

MAHARASHTRA MUNICIPAL CORPORATIONS (TEMPORARY PROVISIONS) ACT, 1996

14 of 1996

[8th October, 1958]

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MAHARASHTRA MUNICIPAL CORPORATIONS (TEMPORARY PROVISIONS) ACT, 1996

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An Act to make temporary provisions for holding general elections to the Municipal Corporations in the State of Maharashtra. WHEREAS the general elections to the existing Municipal Corporations in the State of Maharashtra are to be held some time in the middle of February 1997; AND WHEREAS different provisions were obtaining in all the three Municipal Corporation laws relating to election process; AND WHEREAS the Government of Maharashtra considered it necessary to bring uniformity in the election process of all the Municipal Corporations where the elections are to be held; AND WHEREAS in order to bring such uniformity in the election process and to bring it, as far as possible, in conformity with the

election process being followed for the Parliamentary elections, the State Government considered it expedient to make special provisions by making temporary law in this behalf; AND WHEREAS both Houses of the State Legislature were not in session; AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make special provisions, by enacting a temporary law, for holding the general elections to the existing Municipal Corporations in the State; and, therefore, promulgated the Maharashtra Municipal Corporations (Temporary Provisions) Ordinance, 1996 on the 27th November, 1996; AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Forty-seventh Year of the Republic of India, as follows

1. Short title, commencement and duration :-

(1) This Act may be called the Maharashtra Municipal Corporations (Temporary Provisions) Act, 1996.

(2) It shall be deemed to have come into force on the 27th November, 1996.

(3) It shall remain in operation until all the results of the elections to the nine Municipal Corporations, which are to be held in the month of February 1997, are published in the Official Gazette and shall then expire. Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act, as if it had been repealed by a Maharashtra Act.

2. Election programme and other incidental provisions with regard to election :-

Notwithstanding anything contained in the relevant Municipal law or the election rules contained therein or made thereunder, the following provisions shall operate for holding general elections before the expiry of the duration of the existing Corporations for the purpose of reconstituting the Corporation, namely:-

(1)

(a) the process of delimitation of wards and preparation of ward rolls shall be completed in a period of not more than forty days;

(b) when fixing the dates for holding an election, the State Election Commissioner shall, without prejudice to his general powers of

superintendence direction and control in the matter of election appoint-

(i) the date for the publication of notice of programme of election by the Municipal Commissioner, which shall be the next day of the authentication of the ward roll;

(ii) the last date for making nomination which shall be the seventh day from the date of publication of notice of programme of election (both days inclusive); and the nomination forms shall be issued and received for the first six days between 11.00 a.m. and 3.00 p.m. and on the last day shall be issued between 11.00 a., and 2.00 p.m and shall be received before 3.00 p.m.

(iii) the last date for the withdrawal of candidature which shall be the second day (between 11.00 a.m. and 3.00 p.m.) after the date of scrutiny;

(iv) the date for allotment of symbols which shall be the day following the last date of withdrawal;

(v) the date for publication of list of contesting candidates shall be the day following the date of allotment of symbols;

(vi) the date on which and the time during which a poll shall, if necessary taken shall be the fifteenth day between 8-00 a.m. and 5-00 p.m. after the date of publication of list of contesting candidates;

(vii) the date and the time and place for the counting of votes which shall be the day following the date of poll;

(viii) the date before which results shall be published in the Maharashtra Government Gazette, which shall be the second day from the date of declaration of results

(c) It shall be lawful for the State Election Commissioner to vary these dates in special Circumstances such as natural calamity and, law and order situation, after recording the reasons in writing .

(2) The deposit to be paid by each candidate on or before the date appointed for the nomination of candidates, shall be one thousand rupees:

Provided that the deposit to be paid by the candidate belonging to the category of the Scheduled Castes, the Scheduled Tribes or the Backward Class of Citizens, as the case may be, shall be two

hundred fifty rupees.

(3) The counting of votes shall be done by mixing the ballot paper of the entire municipal ward.

(4) Subject to any special or general order of the State Election Commissioner, the nomination paper shall be in the Form as in Schedule-I.

(5) Subject to any special or general order of the State Election Commissioner, the ballot paper shall be in the Form as in Schedule-II.

3. Manner of allotment and rotation of seats reserved for Scheduled Castes, Scheduled Tribes, Backward Class of Citizens and Women :-

The seats to be reserved at the general election to the Corporation for persons belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Class of Citizens and Women shall be determined and allotted (including by rotation) in the following manner, namely:-

(1)

(a) Subject to the provisions of sub-sections (2) and (3) of section 5 A of the Mumbai Municipal Corporation Act or, as the case may be, sub-section (2) of section 9A of the City of Nagpur Corporation Act, 1948, the seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Corporation shall be allotted in the descending order beginning with a ward where the percentage population of such Castes or, as the case may be, Tribes with regard to the total population of such ward is the highest.

(b) Notwithstanding anything contained in clause (a), the seats to be reserved shall be rotated in the subsequent general elections, to the wards in which no seats have, in the previous general elections, been reserved for such Castes, or, as the case may be, Tribes, until such reservation is given by rotation to each of the wards in the area of the Corporation.

Explanation:- While calculating the number of seats, the fraction of one-half or more of a seat shall be counted as one and the fraction of less than one-half shall be ignored.

(2)

(a) Subject to the provisions of sub-section (4) of section 5 A of the Mumbai Municipal Corporation Act or, as the case may be, sub-section (3) of section 9A of the City of Nagpur Corporation Act, 1948, the seats to be reserved for the category of Backward Class of Citizens shall be allotted to the wards by drawing lots:

Provided that, while drawing lots, the seats already reserved for the Scheduled Castes and Scheduled Tribes shall be excluded.

(b) Notwithstanding anything contained in clause (a), the seats to be reserved shall be rotated in the subsequent general elections, to the wards in which no seats have, in the previous general elections, been reserved for the category of Backward Class of Citizens until such reservation is given by rotation to each of the wards in the area of the Corporation.

Explanation:- While calculating the number of seats, the fraction of one-half or more of a seat shall be counted as one and the fraction of less than one-half shall be ignored.

(3) Subject to the provisions of sub-section (2), sub-section (3), sub-section (4) and sub-section (5) of section 5A of the Mumbai Municipal Corporation Act or, as the case may be, of the proviso to sub-section (2), the proviso to sub-section (3), sub-section (4) and sub-section (5) of section 9A of the City of Nagpur Corporation Act, 1948, the seats to be reserved for women shall be allotted and rotated in accordance with the following principles, namely:-

(a) The seats to be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the category of the Backward Class of Citizens shall be allotted to the different wards, where the seats are to be reserved for such Castes, Tribes or the classes, as the case may be, by drawing lots from among such reserved seats.

(b) Notwithstanding anything contained in clause (a), while rotating such seats in different wards in the city at the time of subsequent general elections, the wards where such seats were already reserved in earlier elections for women from such Castes, Tribes or the Classes, as the case may be, shall be excluded, until all the wards, where such seats are required to be reserved, have been given such reservation by rotation.

(c) Where only one seat is reserved for any of the categories of the Scheduled Castes, Scheduled Tribes or, the Backward Class of

Citizens, then no seat shall be allotted to women belonging to any of these categories.

(d) Where only two seats are reserved for any of the categories of the Scheduled Castes, Scheduled Tribes or, as the case may be, for the Backward Class of Citizens in a Corporation, then out of those two seats, one seat shall be allotted to women, by drawing lots.

(e) Once seats are reserved in the appropriate wards for women belonging to the Scheduled Caste, Scheduled Tribes or the Backward Class of Citizens, as the case may be, then the remaining seats to be reserved for women shall be reserved in the different wards by drawing lots.

(f) Notwithstanding anything contained in clause (e), while rotating such seats in different wards at the time of the subsequent general elections, the wards in which the seats were reserved in the earlier elections for women shall be excluded until such reservation is even to all the wards by rotation.

4. Procedure for drawing lots :-

Lots shall be drawn by the Municipal Commissioner or an Officer authorised by him, in the presence of such residents of the City who shall remain present in response to the notice published by the Municipal Commissioner in at least one of the widely circulated local newspapers in the City and also displayed on the notice board of his office, indicating in such notice the place, date and time at which such lots shall be drawn.

5. Requisition of officers and employees of Government, Local Authorities, Corporation etc. for election. :-

Notwithstanding anything contained in the relevant municipal law or in the election rules contained therein or made thereunder, it shall be lawful for the Municipal Commissioner or any other officer authorised by the State Election Commissioner to requisition the officers or employees of any Government department, local authority, any corporation or company or body set up by the Government, or teachers and other employees in Government or aided colleges and schools, for official duty in connection with election and such officer and employee may be appointed as the Returning Officer, Presiding Officer, Polling Officer or in any other capacity in connection with the election.

6. Application of the relevant municipal law and rules contained therein or made there under :-

Except as otherwise provided by this Act, the provisions with regard to elections contained in any relevant municipal law and the rules contained therein or made thereunder shall, to the extent they are not inconsistent with the provisions made by this Act, apply mutatis mutandis in respect of any matter contained in this Act or any matter connected therewith.

7. Removal of difficulty :-

If any difficulty arises in giving effect to the provisions of any of the relevant municipal laws or rules contained therein or made thereunder, as they stand amended by this Act, as also to any other provisions in all the relevant municipal laws or all the rules contained therein or made thereunder or by reason of anything contained therein, or in giving effect to any of these Acts or the rules contained therein or made thereunder in respect of any matter contained in this Act. the State Election Commission may, as occasion arises, by order, take such action as appears to it to be necessary for the purpose of removing such difficulty.

8. Definition of the expression "relevant municipal law" :-

The expression "relevant municipal law" in this Act means,-

(a) in the case of Municipal Corporation of Greater Mumbai, the Mumbai Municipal Corporation Act.

(b) in the case of the Corporation of the City of Nagpur, the City of Nagpur Corporation Act, 1948.

(c) in the case of any other Corporation, the Bombay Provincial Mumbai Corporations Act, 1949.

9. Repeal of Mah. Ord XXI of 1996 and saving :-

(1)The Maharashtra Municipal Corporation (Temporary Provisions) Ordinance 1996 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done, or taken as the case may be, under the provisions of this Act.

SCHEDULE 1

Form of nomination paper

[Section 2(4)]
PART A
(Election to ward number _____ of the Municipal

Corporation of _____ (To be filled in by the Proposer and
Secunder and the candidate)

We hereby nominate _____ as a
candidate for election from the _____ ward number
_____ of the Municipal Corporation of _____

Name of the candidate

Father's/ Husband's name

Age

Occupation/ Profession

Full postal address of the candidate.

Caste, Tribe or Backward Class (only to be filled in by candidates, who are members of
Scheduled Castes, Scheduled Tribes and the category of Backward Class of Citizens),
when election is for a seat reserved for members of such Castes, Tribes or, as the case
may be, the Backward Class of Citizens or women.

Whether election is for a seat reserved for women.

The name and or number of the ward in which the name of the candidate is entered as a
voter in the list of voters.

Serial number of the candidate in the list of voters of the ward above mentioned in which
his name is entered as a voter.

Name of the proposer.

Serial number of the proposer in the list of
voters of the ward.

Date _____ Signature or thumb impression of Proposer

Name of the Secunder.

Serial number of the secunder in the list of
voters of the ward.

Date _____ Signature or thumb impression of Secunder

I hereby declare-

(a) that I have completed _____ years of age.

(b) that I agree to this nomination.

(c) that I have not incurred any of the disqualifications for being elected as a Councillor

Date _____ Signature or thumb impression of candidate

Here mention the name of the ward, if any _____

(Further declarations to be made by candidate belonging to the Scheduled Castes, the Scheduled Tribes or the Backward Class of

Citizens)

(To be filled in by the candidate)

I hereby declare that I belong to the _____

Caste/Tribe/Backward Class of Citizens which is a Scheduled Caste / Scheduled Tribe / Backward Class in relation to the State of Maharashtra.

Date_____Signature or thumb impression of candidate

Strike off whichever is not applicable.

(Declaration as to choice of symbol)

I hereby further declare,-

(a) that I am set up at this election by the_____party/

Aghadi/Front.

(b) that the symbols I have chosen and in order of preference.

(1)

(2)

(3)

Date_____Signature or thumb impression of candidate

PART C

SerialNo. of nomination paper_____

This nomination paper was delivered to me at my office at

_____(hour on_____(date) by the

Candidate/Proposer/Secunder of the candidate.

Date_____

Signature or thumb impression of Municipal

Commissioner / Returning Officer

Strike off whichever is not applicable,

Decision of the Municipal Commissioner or Returning Officer

accepting or rejecting nomination paper

I have examined this nomination paper in accordance with section _____of the_____Act and decide as follows:-

Date_____

Signature or thumb impression of Municipal

Commissioner / Returning Officer

PART D

Receipt for Nomination Paper and Notice of scrutiny)

(To be handed over to the person presenting nomination paper)

Serial number of nomination paper_____

The nomination paper of_____a candidate for
election from the office at_____(hour) on_____
(date) by the ""candidate / Proposer / Seconder of the candidate.

All nomination paper will be taken up for scrutiny at_____
(hour) on_____(date) at _____(place).

Date_____

Signature or thumb impression of Municipal

Commissioner / Returning Officer

Strike off whichever is not applicable.