

Gujarat Local Authorities Laws (Amendment) Act, 2009

21 OF 2014

[05 November 2014]

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Gujarat Local Authorities Laws (Amendment) Act, 2009

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AN ACT

further to amend the Bombay Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993.

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

1. Short title and commencement. :-

(1) This Act may be called the Gujarat Local Authorities Laws (Amendment) Act, 2009.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the

Act.

2. Amendment of section 5 of Bom.LIX of 1949. :-

In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the Municipal Corporations Act"), in section 5, -

- (1) in sub-section (5), for the word "One-third", the words "As nearly as may be one-half shall be substituted;
- (2) in sub-section (6), for the words "one third", the words "as nearly as may be one-half shall be substituted;
- (3) in sub-section (7), for the word "One-third", the words "As nearly as may be one-half shall be substituted.

3. Insertion of new sections in Bom. LIX of 1949. :-

In the Municipal Corporations Act, after section 16, the following sections shall be inserted, namely:-

"OBLIGATION TO VOTE

16A. Obligation to vote.

- (1) It shall be the duty of a qualified voter of the Municipal Corporation to vote at the election of the Municipal Corporation, however, he will be free to cast his vote in favour of none of the candidates contesting election as indicated in sub-section (2).
- (2) The qualified voter shall cast his vote in favour of none of the candidates contesting election, in the manner as may be prescribed by rules, in case where he does not want to cast his vote in favour of any candidate.

16B. Declaration of a voter to be a defaulter voter.

- (1) The election officer, as may be designated by the State Election Commission, may declare the voter to be the defaulter voter who failed to vote at the election of a Municipal Corporation after giving him a notice in the form prescribed by rules.
- (2) The State Government shall be competent to prescribe by rules to be laid before the State Legislature, the disadvantages or consequences to be suffered by a defaulter voter.

16C. Valid and sufficient reasons for not voting.

A qualified voter shall be exempted to vote at the election of the Municipal Corporation -

- (1) if he is physically incapable due to illness to vote or other bodily infirmity to come and discharge his obligation, or
- (2) if he is absent on the date of election from the country or State of Gujarat, or

(3) for such other valid and sufficient reasons as may be prescribed by rules by the State Government in consultation with the State Election Commission.

16D. Notice.

(1) An election officer shall issue a notice to the voter who failed to vote at the election of the Municipal Corporation.

(2) The election officer shall by a notice inform the voter that he appears to have failed to vote at the election and that it is the duty of voter to vote at election. The voter may within a period of one month inform the valid and sufficient reasons, if any, for not voting alongwith supporting documents such as medical certificate, a copy of passport, etc.

(3) If no reply to the notice referred to in sub-section (1) is received within a period of one month or where the voter writes to the election officer reasons for not voting and where the election officer is not satisfied with the reasons given by voter as valid and sufficient, the election officer shall by an order in writing containing reasons declare him a defaulter voter.

16E. Appeal.

(1) The voter who is aggrieved by the order of the election officer under section 16D may prefer an appeal in the form prescribed by rules, within a period of one month, to the Appellate Officer designated as such by the State Election Commission.

(2) The Appellate Officer after providing an opportunity of being heard to the appellant may pass an appropriate order. The order of the Appellate Officer shall be final."

4. Amendment of section 6 of Guj. 34 of 1964. :-

In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the Municipalities Act"), in section 6,-

(1) in sub-section (2), -

(i) in clause (a), for the figure "21", the figure "24" shall be substituted;

(ii) in clause (b), for the figure "27", the figure "28" shall be substituted;

(iii) in clause (d), for the figure "42", the figure "44" shall be substituted;

(iv) in clause (e), for the figure "51", the figure "52" shall be substituted;

(2) in sub-section (3),-

(i) in clause (b), for the word."One-third", the words "As nearly as

may be one-half shall be substituted;

(ii) in clause (c), for the word "one-third", the words "as nearly as may be one-half shall be substituted;

(iii) in clause (d), for the word "one-third", the words "As nearly as may be one-half shall be substituted.

5. Insertion of new sections in Guj. 34 of 1964. :-

In the Municipalities Act, after section 15, the following sections shall be inserted, namely:-

"OBLIGATION TO VOTE

15A. Obligation to vote.

(1) It shall be the duty of a qualified voter of the Municipality to vote at the election of the Municipality, however, he will be free to cast his vote in favour of none of the candidates contesting election as indicated in sub-section (2).

(2) The qualified voter shall cast his vote in favour of none of the candidates contesting election, in the manner as may be prescribed by rules, in case where he does not want to cast his vote in favour of any candidate.

15B. Declaration of a voter to be a defaulter voter.

(1) The election officer, as may be designated by the State Election Commission, may declare the voter to be the defaulter voter who failed to vote at the election of a Municipality after giving him a notice in the form prescribed by rules.

(2) The State Government shall be competent to prescribe by rules to be laid before the State Legislature, the disadvantages or consequences to be suffered by a defaulter voter.

15C. Valid and sufficient reasons for not voting.

A qualified voter shall be exempted to vote at the election of the Municipality -

(1) if he is physically incapable due to illness to vote or other bodily infirmity to come and discharge his obligation, or

(2) if he is absent on the date of election from the country or State of Gujarat, or

(3) for such other valid and sufficient reasons as may be prescribed by rules by the State Government in consultation with the State Election Commission.

15D. Notice.

(1) An election officer shall issue a notice to the voter who failed to vote at the election of the Municipality.

(2) The election officer shall by a notice inform the voter that he

appears to have failed to vote at the election and that it is the duty of voter to vote at election. The voter may within a period of one month inform the valid and sufficient reasons, if any, for not voting alongwith supporting documents such as medical certificate, a copy of passport, etc.

(3) If no reply to the notice referred to in sub-section (1) is received within a period of one month or where the voter writes to the election officer reasons for not voting and where the election officer is not satisfied with the reasons given by voter as valid and sufficient, the election officer shall by an order in writing containing reasons declare him a defaulter voter.

15E. Appeal.

(1) The voter who is aggrieved by the order of the election officer under section 15D may prefer an appeal in the form prescribed by rules, within a period of one month, to the Appellate Officer designated as such by the State Election Commission.

(2) The Appellate Officer after providing an opportunity of being heard to the appellant may pass an appropriate order. The order of the Appellate Officer shall be final."

6. Amendment of section 9 of Guj. 18 of 1993. :-

In the Gujarat Panchayats Act, 1993 (hereinafter referred to as "the Panchayats Act"), in section 9,-

(1) in sub-section (4), for the word "seven", occurring at two places, the word "eight" shall be substituted;

(2) in sub-section (5),-

(i) in clause (b), for the words "One third", the words "As nearly as may be one-half shall be substituted;

(ii) in clause (c), for the words "One third", the words "As nearly as may be one-half shall be substituted.

7. Amendment of section 10 of Guj. 18 of 1993. :-

In the Panchayats Act, in section 10,-

(1) in sub-section (4), for the word "fifteen", occurring at two places, the word "sixteen" shall be substituted;

(2) in sub-section (5),-

(i) in clause (b), for the words "One third", the words "As nearly as may be one-half shall be substituted;

(ii) in clause (c), for the words "One third", the words "As nearly as may be one-half shall be substituted.

8. Amendment of section 11 of Guj. 18 of 1993. :-

In the Panchayats Act, in section 11 ,-

(1) in sub-section (4), for the word "seventeen", occurring at two places, the word "eighteen" shall be substituted;

(2) in sub-section (5),-

(i) in clause (b), for the words "One third", the words "As nearly as may be one-half shall be substituted;

(ii) in clause (c), for the words "One third", the words "As nearly as may be one-half shall be substituted.

9. Insertion of new sections in Guj. 18 of 1993. :-

In the Panchayats Act, after section 34, the following sections shall be inserted, namely:-

"OBLIGATION TO VOTE

34 A. Obligation to vote.

(1) It shall be the duty of a qualified voter of the Panchayats to vote at the election of the Panchayat, however, he will be free to cast his vote in favour of none of the candidates contesting election as indicated in subsection (2).

(2) The qualified voter shall cast his vote in favour of none of the candidates contesting election, in the manner as may be prescribed by rules, in case where he does not want to cast his vote in favour of any candidate.

34B. Declaration of a voter to be a defaulter voter.

(1) The election officer, as may be designated by the State Election Commission, may declare the voter to be the defaulter voter who failed to vote at the election of a Panchayat after giving him a notice in the form prescribed by rules.

(2) The State Government shall be competent to prescribe by rules to be laid before the State Legislature, the disadvantages or consequences to be suffered by a defaulter voter.

34C. Valid and sufficient reasons for not voting.

A qualified voter shall be exempted to vote at the election of the Panchayat -

(1) if he is physically incapable due to illness to vote or other bodily infirmity to come and discharge his obligation, or

(2) if he is absent on the date of election from the country or State of Gujarat, or

(3) for such other valid and sufficient reasons as may be prescribed by rules by the State Government in consultation with the State

Election Commission.

34D. Notice.

(1) An election officer shall issue a notice to the voter who failed to vote at the election of the Panchayats.

(2) The election officer shall by a notice inform the voter that he appears to have failed to vote at the election and that it is the duty of voter to vote at election. The voter may within a period of one month inform the valid and sufficient reasons, if any, for not voting alongwith supporting documents such as medical certificate, a copy of passport, etc.

(3) If no reply to the notice referred to in sub-section (1) is received within a period of one month or where the voter writes to the election officer reasons for not voting and where the election officer is not satisfied with the reasons given by voter as valid and sufficient, the election officer shall by an order in writing containing reasons declare him a defaulter voter.

34E. Appeal.

(1) The voter who is aggrieved by the order of the election officer under section 34D may prefer an appeal in the form prescribed by rules, within a period of one month, to the Appellate Officer designated as such by the State Election Commission.

(2) The Appellate Officer after providing an opportunity of being heard to the appellant may pass an appropriate order. The order of the Appellate Officer shall be final."

10. Amendment of section 51 of Guj. 18 of 1993. :-

In the Panchayats Act, in section 51, in sub-section (2), in clause (b), in sub-clauses (i) and (ii), for the words "One third", the words "As nearly as may be one-half shall be substituted.

11. Amendment of section 63 of Guj. 18 of 1993. :-

In the Panchayats Act, in section 63, in sub-section (2), in clause (b), in sub-clauses (i) and (ii), for the words "One third", the words "As nearly as may be one-half shall be substituted.

12. Amendment of section 77 of Guj. 18 of 1993. :-

In the Panchayats Act, in section 77, in sub-section (2), in clause (b), in sub-clauses (i) and (ii), for the words "One third", the words "As nearly as may be one-half shall be substituted.

13. Continuance of existing municipal corporations,

municipalities and panchayats. :-

Notwithstanding anything contained in this Act, the Municipal Corporation, the Municipality or, as the case may be, the Panchayat constituted immediately before the commencement of the provisions of this Act, amending the Bombay Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 shall continue till the expiration of its duration or till it is dissolved before its duration.