participation

agreements shall be such as may be prescribed and shall 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-Operate-Transfer 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," Provided that all the above agreements for Private Participation shall be executed by the Corporation in such manner as may be prescribed by the State Government.

13. Insertion of New Section 82-A :-

After Section 82 of the Principal Act, following new Section shall be inserted, namely -- "Section 82-A. No property of the Corporation such as school, tank, play ground or park meant for public use shall not be allowed to be used for any other purpose on a permanent basis."

14. Amendment of Section 83 :-

In Section 83 of the Principal Act, the following Section shall be substituted, namely -- "Section 83. Record of immovable property -
- (1) The Corporation shall maintain a register and map of all immovable property of which it is the proprietor or which vests in it otherwise or which it holds in trust for the Government. (2) The Commissioner, after having demarcated every land, Building establishment and plant etc. in the ownership of the Corporation, shall arrange to affix there in the boards showing that the said property is in the ownership of the corporation. (3) Each year the Commissioner shall, in the budget meeting of the Corporation, publish the details of all immovable property of the Corporation and send its copy along with the agenda to the members. (4) The Commissioner shall, from time to time, inspect the property of the Corporation and take action to remove the encroachment if any."

15. Insertion of Section 83-A :-

After Section 83 of the Principal Act, following new Section shall be inserted, namely -- "Section 83-A. Custody and destruction of the record -- The State Government may prescribe the manner in which the record of the Corporation shall be maintained and kept in custody and also the manner and the procedure subject to which record shall be destroyed."

16. Amendment in Section 131-A :-

Sub-section (5) of Section 131-A of the Act, shall be substituted by the following -- "Section 131-A. (5) -- The Municipal Accounts Committee shall consider the report of the auditor, appointed under Section 129, in respect of accounts of the Corporation and submit the same to the Corporation along with its views."

17. Omission of Sub-Section (6) of Section 131-A :-

Sub-section (6) Section 131-A of the Principal Act, shall be Omitted.

18. Insertion of Section 133-B :-

After Section 133-A of the Principal Act, following new Section 133-B shall be inserted, namely -- "Section 133-B. Power of the state Government to require Corporation to impose taxes -- Whenever it appears to the State Government that the balance of Municipal Fund of any Corporation or its revenue is insufficient for the discharge of its duties or obligatory functions imposed upon it under the Act or for meeting the expenditure to be incurred under Section 418 or for the performance of any duties in respect of which it shall have been declared under Section 419 to have committed default, the State Government after giving a notice of fifteen days to the Corporation and to the local public in a prescribed manner may require the Corporation to impose within the Municipal area any tax which it is empowered to impose under Section 132 or to enhance any existing rate of tax in such manner or to such extent as the State Government considers fit, and the Corporation shall forthwith proceed to impose or enhance in accordance with the requisition such tax under the provisions of this Chapter, as if a resolution of the Corporation had been passed for the purpose under Section 133 : Provided that -- (a) the State Government shall take into consideration any objection which the Corporation or any inhabitant of the municipal area may make against the imposition or enhancement of such tax; (b) it shall not be lawful for the Corporation to abandon or modify or to abolish such tax when imposed, without the sanction of the state Government; (c) the State Government may, at any time by notification, abolish or reduce the amount or rate of any tax levied or enhanced under this Section and the levy of the tax or the enhancement except as to arrears there to for accrued due, shall there upon cease or be modified accordingly."

19. Amendment of Section 410 :-

In Section 410 of the Principal Act, following amendment shall be made, namely -- before the word "Councillor" the words "Mayor and" shall be inserted.