

Kerala Local Authorities (Disqualification Of Defected Members) Rules, 2000

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Kerala Local Authorities (Disqualification Of Defected Members) Rules, 2000

S. R. O. No. 158/2000.-In exercise of the powers J conferred by sub-section (1) of section 7 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 (11 of 1999), the Government of Kerala, in consultation with the State Election Commission, hereby make the following rules in super session of the Kerala Local Authorities (Disquali-fication of Defected Members) Rules, 1998 issued under Notification No. G. O. (P) Ci.O/98/LADdated 23rd December, 1998 and published as S. R. O. No. 1112/98 in the Kerala Gazette Extraordinary No. 2093 dated 23rd December, 1998, namely:-

1. Short Title And Commencement :-

- (1) These rules may be called the Kerala Local Authorities (Disqualification of Defected Members) Rules, 2000.
- (2) They shall be deemed to have come Into force on the 2nd day of October, 1995.

2. Definitions :-

In this Rules, unless the context otherwise requires,-

- (a) Act means the Kerala Local Authorities (Prohibition of Defection) Act (11 of 1999);
- (b) Secretary means the Secretary of a local authority;

(c) Section means a section of the Act;

(d) The words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. To Maintain Register To Record The Party Connections Of Members :-

(1) The Officer authorised for the purpose by the State Election Commission shall record in the Register in Form 1 appended to these rules, the details as to whether a member duly elected to a local authority is one who belongs to a political party or coalition or is having the support of any one of them or is an independent member not belonging to any political party or coalition.

(2) If a member elected to a local authority is

(a) a person who contested election as a candidate of a Political party or as a candidate having the support of political party shall file a declaration to that effect before the Officer authorised under sub-rule (1) and accordingly that member shall be treated as a member of that political party or as a member with the support of that political party, as the case may be;

(b) an independent who contested election as a candidate of a coalition or as a candidate with the support of the coalition, shall file a declaration to that effect before the Officer authorised under sub-rule (1) and accordingly that member shall be treated as a member of that coalition or as a member with the support of that coalition; as the case may be;

(c) an independent who contested election otherwise than as the candidate of a political party or a coalition or as the candidate with the support of the same shall file a declaration to that effect before the Officer authorised under sub-rule (1) and accordingly that member shall be treated as an independent member and; a register under sub-rule (I) shall be maintained recording therein the respective facts. (3) The declaration of the member under sub-rule (2) shall be in Form 2 appended to these rules and shall be filed on the same day he assumes Office as member after the swearing:

Provided that a person who has been a member of a Local Authority on the date of [publication of these rules in the Gazette shall, in accordance with the position as on the date on which he was elected a member, file, before the expiry of the date fixed by order by the State Election Commission, the declaration under sub-rule

(2) and the details in respect of the member shall be recorded in the register accordingly.

Explanation:- Declaration shall be filed under these rules even if a member has filed declaration under rule 3 of the Kerala Local Authorities (Disqualification of Defected Members) Rules, 1998 and the details in respect of the member have been recorded in the register maintained under the said rules.

(4) The register maintained under sub-rule (1) and the declarations that the members submit for making entries therein shall be kept in the safe custody of the Officer authorised under sub-rule (1) at his own responsibility.

4. The Manner In Which A Political Party Or Coalition May Give Direction To Its Members :-

(1) If a political party or coalition gives any direction in respect of the casting of vote in an election or in a voting as has been mentioned in clause (a) or clause (b) of section 3, it shall be in writing and such a direction shall be given,-

(i) in the case of a member who belongs to a political party or is considered to be included in it; by the member whom the members of the said political party and the members considered to be included in it in the local authority concerned elect for the purpose, on majority basis from among themselves; and

(ii) In the case of a member who belongs to a coalition or considered to be included in it; by the member whom the members of the said coalition and the members considered to be included in it in the local authority concerned elect for the purpose, on majority basis from among themselves.

(2) The political party and the coalition having representation in a local authority shall, immediately when the member who shall issue direction under sub-rule (1) is elected, inform the fact to the Secretary.

(3) While issuing a direction under sub-rule (1) directly, the person who gives it shall obtain a receipt from the member and while sending it by registered post it shall be done along with acknowledgement due and while effecting it by affixing it shall be done in the presence of at least two witnesses.

4A. Petition Relating To Disqualification :-

(1) Where a question arises as to whether a member of a local authority has become subject to disqualification under the provisions of the Act, the member authorised to give direction to

that member under sub-rule (1) of Rule 4 or any other member of the local authority concerned may file a petition before the State Election Commission for taking decision in the matter.

(2) A petition under sub-rule (1) shall be filed within fifteen days from the date on which the member concerned is considered to be disqualified: Provided that where the petitioner convinces the State Election Commission that there is sufficient reason for having failed to file the petition within the prescribed time limit, it may accept the said petition

5. Decision Of The Election Commission Regarding Disqualification :-

(1) Every petition mentioned under sub-section (1) of section 4 shall, as far as may be disposed of within sixty days of its receipt.

(2) The register that is maintained under rule 3, the declarations filed by the members for recording the details therein, the records in respect of voting or election conducted in the meetings of the local authority, the ballot papers on which the members marked their votes etc. shall, as the State Election Commission may demand, be submitted before the Commission by the Officer maintaining the same or the Secretary, as the case may be.

(3) For the purpose of disposing a petition under sub-rule (1), the State Election Commission may, if it deems necessary, examine the veracity of the declaration filed by the member concerned under sub-rule (2) of rule 3 or may also examine as to whether the member belongs to a political party or to a coalition or is an independent member not included in a political party or a coalition, and the decision that the commission may take on the basis of such examination in the matter shall be final.

(4) Sub-rule (1) shall not apply in the case of a petition filed before the State Election Commission or which is pending before it prior to the date of publication of these rules in the Gazette and which alleges that a member of a local authority has become subject to disqualification for the reason of defection and the Commission may dispose of such a petition even in the absence of a copy of the direction under sub-rule (1) of rule 4.