

Maharashtra Local Authority Members Disqualification Rules, 1987

CONTENTS

1. Short title
2. Definitions
3. Information to be furnished by a leader of a Party
4. Information etc. to be furnished by Councillor or members
5. Register of information as to councillors or members
6. References to be by petitions
7. Procedure
8. Decision of petitions
9. Directions as to detailed working of these rules
10. Penalty for breach of the rules

Maharashtra Local Authority Members Disqualification Rules, 1987

1. Short title :-

These rules may be called the Maharashtra Local Authority Members Disqualification Rules, 1987.

2. Definitions :-

In these rules, unless the context otherwise requires -

(a) "Act" means the Maharashtra Local Authority Members Disqualification Act, 1986;

(b) "Form" means the form appended to these rules; [(b-I)

(i) "Leader in relation to a municipal party" means a Councillor chosen by each political party or aghadi or front is the Municipal Corporation or as the case may be in the Municipal Council as its leader and includes any other Councillor of such party or aghadi or front authorised by it to act in the absence of the leader as, or discharge the functions of the leader of such party or aghadi or front for the purposes of these rules.

(ii) "Leader in relation to a Panchayat Samiti party" means a member chosen by each political party or aghadi or front in Panchayat Samiti as its leaders and includes any other Member of such party or aghadi or front authorised by it to act in the absence

of the leader as, or discharge the functions of the leader of such party or aghadi or front for purposes of these rules..

(iii) "Leader in relation to a Zilla Parishad Party" means a councillor chosen by each political party or aghadi or front in Zilla Parishad as its leader and includes any other councillor of such party or aghadi or front authorised by it to act in the absence of the leader as, or discharge the functions of the leader of such party or aghadi or front for the purposes of these rules.]

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

3. Information to be furnished by a leader of a Party :-

(1) The leader of each municipal party or a Zilla Parishad in relation to a councillor and the leader of Panchayat Samiti in relation to a

(a) a statement in writing containing the names of members of such party together with other relevant particulars regarding such members as prescribed in Form I, and the names and designations of the members of such party who have been authorised by it for communicating with the Commissioner or, as the case may be, Collector for the purposes of these rules;

(b) a copy of the rules and regulations (whether known as such or a Constitution or by any other name), of the municipal party, Zilla Parishad party or the Panchayat Samiti party concerned, as the case may be; and

(c) where such party has any separate set of rules and regulation (whether known as such or as constitution or/by any other name) also a copy of such rules and regulations.

(2) Where a municipal party or a Zilla Parishad party in relation to a councillor and 2[* * *] a Panchayat Samiti party in relation to a member, consists of only one member then such member shall furnish a copy of the rules and regulations mentioned in clause (b) of sub-rule(1) to the Commissioner or as the case may be, Collector, within thirty days from the date of commencement of these rules or, where he has become a councillor of the Municipal Corporation, Municipal council, Zilla Parishad or as the case may be, a member of the Panchayat Samiti after such date, within thirty days from the date on which he has taken his seat in the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti, or in any case, within such further period as the Commissioner or, as the case may be, Collector may for sufficient reasons allow.

(3) In the event of any increase in the strength of a municipal party or a Zilla Parishad party in relation to a councillor and the Panchayat Samiti party in relation to a member, consisting of only one member, the provisions of sub-rule (1) shall apply in relation to such party as if such party had been formed on the first date on which its strength increased.

(4) Whenever any change takes place in the information furnished by the leader of a municipal party or a Zilla Parishad party, in relation to a Councillor and by the leader of a Panchayat Samiti party, in relation to a member under sub-rule(1) or by a member under sub-rule(2), he shall as soon as may be thereafter and in any case not later than thirty days from the date on which such change has taken place or within such further period as the Commissioner, or, as the case may be, Collector may for sufficient reasons allow, furnish in writing the information with respect to such change to the Commissioner or, as the case may be. Collector.

"(5) Where a councillor in relation to a municipal party or a Zilla Parishad party and a member in relation to a Panchayat Samiti party votes or abstains from voting in any of the meetings 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 or by any person or authority authorised by it in this behalf, without obtaining in either case, the prior permission of such party, person or authority, the leader of such municipal party or Zilla Parishad party or as the case may be, Panchayat Samiti party, or where such Councillor or member is the leader or, as the case may be, the sole member of such municipal party, Zilla Parishad party or Panchayat Samiti party, such councillor or, as the case may be, member, shall as soon as may be thereafter and in any case within thirty days from the date of such voting or abstention, inform the Commissioner or, as the case may be, the Collector in Form II whether such voting or abstention has or has not been condoned by such party, person or authority."

4. Information etc. to be furnished by Councillor or members :-

(1) (a) Every Councillor in relation to a municipal party or Zilla Parishad party and a member in relation to a Panchayat Samiti party who is holding office as such on the commencement of the Act in the Municipal Corporation, Municipal Council, Zilla Parishad

or, as the case may be, Panchayat Samiti shall furnish to the Collector within thirty

(b) Every Councillor in relation to a municipal party or a Zilla Parishad party and a member in relation to a Panchayat Samiti party after the commencement of the Act who is elected to the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti before taking his seat, shall be furnished to the Commissioner, or, as the case may be, the Collector within thirty days from the date of the declaration of the election results or within such further period as the Commissioner or, as the case may be, the Collector may for sufficient reasons allow a statement of particulars and declaration in Form III.

Explanation:- (1) For the purpose of this sub-rule "Councillor in relation to a Municipal Party or a Zilla Parishad party and "member in relation to a Panchayat Samiti party means a Councillor or member belonging to such political party or aghadi or front, which has set up his candidature for the election of Municipal Corporation, Municipal Council, Zilla Parishad or as the case may be, the Panchayat Samiti.

Explanation:- (2) For the purpose of this sub-rule, the Commissioner or as the case may be, the Collector, after the expiry of the date prescribed for the statement of the particulars and the declaration in Form III may decide as and when need arises about the affiliation of the political party or aghadi or front of the councillor, or as the case may be, the Member on the basis of the election symbol allotted to him at the time of his election."]

(2) Every councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party who takes his seat in the Municipal Corporation. Municipal Council, Zilla Parishad or as the case may be, in Panchayat Samiti, after the commencement of these rules shall, before taking his seat in the municipal corporation, municipal council, Zilla Parishad or, as the case may be, Panchayat Samiti, deposit with the Commissioner, or, as the case may be, Collector, his election certificate, or as the case may be, a certified copy of the notification nominating him as a member and also furnish to him a statement of particulars and declaration in Form III.

Explanation:- For the purposes of this sub-rule, "election certificate" means the certificate of election issued under the Bombay Municipal Corporation Act (Bom III of 1988), the Bombay Provincial Municipal Corporation Act, 1949 (Bom. LIX of 1949), the Maharashtra Municipalities Act, 1965 (Mah. XL of 1965), the City of

Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950), The Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962) and the rules made thereunder.

(3) A summary of the information furnished by the councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party, under this rule shall be published in the Maharashtra Government Gazette and if any discrepancy therein is pointed out to the satisfaction of the Commissioner, or, as the case may be, Collector necessary corrigendum shall be published in the said Gazette.

5. Register of information as to councillors or members :-

(1) The Commissioner in the case of a councillor of a Municipal Corporation and the Collector, in the case of any other councillor or member, shall maintain in Form IV, a register based on the information furnished under rules 5[3] and [4] in relation to the councillor of a municipal party, Zilla Parishad party, or as the case may be, member of a Panchayat Samiti party.

(2) The information in relation to such councillor in respect of a municipal party, Zilla Parishad party, and in relation to each member in respect of a Panchayat Samiti party shall be recorded on a separate page in the register.

6. References to be by petitions :-

(1) No reference of any question as to whether a councillor in relation to a municipal party, Zilla Parishad party, or member in relation to a Panchayat Samiti party has become subject to disqualification under the Act shall be made except by a petition in writing to the Commissioner in the case of a councillor of a Municipal Corporation and the Collector in the case of any other councillor or member, by any other councillor or, as the case may be, member, in relation to such councillor or, as the case may be, member.

(2) Before making any petition in respect of a councillor in relation to a municipal party and a Zilla Parishad party or a member in relation to

(3) Every petition -

(a) shall contain a concise statement of the material facts on which the petitioner relies; and

(b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and where the petitioner relies

on any information furnished to him by any person, a statement containing the names and address of such person and the gist of such information as furnished by each such person.

(4) Every petition and any annexure thereto shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (V of 1908) for the verification of pleadings.

7. Procedure :-

(1) On receipt of a petition under Rule 6, the Commissioner, or, as the case may be, Collector shall consider whether the petition complies with the requirements laid down in that rule.

(2) If the petition does not comply with the requirements of Rule 6, the Commissioner, or, as the case may be, Collector shall dismiss the petition and intimate the petitioner accordingly.

(3) If the petition complies with the requirements of Rule 6, the Commissioner, or, as the case may be, Collector shall forward copies of the petition and of the annexures thereto-

(a) to the councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party in respect of whom the petition has been made, and

(b) where such councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party belongs to any political party or aghadi or front and such petition has not been made by the leader thereof, also to such leader; and such councillor, member or leader shall, within seven days of the receipt of such copies, or within such further period as the Commissioner, or, as the case may be, Collector may for sufficient reason allow, forward his comments in writing thereon to the Commissioner, or, as the case may be. Collector.

(4) After considering the comments, if any, in relation to the petition received under sub-rule (3) within the period allowed (including the extended period), the Commissioner, or, as the case may be, Collector shall proceed to determine the question after making a preliminary enquiry.

(5) The procedure which shall be followed by the Commissioner, or, as the case may be, Collector for determining any question and for the purpose of making a preliminary inquiry under sub-rule (4) shall be the same as the procedure followed by the respective Committees of Privileges of both the Houses of the State Legislature.

(6) The Commissioner, or, as the case may be, Collector shall not

come to any finding that the councillor or member has become subject to disqualification under the Act without giving a reasonable opportunity to such councillor or, as the case may be, the member to represent his case and to be heard in person.

8. Decision of petitions :-

(1) At the conclusion of the consideration of the petition . the Commissioner, or, as the case may be, Collector shall, by order in writing-

(a) dismiss the petition, or

(b) declare that the councillor in relation to the municipal party and Zilla Parishad party or member in relation to the Panchayat Samiti party, in respect of whom the petition has been made has become subject to disqualification under the Act 7[and copies of the order] shall be delivered or forwarded to the petitioner, the councillor or member in relation to whom the petition has been made and to the leader of such 8[such municipal party or Zilla Parishad party] or, as the case may be. Panchayat Samiti party, if any, concerned.

(2) Every decision declaring a councillor or as the case may be, a member to have become subject to disqualification under the Act shall be reported to the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti forthwith.

(3) Every decision referred to in sub-rule (1) shall be notified in the Maharashtra Government Gazette and copies of such decision shall be forwarded to the State Government.

9. Directions as to detailed working of these rules :-

The Commissioner, or, .as the case may be Collector may from time to time issue such directions as he may consider necessary in regard to the detailed working of these rules.

10. Penalty for breach of the rules :-

A Councillor in relation to a municipal party and a Zilla Parishad party or a member in relation to a Panchayat Samiti party who commits any breach of any of the provisions of these rules shall, on conviction, be punished with a fine, which may extend to one thousand rupees and in the case of continuing breach with a fine, which may extend to fifty rupees for every day, during which the breach of the provisions of the rules continues after conviction for the first breach."]

