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## **Madhya Pradesh Local Authorsties (Electoral Offences) Act, 1964**

### CONTENTS

1. Short Title, Extent And Commencement
2. Definitions
3. Prohibition Of Public Meetings On And One Day Prior To Election Day
4. Disturbances At Election Meetings
- 5 . Officers Etc., At Elections Not To Act For Candidates Or To Influence Voting
6. Prohibition Of Canvassing In Or Near Polling Stations
7. Penalty For Disorderly Conduct In Or Near Polling Stations
8. Penalty For Misconduct At Polling Station
- 9 . Penalty For Illegal Hiring Or Procuring Of Conveyance At Elections
10. Removal Of Ballot Papers From Polling Station To Be Offence
11. Other Offences And Penalties Therefor
12. Prosecution Regarding Certain Offences
13. Breach Of Official Duty In Connection With Elections
14. Maintenance Of Secrecy Of Voting
- 14A. Restrictions Of The Printing Of Pamphlets, Posters, Etc.
- 14B. Penalty For Government Servant For Acting As Election Agent, Polling Agent Or Counting Agent
- 14 C. Promoting Enmity Between Classes In Connection With Election
- 14D. Offence Of Booth Capturing
15. Repeal

## **Madhya Pradesh Local Authorsties (Electoral Offences) Act, 1964**

An Act to provide for the electoral offences at or in connection with the elections to the Municipal Corporations, Municipal Councils 2[Nagar Panchayats, Gram Panchayats, Janpad Panchayats and Zila Panchayats] in Madhya Pradesh. Be it enacted by the Madhya Pradesh Legislature in the Fifteenth Year of the Republic of India as follows: 1. Received the assent of the Governor on 27-5-1964; assent first published in the "Madhya Pradesh Gazette" Extraordinary on 12-6-1964. 2. Substituted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).

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

(1) This Act may be called the Madhya Pradesh Local Authorities (Electoral Offences) Act, 1964.

(2) It extends to the whole of Madhya Pradesh.

1(3) It shall come into force on such date, as the State Government may, by notification, appoint.

1. The Act came into force with effect from 1-11-1964. vide Notfn. No. 300/XVIII-U-11/64 dated 28-10-1964, published in the Madhya Pradesh Gazette, dated 30-10-1964, Part II at p. 1315.

## **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(1) "election " means-

(a) in the case of a Municipal Corporation an election to fill the office of a Councillor under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956);

(b) in the case of a Municipal Council 1[or Nagar Panchayat] an election to fill the office of the Councillor of the Council under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961);

2[(c) in the case of a Gram Panchayat, Janpad Panchayat and Zila Panchayat, an election to fill the offices of a Panch and Sarpanch of a Gram Panchayat, a member of a Janpad Panchayat and a member of Zila Panchayat respectively under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994);

1[(2) "Local Authority" means a Municipal Corporation constituted under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), a Municipal Council or a Nagar Panchayat constituted under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), or a Gram Panchayat, Janpad Panchayat or Zila Panchayat, constituted under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), as the case may be];

(3) "Principal Officer of a local authority" means-

(a) in the case of a Municipal Corporation, the Commissioner as defined in sub-section (11) of Section 5 of the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956);

2[(b) in the case of a Municipal Council or a Nagar Panchayat, the Chief Municipal Officer as defined in sub-section (5) of Section 3 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961);

(c) in the case of a Gram Panchayat, Janpad Panchayat or a Zila Panchayat, the Secretary, the Chief Executive Officer or the

Secretary appointed respectively under sub-sections (1), (2) and (3) of Section 69 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), or the person performing the duties of such posts under sub-section (4) of the said section;]

(4) "Returning Officer" means-

(a) in the case of an election to a seat of a Councillor of a Municipal Corporation, any officer appointed as such under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956);

(b) in the case of an election to a seat of Councillor of a Municipal Council 1[or Nagar Panchayat], any officer appointed as such under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961);

2[(c) in the case of an election to a seat of a Panch or a Sarpanch of a Gram Panchayat or of a member of Janpad Panchayat or a Zila Panchayat, any officer appointed as such under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994).]

1. Inserted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).

2. Substituted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).

### **3. Prohibition Of Public Meetings On And One Day Prior To Election Day :-**

(1) No person shall convene, hold or attend any public meeting within any constituency on and one day prior to the date or dates on which a poll is taken for an election in that constituency.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

### **4. Disturbances At Election Meetings :-**

(1) Any person who at a public meeting 1[relating to an election] acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) 2[x x x]

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address the police officer may arrest him without warrant.

1. Substituted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).
2. Omitted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).

#### **5. Officers Etc., At Elections Not To Act For Candidates Or To Influence Voting :-**

(1) No person who is a Returning Officer or a presiding or polling officer at an election, or an officer or clerk appointed by the Collector or the principal officer of a local authority or the Returning Officer or the presiding or the polling officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour-

- (a) to persuade any person to give his vote at an election; or
- (b) to dissuade any person from giving his vote at an election; or
- (c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

#### **6. Prohibition Of Canvassing In Or Near Polling Stations :-**

(1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or any road, street, lane or open space within a distance of hundred 1[m] of the polling station, namely:

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

1. Substituted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).

#### **7. Penalty For Disorderly Conduct In Or Near Polling**

## **Stations :-**

(1) No person shall, on the date or dates on which a poll is taken at any polling station,-

(a) use or operate within or at the entrance of the polling station, or in any public or private place in neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker; or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof;

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of the provisions of sub-section (1), shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the polling officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

## **8. Penalty For Misconduct At Polling Station :-**

(1) Any person, who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the polling officer may be removed from the polling station by the polling officer or by any police officer on duty or by any person authorised in this behalf by such polling officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the polling officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) Any offence punishable under sub-section (3) shall be cognizable.

### **9. Penalty For Illegal Hiring Or Procuring Of Conveyance At Elections :-**

(1) No candidate or his agent or any other person shall hire or procure whether on payment or otherwise any vehicle or vessel for the conveyance of any elector (other than the candidate himself, a member of his family or his agent) to or from any polling station provided for the election :

Provided that the prohibition contained in this section shall not apply to-

(a) the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to or from any such polling station if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power; or

(b) the use of any public transport vehicle or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station.

Explanation.-In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

( 2 ) Any person who contravenes sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

### **10. Removal Of Ballot Papers From Polling Station To Be Offence :-**

(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the polling officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be

searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the polling officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

( 4 ) An offence punishable under sub-section (1) shall be cognizable.

### **11. Other Offences And Penalties Therefor :-**

(1) A person shall be guilty of an electoral offence if at any election he-

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or

(c) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(d) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot paper then in use for the purposes of the election; or

(f) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall,-

(a) if he is a returning officer or a polling officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election.

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

## **12. Prosecution Regarding Certain Offences :-**

1[(1) If the principal officer of a local authority has reasons to believe that any offence punishable under Section 5 or under clause (a) of sub-section (2) of Section 11 has been committed in reference to any election, it shall be the duty of such officer to send a report in that behalf forthwith to the Collector within whose local jurisdiction the local authority situate.

(2) If on receipt of such report or otherwise the Collector is satisfied that an offence to which sub-section (1) applies has been committed within his jurisdiction, he shall cause such enquiries to be made and such prosecutions to be instituted as the circumstances of the case may appear to him to require.

(3) No Court shall take cognizance of any offence punishable under Section 5 or under clause (a) of sub-section (2) of Section 11 unless there is a complaint made by order of, or under the authority from, the Collector concerned.]

1. Substituted by M.P. Act No. 7 of 1968 (w.e.f. 30-3-1968).

## **13. Breach Of Official Duty In Connection With Elections :-**

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The person to whom this section applies are the returning officers, presiding officers, polling officers, and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under the law under which the election is held.

## **14. Maintenance Of Secrecy Of Voting :-**

(1) Every officer, clerk, agent or other person who performs any

duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

#### **14A. Restrictions Of The Printing Of Pamphlets, Posters, Etc. :-**

1[(1) No person shall print or publish, or cause to be printed or published any election pamphlet or a poster which in either case does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster-

(a) unless a declaration as to the identity of the publisher thereof signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document to such officer of the district, as the State Government may specify, in which it is printed.

(3) For the purposes of this section,-

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and

(b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time and place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) of Section 2 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

1. Sections 14-A to 14-D, Inserted by M.P. Act No. 18 of 1994 (w.e.f. 30-5-1994).

#### **14B. Penalty For Government Servant For Acting As Election Agent, Polling Agent Or Counting Agent :-**

If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

#### **14C. Promoting Enmity Between Classes In Connection With Election :-**

Any person who in connection with an election defined in clause (1) of Section 2 of this Act, promotes or attempts to promote on grounds of religion, race, caste, community or language, feeling of enmity or hatred between different classes of

the citizens of India residing in or carrying on business trade, profession or any calling in Madhya Pradesh, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

#### **14D. Offence Of Booth Capturing :-**

Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine.

Explanation.-For the purposes of this section, "booth capturing" includes, among other things, all or any of the following activities, namely :-

- (a) seizure of a polling station or a place fixed for poll by any person or persons, and making polling authorities surrender the ballot papers or voting machines or doing of any other act which affects the orderly conduct of elections;
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and preventing others from voting;
- (c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place of counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines or the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

#### **15. Repeal :-**

The Madhya Pradesh Local Authorities (Electoral Offences) Act, 1952 (XI of 1952); and the Madhya Pradesh Local Authorities (Electoral Offences) Extension to Bhopal Region Act, 1959 (24 of 1959) are hereby repealed.