

**MAHARASHTRA LOCAL AUTHORITY MEMBERS
DISQUALIFICATION ACT, 1987**

20 of 1987

[29th July, 1987]

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SCHEDULE 1 :- SCHEDULE

**MAHARASHTRA LOCAL AUTHORITY MEMBERS
DISQUALIFICATION ACT, 1987**

20 of 1987

[29th July, 1987]

An Act to provide for disqualification of members of certain authorities on ground of defection and for matters incidental and connected therewith. WHEREAS, it is expedient to provide for disqualification of members of certain local authorities on the ground of defection and for matters incidental and connected therewith; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Local Authority

Members Disqualification Act, 1987

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "aghadi" or "front" means a group of persons who have formed themselves into party for the purpose of setting up candidates for election to a local authority;

(b) "Collector" means the Collector of a district;

(c) "Commissioner" means the Commissioner of a revenue division appointed under Section 6 of the Maharashtra Land Revenue Code, 1966;

(d) "Councillor" means a Councillor of a Municipal Corporation, or a Municipal Council, or a Zilla Parishad.

(e) "local authority" means-

(i) a Municipal Corporation,

(ii) a Municipal Council,

(iii) a Zilla Parishad, or

(iv) a Panchayat Samiti;

(f) "member" means a member of a Panchayat Samiti;

(g) "Municipal Corporation" means a Municipal Corporation constituted under a relevant municipal law;

(h) "Municipal Council" means a Municipal Council constituted under the Maharashtra Municipalities Act, 1965;

(i) "municipal party", in relation to the Councillor belonging to any political party or aghadi or front in accordance with the Explanation to Section 3, means-

(i) in the case of a councillor of a Municipal Corporation, the group consisting of all the councillors of the Municipal Corporation for the time being belonging to that political party or aghadi or front in accordance with the said Explanation.

(ii) in the case of a councillor of a Municipal Council, the group consisting of all the councillors of the Municipal Corporation for the

time being belonging to that political party or aghadi or front in accordance with the said Explanation.

(j) "original political party", in relation to a councillor or a member, means the political party to which he belongs for the purposes of sub-section (1) of Section 3;

(k) "Panchayat Samiti" means a Panchayat Samiti constituted under the Maharashtra Zilla Parishads and Panchayat Samitis' Act, 1961;

(l) " Panchayat Samiti party", in relation to a member belonging to any political party or aghadi or front in accordance with the Explanation to Section 3, means the group consisting of all the members of the Panchayat Samiti for the time being belonging to that political party or aghadi or front in accordance with the Explanation;

(m) "relevant municipal law",-

(i) in relation to the Municipal Corporation of Greater Bombay, means the Bombay Municipal Corporation Act;

(ii) in relation to the Corporation of the City of Nagpur, means the City of Nagpur Corporation Act, 1948;

(iii) in relation to the Municipal Corporation of any other City, means the Bombay Provincial Municipal Corporation Act, 1949:

(n) "Schedule" means the Schedule appended to this Act;

(o) "Zilla Parishad" means a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis' Act, 1961;

(p) " Zilla Parishad party", in relation to a councillor of a Zilla Parishad belonging to any political party or aghadi or front in accordance with the Explanation to Section 3, means the group consisting of all the members of the Zilla Parishad for the time being belonging to that political party or aghadi or front in accordance with the said Explanation;

3. Disqualification on ground of defection :-

(1) Subject to the provisions of Sections 4 and 5, a councillor or a member belonging to any political party or aghadi or front shall be disqualified for being a councillor or a member-

(a) if he has voluntarily given up his membership of such political party or aghadi or front; or

(b) if he votes or abstains from voting in any meeting of the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti contrary to any direction issued by the political party or aghadi or front to which he belongs of by any person or authority authorised by any of them in this behalf, without obtaining, in either case, the prior permission of such political party or aghadi or front, person or authority and such voting or abstention has not been condoned by such political party or aghadi or front, person or authority within fifteen days from the date of such voting or abstention:

Provided that, such voting or abstention without prior permission from such party or aghadi or front, at election of any office, authority or committee under any relevant municipal law or the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 shall not be condoned under this clause;

Explanation:- For the purposes of this section- (a) a person elected as a councillor, or as the case may be, a member shall be deemed to belong to the political party or aghadi or front, if any, by which he was set up as a candidate for election as such councillor or member;

(b) a nominated or co-opted councillor or member shall-

(i) where he is a member of any political party or aghadi or front on the date of his nomination, or as the case may be, co-option as such councillor, or as the case may be, member be deemed to belong to such political party or aghadi or front,

(ii) in any other case, be deemed to belong to the political party or aghadi or front of which he becomes, or as the case may be, first becomes a member of such party or aghadi or front before the expiry of six months from the date on which he is nominated or co-opted as such councillor, or as the case may be, member;

(c) a "nominated member", in relation to a Panchayat Samiti, includes an associate member, referred to in clause (c) of sub-section (1) of Section 57 of Maharashtra Zilla Parishads and Panchayat Samitis Act. 1961.

(2) An elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by any political party or aghadi or front shall be disqualified for being a

councillor, or as the case may be, a member if he joins any political party or aghadi or front after such election.

(3) A nominated or co-opted councillor, as the case may be, member shall be disqualified for being a councillor, or as the case may be, a member, if he joins any political party or aghadi or front after the expiry of six months from the date on which he is nominated or co-opted as such councillor, or as the case may be, member.

(4) Notwithstanding anything contained in the foregoing provisions of this section a person who on the commencement of this Act, is a councillor, or as the case may be, member (whether elected or nominated or co-opted as such councillor or member) shall-

(a) where he was a member of a political party or aghadi or front immediately before such commencement be deemed, for the purposes of sub-section (1), to have been elected as a councillor, or as the case may be, a member as a candidate set up by such political party or aghadi or front;

(b) in any other case, be deemed to be an elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by any political party or aghadi or front for the purpose of sub-section (2), or as the case may be, be deemed to be a nominated or co-opted councillor, or as the case may be, a member for the purposes of sub-section (3).

4. Disqualification on ground of defection, not to apply in case of split. :-

(1) Where a councillor, or as the case may be, a member makes a claim that he and any other member of the municipal party, Zilla Parishad party, or as the case may be, the Panchayat Samiti party constitute the group representing a faction which has arisen as a result of a split in his original political party or aghadi or front and where the total strength of the councillors or, as the case may be, members-

(A) does not exceed twenty and such group consists of one-half, or

(B) exceeds twenty and such group consists of one-third of the councillors of such municipal party, Zilla Parishad party, or as the case may be, the members of such Panchayat Samiti party party-

(a) he shall not be disqualified under sub-section (1) of Section 3

on the ground-

(i) that he has voluntarily given up membership of his original political party or aghadi or front; or

(ii) that he has voted or abstained from voting in the meeting of such Municipal Corporation, Municipal Council, Zilla Parishad, or as the case may be, Panchayat Samiti, contrary to any direction issued by such party or aghadi or front or by any person or authority authorized by any of them in that behalf without obtaining the prior permission of such party. aghadi, front, person or authority and such voting or abstention has not been condoned by such party, aghadi, front, person or authority within fifteen days from the date of such voting or absention; and

(b) from the time of such split, such faction shall be deemed to be the political party or aghadi or front to which he belongs for the purposes of sub-section (1) of Section 3 and to be his original political party or aghadi or front for the purposes of this section.

(2) Notwithstanding anything contained in sub-section (1), a councillor, or as the case may be, a member shall be precluded from making such a claim as referred to in sub-section (i) for more than once during his term of office under the relevant municipal law or, as the case may be, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

5. Disqualification on ground of defection, not to apply in case of merger :-

A councillor or a member shall not be disqualified under subsection

(1) of Section 3 where his original political party or aghadi or front merges with another political party or aghadi or front and he claims that he and any other members of his original political party or aghadi or front-

(a) have become members of such other political party or aghadi or front or as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or aghadi or front or group, as the case may be, shall be deemed to be the political party or aghadi or front to which he belongs for the purpose of sub-section (1) of

Section 3 and to be original political party or aghadi or front for the purpose of this sub-section.

(2) For the purposes of sub-section (1), the merger of the original political party or aghadi or front of a councillor, or as the case may be, a member shall be deemed to have taken place if, and only if, not less than two-thirds of the members of municipal party, Zilla Parishad party, or as the case may be, Panchayat Samiti party, concerned, have agreed to such merger.

6. Councillor or member to vacate office or not hold office after split or merger :-

A councillor, or as the case may be, member claiming such split or merger as referred to in Section 4 or 5 as the case may be, shall-

(a) if holding any office other than such councillor or member under any relevant municipal law, or as the case may be, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 shall be deemed to vacate such office on the date of such split or merger and shall, on and from that date, cease to hold such office;

(b)

7. Decision on question as to disqualification on ground of defection :-

If any question arises as to whether-

(a) a councillor of a Municipal Corporation;

(b) a councillor of a Municipal Council; or

(c) a councillor of a Zilla Parishad; or

(d) a member of a Panchayat Samiti, has become subject to disqualification under this Act, the question shall be referred-

(i) in the case of a councillor of a Municipal Corporation, to the Commissioner, and

(ii) in the case of any other councillor or member, to the Collector;

8. Bar of jurisdiction of Civil Courts etc :-

Notwithstanding anything contained in any relevant municipal law, or the Maharashtra Municipalities Act, 1965, or Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961; no Civil Court and no other authority or officer shall have any jurisdiction to deal with or decide any question as to disqualification of a councillor or a

member on the ground of defection or as to any matter connected therewith, which the Commissioner or the Collector is empowered to deal with and decide under Section 7; and no injunction shall be granted by any Civil Court or any authority or officer in respect of any act taken or to be taken by the Commissioner or Collector in pursuance of any power conferred on him by or under this Act.

9. Rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the maintenance of registers or other records as to the political parties or aghadi or fronts, if any, to different councillors, or as the case may be, members belong;

(b) the report which the leader of a municipal party or a Zilla Parishad party, in relation to a councillor and the leader of the Panchayat Samiti party in relation to a member shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-section (1) of Section 3 in respect of such councillor, or as the case may be, member, the time within which and the authority to whom such report shall be furnished;

(c) the reports which a political party or aghadi or front shall furnish with regard to admission to such political party or aghadi or front of any councillors or members and the officer of the Municipal Corporation, Municipal Council, Zilla Parishad, or as the case may be, Panchayat Samiti to whom such reports shall be furnished;

(d) the procedure for deciding any question referred to in Section 7 including the procedure of any inquiry which will be made for the purpose of deciding such question; and

(e) any other matter which is required to be may be prescribed.

(3) In making rules under this section, the State Government may provide that for any breach thereof, the offender shall on conviction be punished with fine which may extend to one thousand rupees and in the case of continuing breach with fine which may extend to fifty rupees for every day during which the breach continued after conviction for the first breach.

(4) Every rule made by the State Government under this Act, shall be laid, as soon as may be, after it is made before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, then on publication of such decision in the Official Gazette, the rule shall have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Act to have overriding effect but shall be in addition to existing local authority laws :-

(1) The provisions of this Act and the rules shall have effect notwithstanding anything inconsistent therewith continued in any other law for the time being in force.

(2) Subject to the provisions of sub-section (1), the provisions of this Act shall be in addition to and shall not, save as expressly provided hereinbefore, be in derogation of the provisions of any law relating to Municipal Corporation, Municipal Council or other local authority concerned.

(3) Notwithstanding anything contained in the foregoing provisions of this section nothing in this Act shall apply when a Government servant is nominated as a councillor of a Municipal Council for a municipal area specified in Part II or Part III of Schedule I to the Maharashtra Municipalities Act, 1965, or to any person who holds the office as a member of a Panchayat Samiti by virtue of his being a Government servant and appointed as Administrator of a co-operative society.

11. Amendment of certain enactments :-

The enactments specified in the second column of the Schedule are hereby amended in the manner and to the extent specified in the third column thereof.

SCHEDULE 1

SCHEDULE