

## CHAPTER I PRELIMINARY

**1. Short title, extent and commencement.**- (1) This Act may be called the Maharashtra <sup>1</sup>[Municipal Councils] <sup>2</sup>[Nagar Panchayats and Industrial Townships] Act, 1965.

(2) It extends to the whole of the State of Maharashtra.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such area and on such date <sup>3</sup>[as the State Government may, by notification in the *Official Gazette* appoint; and different dates may be appointed for different provisions thereof and for different areas].

### NOTIFICATION

**Noti. dated 28.2.2008 (M.G.G., Pt. I-A, Ex., Ord., p. 32).**- In exercise of the powers conferred by sub-section (2) of section 1 of the Mah. Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Act, 2007 (Mah. XXXIII of 2007) the Government of Maharashtra hereby appoints the 1st day of March, 2008 to be the date on which the said Act shall come into force.

**2. Definitions.**- In this Act, unless the context otherwise requires,-

(1) "appointed day", in relation to an area, means the date on which the relevant provisions of this Act come into force in that area;

<sup>4</sup>[(1-1A) "area", in relation to the Area Sabha, means an area determined under section 66-B;

(1-1B) "Area Sabha" means the body of all the persons registered in the electoral rolls pertaining to all polling booths in the area;]

<sup>5</sup>[(1-A) "Backward Class of Citizens", means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and *Vimukta Jatis* and Nomadic Tribes;]

(2) "building", includes a house, out-house, stable, shed, hut and other enclosure or structure whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or

1. These words were substituted for the word "Municipalities" by Mah. 18 of 1993, s. 2.
2. These words were inserted by Mah. 41 of 1994, s. 107.
3. (a) 14th day of September, 1965 for sections 2, 4, 9 to 39, 74, 296(1), (2), (3), (4), 299, 321, 342(1), (2), (3), (4), (5), (14), 345, 351 and Sch. 1 *vide* G.N., U.D. & P.H.D., No. UMA. 1365-1/Uni-11, dated 14th September, 1965.
- (b) 27th day of October 1965 for section 318 *vide* G.N., U.D. & P.H.D., No. UMA. 1365-1/Uni-11, dated 27th October, 1965.
- (c) 15th day of June, 1966 for the remaining provisions of the Act (other than those which have already come into force and other than sub-sections (5), (6) and (7) of section 75, *vide* G.N., U.D. & P.H.D., No. UMA. 1366(c)-1-Unification-IV, dated 2nd June, 1966.
4. Clause (1-1A) and (1-1B) were inserted by Mah. 21 of 2009, s. 11(i), (w.e.f. 3.7.2009).
5. Clause (1A) was inserted by Mah. 41 of 1994, s. 108(1).

otherwise, and also includes *verandahs*, fixed platforms, plinths, door steps, walls (including compound wall) and fencing and the like;

<sup>1</sup>[(2A) "Business" includes,-

- (a) any trade, commerce, profession, consumption or manufacture or any venture or concern in the nature of trade, commerce, profession, consumption or manufacture, whether or not such trade, commerce, profession, consumption, manufacture, venture or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, profession, consumption manufacture, venture or concern and whether or not there is any volume, frequency, continuity or regularity in such trade, commerce, profession, consumption, manufacture, venture or concern;
- (b) any transaction in connection with, or incidental or ancillary to, such trade, commerce, profession, consumption, manufacture, venture or concern whether or not such transaction is in respect of capital assets and whether or not it is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction, and whether or not, there is any volume, frequency, continuity or regularity in such transaction;
- (c) any occasional transaction in the nature of such trade, commerce, profession, consumption, manufacture, venture or concern involving import, purchase or sale of goods in the municipal area, whether or not there is any volume, frequency, continuity or regularity to such transaction and whether or not such transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction;
- (d) any transaction in connection with, or incidental or ancillary to, the commencement or closure of such trade, commerce, profession, consumption, manufacture, venture or concern, whether or not such transaction is affected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction.

*Explanation.*- For the purposes of this clause, the activities of raising of man-made forests or rearing of seedlings of plants shall be deemed to be a business.]

(3) "by-law" means a by-law made or deemed to be made by the Council under this Act;

1. Clause (2A) was inserted by Mah. 32 of 2003, s. 2(a).

<sup>1</sup>[(3A) "cess" means a cess on the entry of goods into the limits of the municipal area for consumption, use or sale therein, levied in accordance with the provisions of Chapter IX-A;]

(4) "Cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

<sup>2</sup>[(4A) "Chairperson of Area Sabha" means the Councillor of the concerned electoral ward;]

(5) "Chief Officer" means the person appointed or deemed to be appointed under this Act to be the Chief Officer of a municipal area;

<sup>3</sup>[(6) "Council" means a municipal council constituted or deemed to have been constituted for a smaller urban area specified in a notification issued in this respect, under clause (2) of article 243-Q of the Constitution of India or under sub-section (2) of section 3 of this Act;]

<sup>4</sup>[(7) "Councillor" means a person duly elected as <sup>5</sup>[\* \* \*] and includes the nominated Councillor, who shall not have the right,-

(i) to vote at any meeting of the Council and Committees of the Council; and

<sup>6</sup>[(ii) to get elected as a President of the Council or a Chairperson of any of the Committees of the Council;]

(8) "dairy" includes any farm, cattle-shed, cow-house, milkstore, milk-shop or other place from which milk is supplied for sale or in which milk is kept for purposes of sale or manufactured into butter, ghee, cheese, curds or dried, sterilized or condensed or toned milk, but does not include-

(A) a shop or other place in which milk is sold for consumption on the premises only, or

(B) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;

<sup>7</sup>[(8A) "dealer" means any person who whether for commission, remuneration or otherwise imports, buys or sells any goods in the municipal area for the purpose of his business or in connection with or incidental to his business, and includes,-

(a) a factor, broker, commission agent, *del credere* agent or any other mercantile agent, by whatever name called, and whether or not

1. Clause (3A) was inserted by Mah. 32 of 2003, s. 2(b).

2. Clause (4A) was inserted by Mah. 21 of 2009, s. 11(ii), (w.e.f. 3.7.2009).

3. Clause (6) was substituted by Mah. 41 of 1994, s. 108(2).

4. Clause (7) was substituted for the original by Mah. 41 of 1994, s. 108(3).

5. The words "the directly elected President" were deleted by Mah. 31 of 2006, s. 2(a)(i), w.e.f. 1.8.2006.

6. Sub-clause (ii) was substituted, *ibid.*, s. 2(a)(ii).

7. Clause (8A) was inserted by Mah. 32 of 2003, s. 2(c).

of the same description as hereinbefore specified, who buys, sells, supplies, distributes or imports any goods in the municipal area, belonging to any principal or principals whether disclosed or not;

- (b) an auctioneer, who sells or auctions goods in the municipal area, belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;
- (c) the Central Government or any State Government which (whether or not while carrying on business) buys, sells, supplies, distributes or imports goods directly or otherwise;
- (d) a society, club or other association of persons (whether incorporated or not) which, whether while carrying on business or not, imports, buys, sells, supplies, or distributes goods whether for or on behalf of its members or not, for cash or for deferred payment or, for commission, remuneration or otherwise.

*Explanation.* - For the purposes of this clause, -

(A) a manager or agent of a non-resident dealer residing in the municipal area who imports, buys, sells, supplies or distributes goods in the municipal area, or acts on behalf of such dealer as, -

- (a) a mercantile agent as defined in the Sale of Goods Act, 1930, or
- (b) an agent for handling of goods or documents of title relating to goods, or
- (c) an agent for the collection or the payment for the sale price of goods,

shall be deemed to be a dealer or as a guarantor for such collection or payment; and

(B) each of the following persons and bodies who disposes of any goods including goods as unclaimed or confiscated or as unserviceable or as scrap, surplus, old, obsolete or discarded material or waste products whether by auction or otherwise, directly or through an agent for cash, or for deferred payment, or for any other valuable consideration, shall, notwithstanding anything contained in clause (8A) or any other provisions of this Act, be deemed to be a dealer, namely :-

- (a) Port Trusts;
- (b) Municipal Corporations, Municipal Councils, *Zilla Parishads* and other local authorities;
- (c) Railway administration as defined under the Indian Railways Act, 1890;
- (d) Shipping, transport and construction companies;
- (e) Air transport, companies and Airlines;

- (f) Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1988, which are used or adapted to be used for hire or reward;
- (g) Maharashtra State Road Transport Corporation constituted under the Road Transport Corporations Act, 1950;
- (h) Customs Department of the Government of India administering the Customs Act, 1962;
- (i) Insurance and Financial Corporations, or Companies, and Banking Companies;
- (j) Advertising agencies;
- (k) any other Corporation, Company, Body or Authority owned or set-up by, or subject to administrative control of, the Central Government or any State Government.

*Exception.*- (i) Any individual who imports goods for his exclusive consumption or use and a Department of State or Central Government not engaged in business shall not be a dealer.

(ii) An agriculturist who sells exclusively agricultural produce grown on the land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause.]

(9) "Director" means the person appointed by the State Government to be the Director of Municipal Administration under this Act;

(10) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern flush-tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any electors, compressed air main, sealed sewage mains and special machinery and apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

<sup>1</sup>[(10A) "dry latrine" means a latrine in which human excreta are collected in a receptacle, and then removed by human agency;]

(11) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owing or having an interest in or managing such premises;

<sup>2</sup>[(12) "election" means an election to a Council, and includes any by-election;]

(13) "factory" means a factory as defined in the Factories Act, 1948;

1. Clause (10A) was inserted by Mah. 45 of 1975, s. 2(a).

2. Clause (12) was substituted by Mah. 31 of 2006, s. 2(b), w.e.f. 1.8.2006.

(14) "filth" includes sewage, night-soil and all offensive matter;

<sup>1</sup>[(14A) "Finance Commission" means the Finance Commission constituted in accordance with provisions of article 243-1 of the Constitution of India:]

(15) "food" includes every article used for food or drink for human consumption other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionery, flavouring and colouring matters and spices and condiments;

(16) "goods" includes animals;

(17) "house-drain" means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a municipal drain;

(18) "house-gully" or "service passage" means a passage or strip of lands constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to servants of the Council or to persons employed in the cleaning thereof or in the removal of such matter therefrom;

<sup>2</sup>[(18A-1) "importer" means a person who brings or causes to be brought any goods into the limits of the municipals area for use, consumption or sale therein;]

<sup>3</sup>[(18A) "Industrial Township" means such urban area or part thereof as the State Government may, having regard to the factors mentioned in the proviso to clause (1) of article 243-Q of the Constitution of India, by notification in the *Official Gazette*, specify to be an Industrial Township under section 341-F;]

(19) "land" includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(20) "local authority" means a Council or a Municipal Corporation constituted under the \*Bombay Municipal Corporation Act or the Bombay Provincial Municipal Corporations Act, 1949, or the City of Nagpur Corporation Act, 1948, or a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, or a village panchayat constituted under the Bombay Village Panchayats Act, 1958;

1. Clause (14A) was inserted by Mah. 41 of 1994, s. 108(4).

2. Clause (18A-1) was inserted by Mah. 32 of 2003, s. 2(d).

3. Clause (18A) was inserted by Mah. 41 of 1994, s. 108(5).

\* Now, the Mumbai Municipal Corporation Act.

<sup>1</sup>[(20A) "local newspaper" means any printed periodical work containing public news or comment on public news having wide circulation in the area of the relevant municipal council;]

(21) "lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration, and includes a lodging house for pilgrims whether lodging is provided for or without any monetary consideration;

(22) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, livestock or food for live-stock or meat, fish, fruit, vegetables, animals intended for human food, or <sup>2</sup>[any other articles intended for use or consumption by or for human beings or animals] whatsoever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

(23) "milk" includes cream, skimmed milk, separated milk and condensed, sterilized, dessicated or toned milk;

<sup>3</sup>[(24) "municipal area" means the territorial area of a Council or a *Nagar Panchayat*];

(25) "municipal market;" of "municipal slaughter-house" means a market or a slaughter-house, as the case may be, which belongs to or is maintained by the Council;

<sup>4</sup>[(25-A) "*Nagar Panchayat*" means a *Nagar Panchayat* constituted for a transitional area notified under section 341-A of this Act;]

(26) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(27) "occupier" includes -

- (a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
- (b) an owner living in or otherwise using his land or building;
- (c) a rent-free tenant;
- (d) a licensee in occupation of any land or building, and

1. This clause was inserted by Mah. 18 of 1993, s. 3(a).

2. These words were substituted for the words, "any other articles of human food" by Mah. 18 of 1993, s. 3(b).

3. Clause (24) was substituted by Mah. 41 of 1994, s. 108(6).

4. Clause (25-A) was inserted, *ibid.*, s. 108(7).

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

<sup>1</sup>[(28) \* \* \*]

(29) "offensive matter" includes animal carcasses, dung, dirt and putrid or putrifying substances other than sewage;

(30) "officer or servant of the Council" means an officer or servant appointed by the Council or any other competent authority subordinate to it, and includes any Government Officer or servant who is for the time being serving under the Council;

(31) "official year" or "financial year" means the year commencing on the first day of April;

(32) "owner" means -

(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes, -

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of, or is entrusted with or concerned for, any premises devoted to religious or charitable purposes;

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises; and

(iv) a mortgage-in-possession; and

(b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

(33) "population" means the population as ascertained at the last preceding census <sup>2</sup>[of which the relevant figures <sup>3</sup>[\* \* \*] have been published];

<sup>4</sup>[*Explanation.*- For the purposes of this clause, the expression "published" means the latest published relevant census figures; whether provisional or final, and in the absence of the latest relevant census figures, the relevant figures of the census immediately preceding the latest census, final figures of which have been published;]

1. Clause (28) was deleted by Mah.31 of 1999, s. 2.

2. These words were substituted for the words "of which the relevant figures have been published" by Mah. 12 of 1972, s. 4.

3. The words "whether provisional or final" were deleted by Mah. 41 of 1994, s. 108(8).

4. This *Explanation* was added by Mah. 8 of 2002, s. 11(c), w.e.f. 7.9.2001.



(34) "premises" includes messuages, buildings and lands of any tenure whether open or enclosed, whether built on or not and whether public or private;

(35) "prescribed" means prescribed by rules;

(36) "President" and "Vice-President" means the President and Vice-President of the Council;

(37) (a) "private market" means a market which is not a municipal market, but does not include a market established for the purposes of any law for time being in force regulating the marketing of agricultural and other produce in such markets;

(b) "private slaughter-house" means a slaughter-house which is not a municipal slaughter-house;

(38) "private street" means a street which is not a public street;

(39) "privy" means a place set apart for defecating or urinating or both together with the structure comprising such place, the receptacle therein for human excreta and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;

(40) "public place" includes any public part or garden or any ground to which the public have or are permitted to have access;

(41) "public securities" means,-

(a) securities of the Central Government and of any State Government;

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central or the State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by any enactment for the time being in force in any part of the territory of India; or

(d) securities expressly authorised by any order which the State Government makes in this behalf;

(42) "public street" means any street,-

(a) over which the public have a right of way;

(b) heretofore levelled, paved, metalled, channelled, sewered, or repaired out of municipal or other public funds; or

(c) which under the provisions of this Act becomes, or is declared, a public street;

<sup>1</sup>[(42A) "registered dealer" means a dealer registered under section 148F:]

1. Clause (42A) was inserted by Mah. 32 of 2003, s. 2(e).

(43) "rubbish" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not offensive matter or sewage;

(44) "rules" means rules made by the State Government under this Act;

<sup>1</sup>[(44A) "sanitary staff" means the staff actually employed for sweeping or cleansing streets or for carrying away refuse or for cleansing latrines, sewers, drains or public places];

(45) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Maharashtra under article 341 of the Constitution of India;

(46) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India;

<sup>2</sup>[(46-A) "Secretary of Area Sabha" means the Secretary of the Area Sabha appointed as such by the Council from amongst its officers not below the rank of the Office Superintendent or for sufficient reasons, from any other suitable class of municipal employees;]

(47) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bathrooms, stables, cattle-sheds and other like places and includes trade effluent and discharges from manufactories of all kinds;

<sup>3</sup>[(47A) "a smaller urban area" or "a transitional area" shall mean an area specified as "a smaller urban area" or "a transitional area", as the case may be, by a notification issued under clause (2) of article 243-Q of the Constitution of India or under this Act;

(47B) "State Election Commission" means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India;]

(48) "street" means any road, foot-way, square, court-alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not: and shall include every vacant space, notwithstanding that it may be private property "and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings about thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not; but shall not include any part of such space which

1. Clause (44A) was inserted by Mah. 45 of 1975, s. 2(b).

2. Clause (46A) was inserted by Mah. 21 of 2009, s. 11(iii), (w.e.f. 3.7.2009).

3. Clauses (47A) and (47B) were inserted by Mah. 41 of 1994, s. 108(9).

the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid;

(49) "total number of Councillors" in relation to a Council, means the total number of the elected <sup>1</sup>[Councillors] of that Council;

<sup>2</sup>[(49A) "turnover of purchases" means the aggregate of the amount of purchase price paid and payable by a dealer or a person in respect of any purchase of goods made by him during a given period, after deducting the amount of purchase price, if any, refunded to the dealer or the person by the seller in respect of any goods purchased from the seller and returned to him within a period of six months;

(49B) "turnover of sales" means the aggregate of the amount of sale price received and receivable by a dealer or, a person in respect of any sale of goods made during a given period after deducting the amount of sale price, if any, refunded by him to a purchaser, in respect of any goods purchased and returned by the purchaser to him within a period of six months and where the registration certificate is cancelled, the amount, in respect of sales made before the date on which the cancellation became effective, received or receivable after such date;]

(50) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street;

<sup>3</sup>[(50A) "Wards Committee" means the Wards Committee constituted under section 66-A of this Act;]

(51) "water closet" means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(52) "water-connection" includes,-

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with a water-main or pipe belonging to the Council; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;

(53) "water work" includes a lake, stream, spring, well, pump, reservoir, cistern tank, duct, whether covered or open, sluice, main-pipe, culvert, engine, water-truck, hydrant, stand-pipe, conduit, and machinery, land, building, or thing for supplying or used for supplying water or for protecting sources of water supply;

1. These words were substituted for the words "and the co-opted and nominated Councillors, if any" by Mah. 41 of 1994, s. 108(10).
2. Clauses (49A) and (49B) were inserted by Mah. 32 of 2003, s. 2(f).
3. Clause (50A) was inserted by Mah. 41 of 1994, s. 108(11).

<sup>1</sup>[(54) "wet latrine" means a latrine in which human excreta are removed by water into a septic tank or municipal underground drainage and are not required to be removed by human agency.]

## CHAPTER II MUNICIPAL COUNCILS

### (1) Municipal areas and their classification

**3. <sup>2</sup>[Specification of areas as smaller urban areas].-** <sup>3</sup>[(1) A Council for every municipal area existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994 specified as a smaller urban area in a notification issued under clause (2) of article 243-Q of the Constitution of India in respect thereof, shall be deemed to be a duly constituted Municipal Council known by the name ..... Municipal Council.

(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India, specify, by notification in the *Official Gazette*, any local area as a smaller urban area :

Provided that, no such area shall be so specified as a smaller urban area unless the State Government, after making such inquiry as it may deem fit, is satisfied that,-

- (a) the population of such area is not less than 25,000; and
- (b) the percentage of employment in non-agricultural activities in such area is not less than thirty-five per cent.

(2A) For every smaller urban area so specified by the State Government under sub-section (2), there shall be constituted a Municipal Council known by the name ..... Municipal Council.]

(3) Before the publication of a notification under <sup>4</sup>[sub-section (2)], the State Government shall cause to be published in the *Official Gazette*, and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor, to the Collector of the District within <sup>5</sup>[not less than thirty days] from the date of the publication of the proclamation in the *Official Gazette*.

1. Clause (54) was added by Mah. 45 of 1995, s. 2(c).

2. This marginal note was substituted by Mah. 41 of 1994, s. 109(c).

3. Sub-sections (1), (2) and (2A) were substituted for original sub-sections (1), (1A) and (2), *ibid.*, s. 109(a).

4. These words, brackets and figure were substituted for the words, brackets and figures "sub-section (1)", *ibid.*, s. 109(b).

5. These words were substituted for the words "two months" by Mah. 8 of 2002, s. 12.

Copies of the proclamation in Marathi shall also be posted in conspicuous places in the area proposed to be declared as a municipal area.

(4) The Collector shall, with all reasonable despatch, forward any objection so submitted to the State Government.

(5) No such notification as aforesaid shall be issued by the State Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.

**4. Classification of <sup>1</sup>[smaller urban areas].-** <sup>2</sup>[(1) Every smaller urban area shall be classified by the State Government as 'A' Class, 'B' Class or 'C' Class, on the basis of population thereof as specified below :-

A smaller urban area,-

- (a) with a population of more than 1,00,000 shall be 'A' Class smaller urban area;
- (b) with a population of more than 40,000 but not more than 1,00,000 shall be 'B' Class smaller urban area; and
- (c) with a population of 40,000 or less, shall be 'C' Class smaller urban area.

(2) Notwithstanding anything contained in sub-section (1), for the purposes of this Act, the classification as shown in Schedule I to this Act of the municipal areas or councils existing on the day of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994 specified as the smaller urban areas in the notification issued under clause (2) of article 243-Q of the Constitution of India, shall not be affected, unless such classification is duly revised by the State Government under sub-section (5);]

<sup>3</sup>[(3) \* \* \*]

<sup>4</sup>[(4) Every area specified to be a smaller urban area after the coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994 shall likewise be classified by the State Government and for that purpose, the State Government shall, from time to time by notification in the *Official Gazette*, amend Schedule I;]

(5) The State Government shall review the classification made under this section after each census or when the limits of any municipal area are altered by addition or exclusion of any local area or when any area ceases to be municipal area, and shall, where necessary, amend Schedule I accordingly.

1. These words were substituted for the words "municipal areas" by Mah. 41 of 1994, s. 110(c).
2. Sub-sections (1) and (2) were substituted for original, *ibid.*, s. 110(a).
3. Sub-section (3) was deleted by Mah. 8 of 1976, s. 2.
4. Sub-section (4) was substituted for the original by Mah. 41 of 1994, s. 110(b).

**5. Effect of re-classification of a municipal area.-** Whenever the classification of a municipal area is changed under section 4, all the relevant provisions of this Act applicable to the class of the municipal area into which the said area is re-classified, shall, with effect from the date of such re-classification, apply to the said re-classified municipal area :

Provided that, such re-classification shall not affect the constitution of the Council as constituted immediately before such re-classification and every order issued under sub-section (1) of section 10 by reason of such re-classification shall take effect for the purposes of the next general election immediately following after the date of such order.

**6. Alteration of the limits of a municipal area.-** (1) <sup>1</sup>[Subject to the provisions of sub-section (2) of section 3, the State] Government may by notification in the *Official Gazette*, -

- (a) alter the limits of a municipal area so as to include therein or to exclude therefrom such local area as may be specified in the notification;
- (b) amalgamate two or more municipal areas so as to form one municipal area;
- (c) split up any municipal area into two or more municipal areas;
- (d) declare that the whole of any local area comprising a municipal area shall cease to be a municipal area :

Provided that, no such notification shall be issued by the State Government under any of the clauses of this sub-section without consulting the Municipal Council or Councils and other local authorities concerned.

(2) Prior to the publication of a notification under sub-section (1), the procedure prescribed in sub-sections (3), (4) and (5) of section 3 shall *mutatis mutandis* be followed.

## **(2) Municipal Authorities and establishment of Councils**

**7. Municipal authorities charged with execution of the Act.-** The municipal authorities charged with carrying out the provisions of this Act for each municipal area are, -

- (a) the Council;
- (b) the President;
- (c) the Standing Committee;
- (d) the Subjects Committees, if any <sup>2</sup>[\* \* \*]
- <sup>3</sup>[(dd) the Wards Committee where constituted; and]
- (e) the Chief Officer.

1. These words, brackets and figures were substituted for the word "The State" by Mah. 41 of 1994, s. 111.

2. The word "and" was deleted, by Mah. 41 of 1994, s. 112(a).

3. Clause (dd) was inserted, *ibid.*, s. 112(b).

**8. Establishment and incorporation of Councils.-** <sup>1</sup>[A Municipal Council constituted or deemed to be constituted for every smaller urban area under section 3 shall be a body corporate] by the name of "The ..... Municipal Council" and shall have perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property, and to enter into contracts and may by the said name sue, or be sued through its Chief Officer.

**9. Composition of Councils.-** <sup>2</sup>[(1) Every Council shall consist of,-

(a) <sup>3</sup>[\* \* \*] Councillors elected at ward elections, by direct election; and

(b) such number of Councillors, not exceeding ten per cent. of the total number of elected Councillors or five, whichever is less, having special knowledge or experience in municipal administration, to be nominated by the <sup>4</sup>[Collector] in such manner as may be prescribed.

(1A) In every Council seats shall be reserved for the Scheduled Castes, the Scheduled Tribes, Backward Class of Citizens and women as provided in sub-section (2).]

(2) The Director shall from time to time by an order published in the *Official Gazette* fix for each municipal area,-

<sup>5</sup>[(a) the number of elected Councillors in accordance with the following table :-

**TABLE**

Class of Municipal area	Number of elected Councillors
(i) 'A' Class	The minimum number of elected Councillors shall be 38, and for every 8,000 of the population above 1,00,000 there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 65;
(ii) 'B' Class	The minimum number of elected Councillors shall be 23, and for every 5,000 of the population above 40,000 there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 37;
(iii) 'C' Class	The minimum number of elected Councillors shall be 17 and for every 3,000 of the population above 25,000 there shall be one additional elected Councillor, so, however that the total number of elected Councillors shall not exceed 23;]

1. These words were substituted for the portion beginning with the words "for every" and ending with the words "body corporate", by Mah. 41 of 1994, s. 113.
2. These sub-sections were substituted for sub-section (1), *ibid.*, s. 114(a).
3. The words "the President and" were deleted by Mah. 31 of 2006, s. 3, w.e.f. 1.8.2006.
4. This word was substituted for the word "Council" by Mah. 7 of 2009, s. 13, dated 14.1.2009.
5. Clause (a) was substituted by Mah. 41 of 1994, s. 114(b)(i).

<sup>1</sup>[(b) the number of seats to be reserved for women in the case of municipal area of each class of council on the basis of <sup>2</sup>[one-third] <sup>one half</sup> (including the number of seats reserved for women belonging to the Scheduled Castes, <sup>3</sup>[the Scheduled Tribes and the <sup>4</sup>[Backward Class of Citizens]] of the total number of seats to be filled in by direct election for the purpose of any general election held after the commencement of <sup>5</sup>[the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993.]]

(c) the number of seats, if any, to be reserved for the Scheduled Castes or the Scheduled Tribes so that such number shall bear, as nearly as may be, the same proportion to the number of elected Councillors as the population of the Scheduled Castes or of the Scheduled Tribes, in the municipal area bears to the total population of that area.

<sup>6</sup>[A fraction of such proportion if less than one-half shall be ignored and if one-half or more shall be reckoned as one in determining the number of seats.]

## CHAPTER V

### AMENDMENTS TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS* AND INDUSTRIAL TOWNSHIPS ACT, 1965.

Mah. XL of 1965. 5. In section 9 of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, in sub-section (2),— Amendment of section 9 of Mah. XL of 1965.

(1) in clause (b), for the words "one-third" the words "one-half" shall be substituted;

(2) in clause (c), in the proviso,—

(a) for the words "one-third" the words "one-half" shall be substituted;

(b) the words "and where only two seats are reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to Scheduled Castes or, as the case may be, to the Scheduled Tribes" shall be deleted;

(3) in clause (d), in the proviso, for the words "one-third" the words "one-half" shall be substituted.



<sup>1</sup>[shall be twenty-seven per cent. of the total number of seats to be filled in by direct election for the purpose of any general election held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993 :

Provided that, while making such reservation<sup>2</sup><sup>one half</sup>[~~one-third~~] of the total number of seats so reserved shall be reserved for women belonging to the<sup>3</sup>[Backward Class of Citizens].

<sup>4</sup>[Explanation.- \* \* \*.]

(3) The reservation of seats for Scheduled Castes and Scheduled Tribes made by an order under sub-section (2) shall cease to have effect when the reservation of seats for those Castes and Tribes in the Legislative Assembly of the State ceases to have effect under the Constitution of India :

Provided that, nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of office for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect.

(4) Every order under sub-section (2) shall take effect for the purposes of the next general election of the Council immediately following after the date of the order.

#### NOTES

**Statement of Objects and Reasons.**- Government has decided that with a view to raising political and social status of women in the State, thirty per cent. of seats of elected Councillors or members in all the Municipal Corporations and Municipal Councils should be reserved for women for the purpose of general elections which are due and are to be held soon hereafter. It is, therefore, expedient to amend all the Municipal Corporation Acts in this State and the Maharashtra Municipalities Act, 1965 suitably for that purpose before the general elections to the Corporations and the Councils can be held.- [Mah. Act 13 of 1990.]

**<sup>5</sup>[9A. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate.**- Every person desirous of contesting election to a seat reserved for the Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, shall be required to submit, alongwith the nomination paper, Caste Certificate issued by the

1. These words were substituted for the words "on the basis of as nearly as may be twenty-seven per cent." by Mah. 12 of 1997, s. 3(2)(a).
2. These words were substituted for the words, "as nearly as may be thirty per cent." by Mah. 41 of 1994, s. 114(b)(iv).
3. These words were substituted for the words "Other Backward Classes" by Mah. 12 of 1997, s. 3(1) (w.e.f. 31.5.1994).
4. Explanation was deleted by Mah. 12 of 1997, s. 3(2)(b).
5. Section 9A was inserted by Mah. 35 of 2006, s. 8 (w.e.f. 19.8.2006).

Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.]

<sup>1</sup>[\* \* \*]

**(3) Elections and publication of names of elected  
<sup>2</sup>[\* \* \*], and nominated Councillors**

**10. Division of municipal area into wards and reservation of wards for women, Scheduled Castes and Scheduled Tribes.-** <sup>3</sup>[(1) The subject to the provisions of section 9, the State Election Commissioner shall, from time to time, by an order published in the *Official Gazette*, fix for each municipal area the number and the extent of the wards into which such area shall be divided, and by the same or a like order he shall also specify the wards in which seats are reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Class of Citizens and women (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Class of Citizens). The State Election Commissioner shall, while passing any such order for subsequent general elections, ensure that such seats are reserved by rotation in different wards in the municipal area, so that all the wards get the benefit of such reservation :

<sup>4</sup>[Provided that, before the publication of any such order, the <sup>5</sup>[State Election Commissioner] shall cause to be placed on the notice board in his office, in the municipal office and in such other places in the municipal area as he thinks fit, a draft of the order proposed to be made by him, for the information of all residents of the municipal area and shall cause a notice to be published in at least one newspaper circulating in the area announcing his intention to publish such order and inviting all persons who entertain any objections to the draft order aforesaid to submit the same to him in writing, with reasons therefor, within <sup>6</sup>[seven days] from the date of publication of the notice in the newspaper;]

<sup>7</sup>[\* \* \*]

<sup>8</sup>[(2) Each of the wards shall elect only one Councillor.]

1. Proviso was deleted by Mah. 13 of 2008, s. 5.
2. The words "co-opted" was deleted by Mah. 41 of 1994, s. 115.
3. Sub-section (1) was substituted by Mah. 12 of 1997, s. 4(1) (w.e.f. 31.5.1994).
4. This proviso was inserted by Mah. 4 of 1974, s. 5(b).
5. These words were substituted for the word "Collector" by Mah. 41 of 1994, s. 116(l).
6. These words were substituted for the word "Fifteen days" by Mah. 8 of 2002, s. 14(a).
7. Second proviso was deleted by Mah. 15 of 1994, s. 6(1)(d).
8. Sub-section (2) was substituted by Mah. 16 of 2004, s. 4, w.e.f. 15.12.2004.

(3) Every order issued under sub-section (1) shall take effect for the purpose of the next general election immediately following the date of such order.

(4) Nothing in this section shall be deemed to prevent women or persons belonging to the Scheduled Castes <sup>1</sup>[Scheduled Tribes or <sup>2</sup>[Backward Class of Citizens]] for whom seats are reserved in any Council] from standing for election and being elected to any of the seats which are not reserved.

<sup>3</sup>[(5) Notwithstanding anything contained in sub-sections (1) and (3) or any other provisions of this Act, where a municipal area has been extended under clause (a) of sub-section (1) of section 6, after the General Elections, an election to provide for representation to the people of the extended area may be held as soon as practicable, and the provisions of sub-section (1) shall, *mutatis mutandis*, apply to such election :

Provided that, the total number of wards in the municipal area including the wards newly constituted for the extended area under this sub-section shall not exceed the number of electoral wards specified in the Table in clause (a) of sub-section (2) of section 9 :

Provided further that, the population of the wards newly constituted under this sub-section may marginally exceed or be below the average population of the other wards :

Provided also that, the term of the Councillors elected from the wards newly constituted under this sub-section shall be co-terminus with the term of the Council.

(6) No elections under sub-section (5) shall be held if the remainder of the tenure of the Council is less than one year.]

#### NOTES

**Statement of Objects and Reasons.**- The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 was amended to provide for representation to the areas which are added after the general elections. At present such areas do not get any representations till the next general elections. The financial powers of the Standing Committee and Subjects Committees of the Municipal Councils was also increased. Also the Presidents will receive the sumptuary allowance at a higher rate. Under the existing provisions they can draw only one of the two allowances.- [Mah. Act 11 of 2002.]

**<sup>4</sup>[10-A. State Election Commissioner.**- (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipal Councils shall vest in the State Election Commissioner.

1. These words were substituted for the words "or Scheduled Tribes" by Mah. 15 of 1994, s. 6(2).
2. These words were substituted for the words "Other Backward Classes" by Mah. 12 of 1997, s. 4(2), w.e.f. 31.5.1994.
3. Sub-sections (5) and (6) were added by Mah. 11 of 2002, s. 42.
4. Section 10-A was inserted by Mah. 41 of 1994, s. 117.

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any officer of the Commission, or any officer of the State Government not below the rank of Deputy Collector or the Chief Officer of a Council.

(3) All officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of the Municipal Council under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders or directions which may not be inconsistent with the provisions of this Act for fair and free elections.]

**<sup>1</sup>[10-AA. Power of State Election Commissioner to issue directions to prevent impersonation.-** The State Election Commissioner may with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit, to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the Peoples Act, 1951.]

**<sup>2</sup>[11. Preparation of list of voters.-** The electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorised by him, shall be the list of voters for each ward.]

**<sup>3</sup>[11-A. Provisions for inclusion of names after publication of final list of voters.- \* \* \*.]**

**11-B. Penalty for making false declarations.- \* \* \*].**

**12. Right to vote.-** (1) Every person whose name is in <sup>4</sup>[the list of voters] maintained under <sup>5</sup>[section 11] shall be qualified to vote, and every person

1. Section 10-AA was inserted by Mah. 44 of 1994, s. 7.
2. Section 11 was substituted by Mah. 11 of 1996, s. 9.
3. Sections 11A and 11B were deleted by Mah. 11 of 1996, s. 10.
4. These words were substituted for the words and figures "either in Part I or Part II of the final list of voters" by Mah. 20 of 1980, s. 19.
5. This word and figures were substituted for the words "the last preceding section" by Mah. 47 of 1973, s. 6.

whose name is not in such list shall not be qualified to vote, at the election of a Councillor for the ward to which such list pertains.

(2) The list of voters maintained under <sup>1</sup>[section 11] shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to vote, as the case may be, at any election.

<sup>2</sup>**[13. Manner of voting.-** The voting at an election shall be by ballot or by electronic voting machine, and no votes shall be received by proxy.

(2) A voter shall be entitled to one vote, which he may give to any one candidate.]

**14. Other restrictions on voting.-** (1) No person shall be entitled to vote at a general election in more than one ward, notwithstanding that his name may appear in the list of voters for more than one ward, and if a person votes in more than one ward his votes in all wards shall be void.

(2) No person shall be entitled to vote at any election in the same ward more than once, notwithstanding that his name may appear in the list of voters for that ward more than once if he does so vote all his votes in that ward shall be void.

<sup>3</sup>**[15. Qualifications for becoming a Councillor].-** <sup>4</sup>[(1) Every person <sup>5</sup>[who is not less than twenty-one years of age on the last date fixed for making nominations for every general election or bye-election and] whose name is included in the list of voters maintained under section 11 and who is not disqualified for being elected a Councillor under this Act or any other law for the time being in force, shall be qualified, and every person <sup>6</sup>[who is not of twenty-one year of age as aforesaid and] whose name is not included in the list or who is so disqualified for being a Councillor, shall not be qualified, to be elected as a Councillor at any election.]

(2) Subject to the provisions of sub-section (1), the list of voters maintained under section 11 shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to be elected, as the case may be, at any election.

1. This word and figures were substituted for the words "the last preceding section" by Mah. 47 of 1973, s. 6.
2. Section 13 was substituted by Mah. 8 of 2002, s. 15.
3. The marginal note was substituted by Mah. 10 of 1980, s. 7(b).
4. Sub-section (1) was substituted for the original sub-section (1) by Mah. 20 of 1980, s. 20.
5. This portion was inserted by Mah. 12 of 1990, s. 12(a).
6. These words were inserted, *ibid.*, s. 12(b).

**16. Disqualifications for becoming a Councillor.**- (1) No person shall be qualified to become a Councillor whether by election, <sup>1</sup>[\* \* \*] or nomination, who -

<sup>2</sup>[(a1) has been so disqualified by or under any law,-

(i) for the time being in force for the purpose of elections to the Legislature of the State :

Provided that, no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years.

(ii) made by the Legislature of the State of Maharashtra; or];

<sup>3</sup>[(a) has been convicted by a Court in India of any offence and sentenced to imprisonment for not less than two years, unless a period of <sup>4</sup>[six years,] or such lesser period as the State Government may allow in any particular case, has elapsed since his release; or]

<sup>5</sup>[(aa) has, at any time after the commencement of the Maharashtra Municipalities and other Provisions (Amendment) Act, 1974 (Mah. IV of 1974), been convicted of an offence punishable under section 153-A, or sub-section (2) or (3) of section 505, of the Indian Penal Code (XLV of 1860), unless a period of <sup>4</sup>[six years] has elapsed since the date of such conviction; or

(ab) has been convicted of an offence punishable under the <sup>6</sup>[Untouchability (Offences) Act, 1955,] and sentenced to imprisonment for any term or fine unless a period of <sup>4</sup>[six years] has elapsed since his release; or

(ac) has been convicted by a Court in India of any offence involving moral turpitude, unless a period of <sup>4</sup>[six years], has elapsed since the date of such conviction; or]

(b) has been removed from office under section 42 and <sup>4</sup>[six years] have not elapsed from the date of such removal, unless he has, by an order made by the State Government in this behalf, been relieved earlier from the disqualification arising on account of such removal from office; or

1. The word "co-option" was deleted by Mah. 41 of 1994, s. 120(a).

2. Clause (a1) was inserted, *ibid.*, s. 120(b).

3. Clause (a) was deemed always to have been substituted with effect from 16th December, 1974, for the original by Mah. 4 of 1975, s. 3.

4. These words were substituted for the words "five years" by Mah. 41 of 1994, s. 120(c).

5. Clauses (aa) to (ac) were inserted by Mah. 4 of 1974, s. 7(a)(ii).

6. See now Protection of Civil Rights Act, 1955.

- <sup>1</sup>[(ba) has been found guilty of misconduct in the discharge of his duties, or being guilty of any disgraceful conduct while holding the office of the President or Vice-President of the Council unless the period of disqualification provided under section 55B has lapsed;]
- (c) is an undischarged insolvent; or
- (d) is of unsound mind and stands so declared by a competent Court; or
- (e) has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State; or
- (f) is a Judge; or
- (g) is a subordinate officer or servant of Government or any local authority or holds an office of profit under Government or any local authority; or
- <sup>2</sup>[(ga) if, having held any office under any Government or local authority has, whether before or after the commencement of the Maharashtra Municipalities and other Provisions (Amendment) Act, 1974 (Mah. IV of 1974), been dismissed for misconduct, unless a period of <sup>3</sup>[six years] has elapsed since his dismissal; or]
- (h) is in arrears (otherwise than as a trustee) of any sum due by him to the Council after the presentation of bill therefor to him under section 150; or
- <sup>4</sup>[(ha) has not paid any sums due, whether surcharged or charged, under the provisions of the Bombay Local Fund Audit Act, 1930;]
- (i) save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a Council or in any contract with or under or by or on behalf of a Council; or
- (j) save as hereinafter provided, has directly or indirectly, by himself or his partner any, share or interest in any transaction of loan of money advanced to, or borrowed from, any officer or servant of the Council;
- <sup>5</sup>[(k) has more than two children :

1. Clause (ba) inserted by Mah. 11 of 1996, s. 11(1).

2. Clause (ga) was inserted by Mah. 4 of 1974, s. 7(a)(iii).

3. These words were substituted for the words "five years" by Mah. 41 of 1994, s. 120(c).

4. Clause (ha) was inserted by Mah. 18 of 1993, s. 6.

5. Clause (k) was inserted by Mah. 43 of 2000, s. 5.

**Bom. C.R. 820 (FB)** was referred to canvass that it is not necessary to Caste Scrutiny Committee to record specifically that the Caste Certificate had been obtained by the concern person by making a false claim or declaration and once a Caste Certificate obtained by the candidate is cancelled by the Scrutiny Committee, it is implicit that such certificate has been obtained by making false claim or declaration. The provisions of section 16(1)(1-C)(a) of the Act start with a *non obstante clause*.- *Jagannath Gawaji Chavan v. State of Mah. & Ors.*, **2007 (2) Bom. C.R. 697 : 2007 (2) Mah. L.J. 260 : 2007 (1) AIR Bom. R. 667 : 2007 (2) All M.R. 188.**

In cases of misconduct or incapacity to work, removal under section 55A of the Act can be done without notice if there is material with Government, makes out a *prima facie* case.- *Ramesh Gangadhar Korde v. State of Mah. & Ors.*, **2006 (2) Bom. C.R. 157.**

Merely by having share or interest a case cannot be made for disqualification under section 16(i) of Act unless it is proved specifically.- *Keshav Shankar Ekbote v. State of Mah. & Ors.*, **2006 (3) Bom. C.R. 404 : 2006 (1) All M.R. 624 : 2006 (1) Mah. L.J. 292.**

In the instant case election was challenged by election petition. It was on the ground of disqualification of returnable candidate on ground that he having three issue/children. It was stated that third child given in adoption in religious ceremony before declaration by affidavit and before nomination paper. It was observed that third child was born after cut off date as provided in provisions under section 16(1)(k). He has not disclosed birth of his third child or its giving in adoption while filing nomination paper with either *mala fide* intention or guilty conscious. It was held by the High Court that respondent No. 1 is not qualified to continue as Councillor of respondent No. 2.- *Suleman Abbas Chiragali Hydari v. Pramod Nandlal Yadav & Ors.*, **2008 (1) Bom. C.R. 887**; See also *Dhananjay Rambhau Raut v. State of Mah.*, **2008 (8) Supp. Bom. C.R. 679 : 2008 (5) All M.R. 331 : 2008 (5) AIR Bom. R. 95.**

**17. Power to make rules regulating elections.**- (1) The State Government <sup>1</sup>[in consultation with the State Election Commissioner], may make rules generally to provide for or to regulate, matters in respect of elections to be held under this Act.

(2) Without prejudice to the generality of the foregoing powers, the State Government <sup>1</sup>[in consultation with the State Election Commissioner], may make rules with regard to all or any of the following matters, namely :-

(a) <sup>2</sup>[the preparation, publication and maintenance of list of voters];  
<sup>3</sup>[\* \* \*]

(b) the fixation of dates, time and places for various stages of election;

(c) the appointment and duties of returning officers, presiding officers and other staff appointed for elections;

(d) the nomination of candidates, form of nomination paper, objection to nominations, scrutiny of nominations and appeals against acceptance or rejection of nomination papers;

1. These words were inserted by Mah. 41 of 1994, s. 121.

2. These words were substituted for the words "the maintenance" by Mah. 47 of 1973, s. 7.

3. Clause (aa) was deleted by Mah. 20 of 1980, s. 21(1).



- (e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the Council;
  - (f) the assignment of symbols to candidates;
  - (g) the withdrawal of candidature;
  - (h) the appointment of agents of candidates;
  - (i) the form of ballot paper;
  - (j) the procedure in contested and uncontested elections;
  - (k) the steps to be taken to prevent personation of voters;
  - (l) the manner of recording votes;
  - (m) the procedure to be followed in respect of challenged votes and tendered votes;
  - (n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes or in the event of a Councillor being elected to represent more than one ward;
  - (o) the custody and disposal of papers relating to elections;
  - (p) the circumstances in which poll may be suspended or held afresh;
  - (q) any other matter relating to elections which is to be or may be prescribed under this Act.
- <sup>1</sup>[\* \* \*]

**18. Failure to elect.**- (1) If at a general election or a bye-election, no Councillor is elected from any ward, a fresh election shall be held to elect a Councillor from that ward;

<sup>2</sup>[\* \* \*]

<sup>3</sup>[(2) \* \* \*]

**19. Declaration of results of elections.**- (1) As soon as possible after the counting of votes in a ward if it is a bye-election and in all the wards if it is a general election in a municipal area is over, the "[State Election Commissioner]" shall publish the result in the *Official Gazette*, as soon as conveniently may be.

<sup>5</sup>[If at a general election the poll could not be taken in any ward or wards for any reason on the date originally fixed for the purpose but it was taken

1. Proviso was deleted by Mah. 20 of 1980, s. 21(2).

2. The words "and if there is a failure to elect a Councillor, at a fresh election, such vacancy may notwithstanding anything contained in this Act, be filled by nomination of a duly qualified person by the State Government" were deleted by Mah. 41 of 1994, s. 122(a).

3. Sub-section (2) was deleted, *ibid.*, s. 122(b).

4. These words were substituted for the word "Collector", *ibid.*, s. 123(a).

5. This portion were inserted by Mah. 10 of 1967, s. 3(a).

on that date in more than two-thirds of all the wards, the <sup>1</sup>[State Election Commissioner] shall, as soon as, possible after the counting of votes in the said wards is over, publish the available results in the *Official Gazette*, and as regards the remaining ward or wards, the <sup>1</sup>[State Election Commissioner], shall subsequently publish the results in the *Official Gazette* as and when the poll is taken and counting of votes therein is over. In determining two-thirds of the number of the wards, a fraction shall be ignored. After every general election upon the publication of the results, or, as the case may be, the first publication of the results, in the *Official Gazette*, under this sub-section, the Council shall be deemed to be duly constituted.]

(2) If a person is elected in more than one ward, he shall by notice in writing signed by him and delivered to the <sup>2</sup>[State Election Commissioner] within a period of seven days from the date of publication of the results under sub-section (1), <sup>3</sup>[or as the case may be, the date of subsequent publication of the results thereunder in which his name is included] choose anyone of the wards which he shall serve and the choice shall be final.

(3) When such choice is made, fresh election shall be ordered in the remaining ward or wards.

<sup>4</sup>[(4) In case such person fails to notify his choice within the period specified in sub-section (2), the State Election Commissioner shall by lot decide one of the wards within which such person shall serve and the decision of the Commissioner shall be final. Fresh election shall be ordered in the remaining ward or wards.]

<sup>5</sup>[\* \* \*]

**19-A. [Co-option of Councillors].- Deleted by Mah. 19 of 1981, s. 6.**

<sup>6</sup>**[20. Publication of names of nominated Councillors.-** The names of nominated Councillors shall also be published by the State Election Commissioner in the *Official Gazette*.]

**(4) Disputes in respect of election, <sup>7</sup>[\* \* \*] or nomination of Councillors**

**21. Disputes in respect of election <sup>8</sup>[\* \* \*] nomination of Councillors.-** (1) No election, <sup>9</sup>[\* \* \*] or nomination of a Councillor may be called

1. These words were substituted for the word "Collector", by Mah. 41 of 1994, s. 123(a).
2. These words were substituted for the word "Collector" *ibid.*, s. 123(b).
3. This portion were inserted, Mah. 10 of 1967, s. 3(b).
4. Sub-section (4) was substituted by Mah. 41 of 1994, s. 123(c).
5. Sub-section (5) was deleted by Mah. 19 of 1981, s. 5.
6. Section 20 was substituted by Mah. 41 of 1994, s. 124.
7. The words "co-option" was deleted, *ibid.*, s. 125.
8. The words "co- option or" were deleted, *ibid.*, s. 126(e).
9. The word "co-option" was deleted, *ibid.*, s. 126(a).

- (e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the Council;
- (f) the assignment of symbols to candidates;
- (g) the withdrawal of candidature;
- (h) the appointment of agents of candidates;
- (i) the form of ballot paper;
- (j) the procedure in contested and uncontested elections;
- (k) the steps to be taken to prevent personation of voters;
- (l) the manner of recording votes;
- (m) the procedure to be followed in respect of challenged votes and tendered votes;
- (n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes or in the event of a Councillor being elected to represent more than one ward;
- (o) the custody and disposal of papers relating to elections;
- (p) the circumstances in which poll may be suspended or held afresh;
- (q) any other matter relating to elections which is to be or may be prescribed under this Act.

<sup>1</sup>[\* \* \*]

**18. Failure to elect.-** (1) If at a general election or a bye-election, no Councillor is elected from any ward, a fresh election shall be held to elect a Councillor from that ward;

<sup>2</sup>[\* \* \*]

<sup>3</sup>[(2) \* \* \*]

**19. Declaration of results of elections.-** (1) As soon as possible after the counting of votes in a ward if it is a bye-election and in all the wards if it is a general election in a municipal area is over, the <sup>4</sup>[State Election Commissioner] shall publish the result in the *Official Gazette*, as soon as conveniently may be.

<sup>5</sup>[If at a general election the poll could not be taken in any ward or wards for any reason on the date originally fixed for the purpose but it was taken

1. Proviso was deleted by Mah. 20 of 1980, s. 21(2).

2. The words "and if there is a failure to elect a Councillor, at a fresh election, such vacancy may notwithstanding anything contained in this Act, be filled by nomination of a duly qualified person by the State Government" were deleted by Mah. 41 of 1994, s. 122(a).

3. Sub-section (2) was deleted, *ibid.*, s. 122(b).

4. These words were substituted for the word "Collector", *ibid.*, s. 123(a).

5. This portion were inserted by Mah. 10 of 1967, s. 3(a).

costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

#### NOTES

It is well settled that if a special statute provides a remedy and also prescribes limitation for setting it, period of limitation will have to be strictly ensured and to that extend provisions of section 5 of Limitation Act stand extended.- *Atharoddin Mujroddin Kazi v. Rajendra Ramchandra Indrale*, 2008 (4) Bom. C.R. 507 : 2008 (6) All M.R. 769 : 2008 (6) Mah. L.J. 322 : 2008 (4) AIR Bom. R. 750.

**The term "any other candidate" has a reference to a candidate at the other election, which is not subjected to challenged in the election petition.**- The High Court in the case of *Manoj Bansilal Biyani & Anr. v. Sunil Murlidhar Chaudhari & Ors.*, 2009 (4) Mah. L.J. 361 held that, the petitioners who are not the candidates at the election which is the subject matter of challenge in an election petition before the District Court could not be reconsider necessary the proper parties to that petition. The identical issue in the matter of *Smt. Kanta Kathuria v. Manak Chand Surana*, 1969 (3) SCC 268 while putting interpretation to term candidate appearing in section 82(2) of the Representation of People Act, 1951, the Apex Court has ruled that the candidate necessarily shall be at the same election and not the persons who are candidates at other persons.

The High Court further held that, in the instant matter the petitioners who are not the candidates of election which is not subject matter of challenge in election petition before the District Court cannot be considered to be necessary or proper parties to the petition.

#### (5) Corrupt practices and other electoral offences

**22. Corrupt practices.**- The following shall be deemed to be corrupt practices for the purposes of this Act :-

(1) Bribery, that is to say,-

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any gratification, to any person whomsoever, with the object, directly or indirectly, of inducing -

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) a voter to vote or refrain from voting at an election;  
or as a reward to -

(i) a person for having so stood or not stood; or for having withdrawn his candidature; or

(ii) a voter for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward -

(a) by a person for standing or not standing as, or for withdrawing from being a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.

*Explanation.*- For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bona fide* incurred at, or for the purposes of any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person, with the consent of the candidate or his election agent, with the free exercise of any electoral right :

Provided that -

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein, who -

(i) threatens any candidate or any voter, or any person in whom a candidate or a voter is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or a voter to believe that he or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent, to vote or refrain from voting for any person on the grounds, of his religion, race, caste, community or language or the use of, appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with

the consent of a candidate or his election agent, for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station :

Provided that, the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

Provided further that, the use of any public transport vehicle or vessel or any tramcar or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

*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.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of the candidate's election, from any person in the service of the Government or Council.

**23. Prohibition of public meetings on the election day.**- (1) No person shall convene, hold or attend any public meeting, within a ward of a municipal area on the date or dates on which poll is taken for an election from that ward.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

**24. Disturbances at election meeting.**- (1) This section applies to any public meeting in connection with an election held in a municipal area after the programme for the election from any ward of the municipal area is announced.

(2) Any person who at a public meeting to which this section applies, 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, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (2), he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immedi-

ately, 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.

**25. 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 in any public or private place within a distance of one hundred metres of the polling station, namely :-

- (a) canvassing for votes; or
- (b) soliciting the vote of any voter; or
- (c) persuading any voter not to vote for any particular candidate; or
- (d) persuading any voter 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 any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

**26. 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 the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker; 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 of 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, any provision of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(3) If the presiding 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.

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

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter 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 presiding officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

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

**28. Penalty for illegal hiring or procuring of conveyances at election.-** If any person is guilty of any such corrupt practice as is specified in clause (5) of section 22 at or in connection with an election, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

**29. 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 any provision of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

**30. Officers, etc. at election 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 returning officer or the presiding 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 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 any provision of sub-section (1) or sub-section (2), shall on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

**31. Breaches of official duty in connection with election.-** (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, on conviction, be punished 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 persons to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to perform any duty in connection with the preparation of a municipal voters list, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at any 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 this Act.

**32. Removal of ballot papers from polling station to be an 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, on conviction, be punished 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 presiding 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 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 presiding 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.

**33. Other electoral 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) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (d) 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
- (e) fraudulently puts into any ballot box anything, other than the ballot paper which he is authorised by law to put in; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or
- (g) 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 offence under this section shall,-

- (a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both;
- (b) if he is any other person, on conviction, be punished 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, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

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

**34. Prosecution regarding certain offences.-** No Court shall take cognizance of any offence punishable under section 30, or under section 31, or under clause (a) of sub-section (2) of section 33, unless there is a complaint made by an order of, or under authority from, <sup>1</sup>[the State Election Commissioner].

**(6) Powers of requisitioning for election purposes**

**35. Requisitioning of premises, vehicles, etc., for election.-** (1) If it appears to the <sup>2</sup>[State Election Commissioner], (hereinafter referred to as "the requisitioning authority") that in connection with an election,-

- (a) an premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or
- (b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to, or from, any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election, the requisitioning authority may by order in writing requisition such premises or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that, no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served on the person to whom it is addressed in the manner prescribed for the service of a notice under section 325.

(3) Any person to whom such order is addressed shall be bound to deliver possession of such premises or such vehicle, vessel or animal to the requisitioning authority or to such other officer as may be specified in the order.

(4) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which property is required for any of the purposes mentioned in that sub-section.

1. These words were substituted for the word "Collector" by Mah. 41 of 1994, s. 127.

2. These words were substituted for the words "Collector or an officer authorised by the Collector", *ibid.*, s. 128.

*Explanation.*- For the purpose of this section "premises" means any land, building, or part of a building and includes a hut, shed or other structure or any part thereof.

(5) Any person who contravenes any order made under this section shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

**36. Payment of compensation.**- (1) Whenever in pursuance of the last preceding section, the requisitioning authority requisitions any premises, or any vehicle, vessel or animal, the Council shall pay to the person interested compensation, the amount of which shall be determined by the requisitioning authority taking into consideration the following, namely :-

(a) in the case of premises -

- (i) the rent payable, in respect of the premises or if no rent is payable, the rent payable for similar premises in the locality;
- (ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

(b) in the case of any vehicle, vessel or animal, the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal.

(2) Any person interested or any person, who claims to be entitled to receive compensation, being aggrieved by the order of the requisitioning authority as to-

- (i) the amount of compensation determined; or
- (ii) the title of any person entitled to receive compensation; or
- (iii) the apportionments of the amount of compensation among two or more persons,

may, within one month from the receipt of the order under sub-section (1), or if the order is not addressed to him within one month from the date of the order, appeal to the District Court and the decision of the District Court on such appeal shall be final.

*Explanation.*- For the purpose of this section, the expression "person interested" means,-

(a) in the case of premises,-

- (i) the person who was in actual possession of the premises immediately before the requisition; or
- (ii) when no person was in actual possession, the owner of such premises;

(b) in the case of any vehicle, vessel or animal, the owner thereof; and

(c) any other person who is entitled to receive compensation :

Provided that, where immediately before the requisitioning, any vehicle or vessel was, by virtue of a hire-purchase agreement, in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement in such manner as the requisitioning authority may decide.

**37. Power to obtain information.-** (1) The requisitioning authority may, with a view to requisitioning any property under section 35 or determining the compensation payable under section 36 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

(2) If any person to whom such order is addressed refuses to furnish such information or wilfully furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

**38. Eviction from requisitioned premises.-** (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 35 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove, or open any lock or bolt or break open any door or any building or do any other act necessary for effecting such eviction.

**39. Release of premises from requisition.-** (1) When any premises requisitioned under section 35 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 35 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause

a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette*.

(3) When a notice referred to in sub-section (2) is published in the *Official Gazette*, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the Council shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

**<sup>1</sup>[(7) Duration of Council and Term of Office of Councillors]**

**<sup>2</sup>[40. Duration of Council.-** (1) Every Council, unless sooner dissolved, shall continue for a period of five years from the date appointed for its first meeting and no longer.

(2) A Council constituted upon the dissolution of a Council before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Council would have continued under sub-section (1), had it not been so dissolved.]

**<sup>3</sup>[41. Term of office of Councillors.-** (1) The term of office of the Councillors shall be co-terminus with the duration of the Council.

(2) A Councillor may resign his office unconditionally at any time by notice in writing in his hand addressed to the Collector and delivered in person and sign before the Collector and then only such resignation shall be effective.

**41-A. Election to constitute Council.-** An election to constitute a Council shall be completed,-

(a) before the expiry of its duration specified in sub-section (1) of section 40; or

(b) before the expiration of a period of six months from the date of its dissolution :

Provided that, where the remainder of the period for which the dissolved Council would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Council for such period.]

1. This sub-heading was substituted by Mah. 41 of 1994, s. 129.

2. Section 40 was substituted for the original section 40, *ibid.*, s. 130.

3. Sections 41 and 41A were substituted for section 41, *ibid.*, s. 131.

**42. Liability of Councillors to removal from office.-** (1) The State Government may on its own motion or on the recommendation of the Council remove any Councillor from office if such Councillor has been guilty of any misconduct in the discharge of his duties, or of <sup>1</sup>[any disgraceful conduct during his current term of office or even during his immediately preceding term of office as a Councillor.]

(2) The State Government may likewise remove any Councillor from office if such Councillor has in the opinion of the State Government become incapable of performing his duties as a Councillor.

<sup>2</sup>[\* \* \*]

(3) No resolution recommending the removal of any Councillor for the purposes of sub-section (1) or (2) shall be passed by a Council and no order of removal shall be made by the State Government, unless the Councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation or order, as the case may be, should not be made.

(4) In every case the State Government makes an order under sub-section (1) or (2), the Councillor shall be disqualified from becoming a Councillor, or a Councillor or member of any other local authority for a period of five years from the date of such order.

**43. Resignation not to affect subsequent disqualification of a Councillor.-** Notwithstanding that a Councillor has resigned his office under section 41 if he is subsequently found guilty under sub-section (1) of section 42, the State Government may disqualify him from becoming a councillor, or a Councillor or member of any other local authority for a period of five years from the date of its order :

Provided that, no such action shall be taken against any person <sup>3</sup>[\* \* \*] without giving him a reasonable opportunity of being heard.

**44. Disqualification of Councillor during his term of office.-** (1) A Councillor shall be disqualified to hold office as such, if at any time during his term of office, he -

- (a) is or becomes subject to any of the disqualifications specified in section 16 except the disqualification specified in clause (h) of sub-section (1) of that section; or
- (b) as a Councillor or as a member of any committee of the Council votes in favour of any matters in which he has directly or indirectly by

1. These words were substituted for the words "any disgraceful conduct" by Mah. 11 of 1983, s. 3.

2. Proviso was deleted by Mah. 19 of 1981, s. 9.

3. The words "after the expiry of one year from the date of his resignation" were deleted by Mah. 11 of 1983, s. 4.

(3) The Chief Officer shall forward to the Collector by the last day of May, August, November and February, immediately following, a statement showing :-

- (i) the name of each Councillor included in the list prepared under sub-section (1);
- (ii) the amount of tax due from each such Councillor by way of each such tax and the date on which it became payable;
- (iii) the date of the special notice issued to such Councillor under sub-section (2); and
- (iv) the amount of tax paid by the Councillor and the reasons for the non-payment of the balance, if any.

(4) On receipt of the statement under sub-section (3), the Collector shall issue a special notice to each Councillor who has failed to pay any tax by the date specified in the notice under sub-section (2), calling upon him to state within one month from the date of the special notice why he should not be disqualified and his office declared vacant. If the Councillor fails to give an explanation to the satisfaction of the Collector for the non-payment of the taxes, the Collector shall issue an order disqualifying such Councillor and his office shall thereupon be vacant :

Provided that, neither the pecuniary circumstances of the Councillor nor the fact that he has paid the arrears after the notice under sub-section (4) was received by him shall be a satisfactory explanation for the purposes of this sub-section.

(5) Any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of the receipt of the Collector's order by him, appeal to the State Government, and the orders passed by the State Government in such appeal shall be final:

Provided that, no such appeal shall be entertained by the State Government unless the amount of tax due is deposited in the office of the Council.

(6) Notwithstanding the fact that the Councillor so disqualified has since the date of his disqualification paid such dues of his own accord or such dues are recovered from him in accordance with the procedure laid down by or under this Act, such Councillor shall be disqualified from becoming a Councillor or a Councillor or member of any other local authority for a period of five years from the date of such disqualification.

**46. Section 45 not to affect Council's other powers for recovery of taxes.-** Nothing in the last preceding section shall be deemed to affect the powers of the Council to recover the amount of tax due from any Councillor in any other manner provided by or under this Act.



**47. Councillor to vacate all offices if he ceases to be Councillor.-**

A person who ceases to be a Councillor for any reason whatsoever shall *ipso facto* vacate all the offices held by him by virtue of his being a Councillor.

**48. Casual vacancies how to be filled up.-** (1) Where a vacancy occurs through the non-acceptance of office by any elected <sup>1</sup>[\* \* \*] or nominated Councillor or such person being disqualified for becoming or continuing to be a Councillor, or any election being set aside under the provisions of section 21 or the death, resignation, removal or disability of a Councillor previous to the expiry of his term of office, the vacancy shall be filled by a by-election <sup>2</sup>[\* \* \*] or nomination according as the Councillor was elected <sup>3</sup>[\* \* \*] or nominated:

<sup>4</sup>[Provided that, no by-election shall be held <sup>2</sup>[\* \* \*] or nomination made for filling of a casual vacancy, if the general elections are due to be held within six months of the occurrence of the vacancy.]

(2) The Chief Officer shall report to <sup>5</sup>[the State Election Commissioner] every vacancy in the office of a Councillor within fifteen days of the occurrence of the vacancy or within fifteen days of his becoming aware of the vacancy, whichever is later.

<sup>6</sup>[48-A. \* \* \*]

1. The word "co-opted" was deleted by Mah. 41 of 1994, s. 133(a)(i).

2. The words "or co-option" were deleted, *ibid.*, s. 133(a)(ii).

3. The words "or co-opted" were deleted, *ibid.*, s. 133(a)(iii).

4. This proviso was deemed to have been substituted on 6th May, 1972 by Mah. 34 of 1972, s. 2.

5. These words were substituted for the word "Collector" by Mah. 41 of 1994, s. 133(b).

6. Section 48A was deleted, *ibid.*, s. 134.

### CHAPTER III

## DUTIES AND FUNCTIONS OF THE COUNCIL AND THE MUNICIPAL EXECUTIVE

### (1) Obligatory duties and discretionary functions of the Council

**49. Duties and functions of the Council.**- (1) Except as otherwise provided in this Act, the municipal Government of a municipal area shall vest in the Council.

(2) In addition to the duties imposed upon it by or under this Act or any other law for the time being in force, it shall be the duty of every Council to undertake and to make reasonable provision for the following matters within the limits of the municipal area, and when effective measures cannot otherwise be made then even outside the said limits, namely :

- (a) lighting public streets, places and buildings;
- <sup>1</sup>[(aa) planning for social and economic development;
- (ab) urban forestry, protection of the environment and promotion of ecological aspects;]
- (b) watering public streets and places;
- (c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or not removing noxious vegetation and abating all public nuisances;
- <sup>2</sup>[(d) maintenance of a fire-brigade equipped with suitable appliances for extinguishing fires, and protection of life and property when fire occur;]
- (e) regulating or abating offensive or dangerous trades or practices;
- (f) removing obstructions and protections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or in Government;
- (g) securing or removing dangerous buildings or places and reclaiming unhealthy localities;
- (h) acquiring and maintaining, changing and regulating places for the disposal of the dead;
- (i) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

1. Clauses (aa) and (ab) were inserted by Mah. 41 of 1994, s. 135(a).

2. Clause (d) was substituted for the original by Mah. 26 of 1990, s. 2.

- (j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at reasonable cost;
- (k) naming streets and numbering of premises;
- (l) registering births and deaths;
- (m) public vaccination;
- (n) suitable accommodation for any calves, cows, or buffaloes required within the municipal area for the supply of animal lymph;
- (o) establishing and maintaining public dispensaries and providing public medical relief and organising <sup>1</sup>[family planning centres and promoting population control, family welfare and small family norms];
- (p) establishing and maintaining primary schools;
- (q) printing such annual reports on the municipal administration of the municipal area as the State Government by general or special orders requires the Council to submit;
- (r) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal area;
- <sup>2</sup>[(ra) converting dry latrines in the municipal area into wet latrines;]
- (s) disposing of night-soil and rubbish and if so required by the State Government, preparation of compost manure from such night-soil and rubbish;
- <sup>3</sup>[(s-1a) ensuring that no person shall require or compel any other person to carry, and no person shall carry, night-soil as a head-load for removing it from one premises or place to any other premises or place, or for disposal, in any part of the municipal area;]
- <sup>4</sup>[(sa) taking such measures as the State Government may, from time to time, direct for improvement of the living and working conditions of the sanitary staff of the Council;]
- <sup>5</sup>[(sb) welfare measures for the Scheduled Castes, Scheduled Tribes, *Vimukta Jatis* and Nomadic Tribes, who are residing within the limits of the municipal area, and in particular taking such mea-

1. These words were substituted for the words "Family Planning Centres" by Mah. 18 of 1993, s. 7(a).  
2. Clause (ra) was inserted by Mah. 45 of 1975, s. 4(a).  
3. Clause (s-1a) was inserted by Mah. 67 of 1981, s. 2.  
4. Clause (sa) was inserted by Mah. 45 of 1975, s. 4(d).  
5. Clause (sb) was inserted by Mah. 9 of 1976, s. 3.

asures for the amelioration of the conditions of these classes as the State Government may, from time to time, direct;]

- (t) providing special medical aid and accommodation for the sick in time of dangerous or communicable disease and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of such disease;
- (u) giving relief and establishing and maintaining relief works in time of scarcity or for destitute persons within the limits of the municipal area;
- (v) imposing compulsory taxes which are specified in section 105.

(3) A Council may, at its discretion, provide, either wholly or partly, out of the municipal property and funds for-

- (a) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof to abut on such streets;
- <sup>1</sup>[(aa) slum improvement and upgradation;
- (ab) urban poverty alleviation;
- (ac) cattle pounds and prevention of cruelty to animals;
- (ad) regulation of tanneries;]
- (b) establishing or maintaining public hospitals, institutions for pre-primary and secondary education, libraries, museums, lunatic asylums, gymnasiums, *akhadas* and homes for disabled and destitute persons, and constructing and maintaining buildings therefor, along with such other public buildings like town halls, municipal offices, shops, *Dharamshalas*, open-air theatres, stadia and rest-houses;
- (c) laying out or maintaining public parks and gardens, and also planting and maintaining road-side and other trees;
- (d) providing music for the people;
- (e) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;
- (f) making a survey;
- (g) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate; or any portion of any such charges;
- (h) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 293 of this Act or under section 44 of the Bombay Police Act, 1951;

1. Clauses (aa), (ab), (ac) and (ad) were inserted by Mah. 41 of 1994, s. 135(b).

(6) If any Council supplies water through pipes, it shall take such steps, at such intervals, and on payment of such fees, as may be determined by a general or special order made by the State Government, to ascertain the condition of the water so supplied, by inspection and analysis at a laboratory approved by the State Government in that behalf :

Provided that, the State Government may, by notification in the *Official Gazette* exempt any Council from this provision.

(7) Where a Council has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Council or its successors, with the sanction of the State Government to cancel such arrangement or promise, or to discontinue, or to diminish, such yearly contribution provided that it shall have given at least twelve months notice, of its intention so to do to the manager, or managers of such institution.

#### NOTES

**Statement of Objects and Reasons.**- Clause (d) of sub-section (2) of section 49 of the Maharashtra Municipalities Act, 1965 provides for the duties and functions of the Municipal Council for extinguishing fires and protecting life and property when fires occur. However, there is no provision in the said Act to maintain an up-to-date fire-brigade by the Municipal Councils. Therefore, with a view to enabling the Municipal Councils to maintain an up-to-date fire-brigade, it is proposed to empower the Municipal Councils to maintain a fire-brigade, create a post of a Municipal Fire Officer, levy fire tax, by making suitable provisions including consequential and incidental provisions in the Act.- [Mah. Act 26 of 1990.]

**<sup>1</sup>[49-A. Performance of functions by agencies.-** Where any duty has been imposed on, or any function has been assigned to a Council under this Act or any other law for the time being in force, or the Council has been entrusted with the implementation of a scheme,-

- (i) the Council may either discharge such duties or perform such functions or implement such schemes by itself; or
- (ii) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government, cause them to be discharged, performed, or implemented by any agency :

Provided that, the Council may also specify terms and conditions, not inconsistent with the terms and conditions determined by the State Government for such agency arrangement.]

1. Section 49A was inserted by Mah. 41 of 1994, s. 136.

(3) Within <sup>1</sup>[thirty days] from the receipt of such order of the Collector, the Council shall, if it so desires, forward a statement to the Director indicating therein why the order of the Collector should be rescinded, revised or modified. If no such statement is received by the Director within time, the Director shall presume that the Council has no objection if the order of the Collector is confirmed.

(4) On receipt of such report from the Collector and the Council's statement referred to in sub-section (3), if any, the Director may <sup>2</sup>[within a period of six months from the receipt of such report or within such period beyond six months as may, on the request of the Director, be extended by the State Government,] rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force with or without modifications :

Provided that, the Director shall take into account the statement of a Council, if received, before such an order is made by him.

**309. Extraordinary powers of execution of certain works in case of emergency.-** (1) In case of emergency, the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a Council and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or to do it, shall forthwith be paid by the Council.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the Council as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such person from all liability to the Council in respect of any sum or sums so paid by him out of the moneys of the Council held or received by him.

(3) The provisions of sub-sections (2), (3) and (4) of the last preceding section shall apply so far as may be to any order made under this section.

**310. Power of Director to prevent extravagance in the employment of establishment.-** If in the opinion of the Director the number of persons who are employed by a Council as officers or servants, or whom a Council proposes to employ or the remuneration assigned by the Council to those

1. These words were substituted for the words "twenty days" by Mah. 18 of 1993, s. 29(a).

2. These words were inserted, *ibid.*, s. 29(b).

person or to any particular person is excessive, the Council shall, on the requirement of the Director, reduce the number of the said persons or the remuneration of the said person or persons :

Provided that, the Council may appeal against any such requirement to the State Government, whose decision shall be conclusive.

**311. Inquiry into municipal matters by State Government.-** (1) The State Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any Council or any matters with respect to which sanction, approval or consent of the State Government is required under this Act.

(2) The officer holding such inquiry shall for the purpose thereof have the powers which are vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters :-

- (a) discovery and inspection,
- (b) enforcing the attendance of witnesses, and requiring the deposits of their expenses,
- (c) compelling the production of documents,
- (d) examination of witnesses on oath,
- (e) granting adjournments,
- (f) reception of evidence on affidavit, and
- (g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the <sup>1</sup>Code of Criminal Procedure, 1898.

*Explanation.* - For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the State.

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the State Government and the State Government shall have full power to determine by and to whom and to what extent such costs are to be paid and such costs shall be recoverable as an arrears of land revenue.

**312. Power of Director to enforce performance of duties.-** (1) When the Director is informed, on a complaint made or otherwise, that default has been made in the performance of any duty imposed on a Council by or under this Act or by or under any enactment for the time being in force.

1. See now the Code of Criminal Procedure, 1973 (II of 1974).

the Director, if satisfied after due inquiry, that the alleged default has been made, may by order fix a period for the performance of that duty and communicate such order to the Council.

(2) If the duty is not performed within the period so fixed the Director may appoint some person to perform it, and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Council.

(3) If the expense and remuneration are not so paid, the Director may make an order directing the bank in which any moneys of the Council are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the Council are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the Council in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the Council by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the Council in respect of any sum or sums so paid by it or him out of the moneys of the Council so deposited with such bank or person.

**313. <sup>1</sup>[Power to dissolve a Council.-** (1) If, in the opinion of the State Government, -

- (a) a Council is not competent to perform duties imposed upon it by or under this Act or any other law for the time being in force, or
- (b) persistently makes default in the performance of such duties, or in complying with the lawful directions and orders issued by the Collector, the Director, the State Government or any other authority empowered under law to issue such directions or orders to a Council, or

<sup>2</sup>[(bb) a Council has made a default in the performance of its duty under clause (1a) of sub-section (2) of section 49, or]

- (c) exceeds or abuses its powers, or
- (d) a situation has arisen in which the administration of the Council cannot be carried out in accordance with the provisions of this Act, or

1. This marginal note was substituted for the marginal note "Power to appoint Administrator in certain circumstances" by Mah. 41 of 1994, s. 153(c).

2. Clause (bb) was inserted by Mah. 67 of 1981, s. 4.



(e) the financial position and the credit of the Council is seriously threatened, <sup>1</sup>[the State Government may, after giving the Council a reasonable opportunity of being heard by an order published in the *Official Gazette*, stating the reasons therefor, dissolve the Council.]

<sup>2</sup>[(2) If more than half of the total number of seats in a Council have become vacant the State Government may, by order in the *Official Gazette*, dissolve such Council :

Provided that, before dissolving any such Council, a reasonable opportunity of being heard shall be given to such Council.]

<sup>3</sup>[314. \* \* \*]

315. <sup>4</sup>[\* \* \*]

<sup>5</sup>[316. **Consequences of dissolution.**- When the Council is dissolved under sub-section (1) of section 313 or under the proviso to article 243-ZF of the Constitution of India, the following consequences shall ensue, namely :-

- (a) all Councillors of the Council shall, as from the date <sup>6</sup>[specified in the order of dissolution, or from the date] on which the Council stands dissolved under the proviso to article 243-ZF, vacate their offices as such Councillors;
- (b) all the powers and functions vesting in or exercisable by the Council, the President the Vice-President, the various committees, the Councillors and the Chief Officer under this Act or any other law for the time being in force shall vest in and be exercisable by such Government Officer or Officers as the State Government from time to time appoints in this behalf and such Officer or Officers shall receive such remuneration from the municipal fund as the State Government may, from time to time, determine;
- (c) the Chief Officer shall be subordinate to such Officer or Officers appointed under clause (b), who shall determine which powers and duties of a Chief Officer may be exercised and performed by the Chief Officer of such Council;
- (d) all property vested in the Council shall, during the period of dissolution, vest in the State Government.]

1. This portion was substituted for the portion beginning with the words "the State Government may" and ending with the words "from time to time determine" by Mah. 41 of 1994, s. 153(a).
2. Sub-section (2) which was deleted by Mah. 41 of 1994 was again added by Mah. 11 of 1996, s. 14.
3. Section 314 was deleted by Mah. 41 of 1994, s. 154.
4. Section 315 was deleted by *ibid.*, s. 155.
5. Section 316 was substituted *ibid.*, s. 156.
6. These words were inserted by Mah. 5 of 1995, s. 11.

**1[317. Re-constitution of Council after dissolution.-** When a Council is dissolved under section 313, general elections shall be held to constitute the Council on such date as may be specified by the State Election Commissioner :

Provided that, an election to constitute the Council shall be completed before the expiration of a period of six months from the date of dissolution of the Council.]

**318. Revisional powers of State Government.-** The State Government may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed by or as to the regularity of the proceedings of, any Council or of any officer subordinate to such Council or the State Government, acting in exercise of any power conferred on it or him by or under this Act, call for and examine the record of any case pending before or disposed of by such Council or officer and may pass such order in reference thereto as it thinks fit :

Provided that, no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard :

Provided further that, no such order shall be passed in any case in which an appeal is provided and has been preferred or has been decided:

Provided also that, no such record shall be called by the State Government after one year from the date of the passing of the order by the Council or the officer concerned.

**319. State Government's powers to enforce its orders.-** In all matters connected with this Act, if a Council makes default in carrying out any order made by the State Government or by any authority other than the Council in exercise of any of the powers conferred on it by this Act or any rule or by-law made thereunder, the State Government shall have all the powers necessary for the enforcement of such order at the cost of the Council.

**320. Powers of review.-** The State Government may, either on its own motion or on the application of any party interested, review any order passed by itself or any sanction or approval given under this Act, and the Director or the Collector may, similarly, review an order passed by himself or any sanction or approval given by him under this Act, and pass such order in reference thereto as it or he thinks fit :

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1. Section 317 was substituted by Mah. 41 of 1994, s. 157.

Provided that,-

- (i) no order shall be varied or reversed or no sanction or approval reviewed unless notice has been given to the parties interested to appear and be heard;
- (ii) no order from which an appeal has been made, or which is the subject of any revision proceedings, shall so long as such appeal or proceedings are pending be reviewed;
- (iii) no order affecting any question of right between private persons shall be reviewed, except on the application of a party to the proceedings and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

#### CHAPTER XXIV RULES AND BY-LAWS

**321. Power of Government to make rules.-** (1) The power to make all rules under this Act shall be exercisable by the State Government by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Act the State Government may make rules consistent with this Act generally to carry out the purposes of this Act :

<sup>1</sup>[Provided that, no rules in respect of any matter relating to the preparation of electoral rolls and conduct of election shall be made without consultation with the State Election Commissioner:]

<sup>2</sup>[Provided further that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the requirement of previous publication of the rules to be made under this section, for purposes of conduct of election, under this Act.]

(3) All rules made under this Act shall be subject to the condition of previous publication.

(4) Every rule made 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only

1. First proviso was added by Mah. 41 of 1994, s. 158.

2. This proviso was inserted by Mah. 8 of 2002, s. 20.

in such modified form or be of not 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 or omitted to be done under that rule.

**322. Power of Councils to make by-laws.-** (1) The power to make all by-laws under this Act shall be exercisable by each Council, subject to the previous sanction of the Collector or the State Government as hereinafter provided.

(2) Without prejudice to any power to make by-laws contained elsewhere in this Act, a Council may make by-laws consistent with this Act and the rules made thereunder for the administration of its affairs and for the guidance of its Committees, officers and servants.

(3)(a) The Council, whenever it desires to make by-laws under this Act, shall by a resolution at a special meeting approve a draft of such by-laws.

<sup>1</sup>[(b) After any such resolution is passed, the Council shall display the draft of the by-laws on its notice board and publish a notice in a local newspaper informing the inhabitants of the municipal area about the subject matter of the draft by-laws so displayed and inviting their objections and suggestions in respect of the said draft within a reasonable period to be specified in such notice.]

(c) The Council at a special meeting shall then consider the objections and suggestions received, if any, and shall by a resolution approve the final draft of the by-laws.

(d) Within seven days of the passing of such resolution, the Council shall send such final draft to the Collector.

(e) The Collector shall examine the final draft of the by-laws sent to him under clause (d) and may -

(i) refuse to sanction them or return them to the Council if in his opinion,

(A) the by-laws are inconsistent with this Act or the rules made thereunder and the inconsistency cannot be removed except by materially altering the by-laws; or

(B) objection, if any, to the by-laws has not been duly considered by the Council; or

(C) there is any new objection to the by-laws; or

(D) the rates of taxes or fees proposed in the by-laws are inadequate;

or

(ii) sanction them, with or without such modifications as he considers necessary.

1. Clause (b) was substituted by Mah. 45 of 1975, s. 14.

The Collector shall publish the by-laws as sanctioned by him in the *Official Gazette* and the by-laws so published shall take effect from the date of their publication in the *Official Gazette* or such other subsequent date as may be mentioned therein:

(f) Notwithstanding anything contained in clause (e), if the by-laws sent by any Council under clause (d) relate to imposition, abolition, remission, alteration or regulation of any tax, the Collector shall forward them to the State Government for sanction and thereupon the provisions of clause (e) shall apply as if for the word "Collector" in the said clause the words "State Government" had been substituted.

(4) If it appears to the State Government that an amendment of any of the by-laws of a Council is necessary or desirable in the interests of the general public or because they are inconsistent with any provisions of this Act or the rules made thereunder, the State Government may, after consulting the Council, by notification in the *Official Gazette*, amend or cancel any of the by-laws, and on the issue of such notification the by-laws shall be deemed to have been duly amended or cancelled, as the case may be, accordingly, without prejudice to the validity of anything previously done or omitted to be done.

**323. Power to make and enforce acceptance of model by-laws.-** (1) The State Government may make model by-laws on all or any of the matters in respect of which a Council is empowered to make by-laws and publish them in the *Official Gazette* for the guidance of the Councils.

(2) If a Council has already made by-laws on a matter for which model by-laws are made by the State Government, the Council may adopt the model by-laws with such minimum changes as the peculiar local circumstances may warrant.

(3) If at any time it appears to the Director that the by-laws made by a Council on any matters are inadequate to regulate such matters, and model by-laws have been made by the State Government for such matters, the Director may by an order in this behalf require the Council to adopt such model by-laws modified to suit local conditions.

(4) The Council shall comply with the orders of the Director under sub-section (3) above within two months of the date of such order.

(5) If the Council fails to comply with the orders of the Director, the Director may, by notification in the *Official Gazette*, apply such model by-laws with such modification to suit local conditions as he thinks necessary to that Council in supersession of any by-laws which the Council may have made already on those matters. In that event, the model by-laws so applied shall be deemed to have been duly made by the Council.

(6) If the model by-laws made by the State Government relate to the imposition, abolition, remission, alteration or regulation of any tax, the provisions of sub-sections (3), (4) and (5) shall apply as if for the word "Director" therein the words "State Government" had been substituted.

**324. Copies of Act, rules and by-laws to be made available at Council's office for public inspection and for sale.**- Every Council shall keep at its head office copies of this Act and of the rules and by-laws made thereunder and in force in the municipal area, in English, and in Marathi, open to inspection to the inhabitants of that area, free of charge, during office hours. The Council may also arrange for the sale of copies of these books.

#### CHAPTER XXV

#### SERVICE OF NOTICES, EXECUTION OF WORKS ON DEFAULT AND COMPENSATION

**325. Service of notices, etc., addressed to individuals.**- (1) When any notice is required by or under this Act to be served upon, issued or presented to any person, such service, issue or presentation shall, in all cases not otherwise provided for in this Act, be effected -

- (a) by giving or tendering the notice to the person to whom it is addressed; or
- (b) if such person is not found, by giving or tendering it to some adult member or servant of his family found at his usual place of residence or at his last known place of abode;
- (c) if none of the means aforesaid be available, or if the person to whom such notice is given or tendered refuses to accept it then by causing the notice to be affixed on some conspicuous part of the building or land, if any, to which the notice relates.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon, issued or presented to, an owner or occupier of any building or land,-

- (i) it shall not be necessary to name the owner or occupier in such notice,
- (ii) if there be more owners or occupiers than one, such notice may be served upon or issued or presented to any one of them.

(3) Whenever it is provided by or under this Act, that any notice may be served upon, issued or presented to, the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be served upon, issued or presented to, the one of them primarily liable to comply with such notice, and in case of doubt, to both of them :

Provided that, in any such case, if there is no owner resident within the municipal area, the delivery of such notice to the occupier shall be sufficient.

(4) The provisions of sub-sections (1), (2) and (3) shall *mutatis mutandis* apply to any bill, requisition, order or summons or such other document to be served, issued or presented by or under this Act.

(5) Notwithstanding anything contained in sub-section (1), in the case of 'A' or 'B' Class Councils, a bill for any municipal tax may be served upon the person liable therefor by sending it by post with a pre-paid letter under a certificate of posting, addressed to such person at his last known place of abode or place of business in the municipal area, and every bill so sent shall be deemed to have been served on the day following the day on which such letter was posted, and, in proving such service, it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

**326. Publication of public and general notices.-** (1) Every general or public notice which by or under this Act, a Council or any municipal authority or officer is required or empowered to publish shall, in addition to any other procedure for its publication laid down by or under this Act, be published by putting up such notice on the municipal notice board.

(2) Such a general or public notice may also be published in addition in any of the following manners :-

- (a) by putting up such notice at such prominent places within the municipal area or if such notice pertains to any locality in the municipal area only then such prominent places within that locality as the Council may from time to time select;
- (b) by publishing such notice in such newspapers circulating within the municipal area as the Council may from time to time approve;
- (c) by beat of drum or any other customary mode of publicity within the municipal area.

(3) If, by or under this Act, the notice is required to be published in the manner specified in clause (b) of sub-section (2), and if in the opinion of the authority publishing such notice it is not practicable to publish the full text of the notice having regard to the cost of such publication, it shall be deemed to be sufficient compliance with clause (b) of sub-section (2) if such notice is placed on the municipal notice board and if a gist of such notice is published in the newspapers approved under clause (b) of sub-section (2) together with an announcement that the full text of the notice has been placed on the municipal notice board.

(4) The provisions of this section shall apply to any proclamation, order or other instrument which the Council or any municipal authority or officer

is required or, empowered to publish for general information of the residents of the municipal area.

**327. Reasonable time to be fixed when no time fixed under the Act for any requisition.**- Where any notice, order or requisition under this Act requires any act to be done for which no time is fixed by or under this Act, such requisition shall fix a reasonable time for doing the same.

**328. Council in default of owner or occupier may execute works and recover expenses.**- (1) Where by or under this Act, any person is required to execute any work or do anything and default is made in the execution of such work or the doing of such thing, the Council, whether any penalty is or is not provided for such default may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to the Council by the person by whom such work ought to have been executed, and shall be recoverable in the same manner, as an amount claimed on account of a property tax, either in one sum or by instalments, as the Council may deem fit :

Provided that,-

- (a) except as otherwise provided by or under this Act, a notice shall be issued to such person requiring him to execute such work or to do such thing;
- (b) where any drainage scheme or water works scheme has been commenced by any Council, it shall be lawful for the Council, without prejudice to its powers under section 202 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water- connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the Council shall render; and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-section (2) and (3);
- (c) where an order or requisition has been passed under sub-section (1) of section 175, section 183, sub-section (4) or (12) of section 189, or under section 200, 202, 207 or 208 or where permission has been given under section 204 or where an arrangement has been made under proviso (b) of this sub-section, the Council may, without prejudice to any other powers under this Act, if it thinks fit, declare any expenses incurred by the Council in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such



instalments as the Council may decide, including interest at the rate of seven and a half per cent., *per annum*, and shall be recoverable in the manner described in sub-sections (2) and (3).

(2) If the defaulter be the owner of any building or land in respect of which he is required to execute any work or do anything, the Council may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (3), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any property tax; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him, or which at any time after such demand and notice not to pay rent to the landlord has accrued and become payable by such occupier, unless he neglects or refuses, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable, but the burden of proof that the sum demanded of an such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier :

Provided that, nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

**329. Proceedings, if any, occupier opposes the execution of the Act.**- If the occupier of any building or land prevents the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Executive Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land as may be necessary for carrying into effect the provisions of this Act, and may also if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if,

**338. General provisions regarding grant, suspension or withdrawal of licences and written permission and levy of fees, etc.-** (1) Whenever it is provided by or under this Act that a licence or a written permission may be given for any purpose, such licence or permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted and the date by which an application for the renewal of the same shall be made and shall be given under the signature of the Chief Officer or of any other municipal officer empowered by or under this Act or by the Chief Officer to grant the same.

(2) Except as otherwise provided by or under this Act, there shall be charged a fee,-

(a) for every such licence at such rates as shall from time to time be specified in the respective provision of the by-laws relating to the grant of such licence; and

(b) for every such written permission at such rates as shall from time to time be specified in the by-laws made in this behalf :

Provided that,-

(i) such fee may be a recurring fee;

(ii) the bye-laws may provide for the levy of a higher fee by way of penalty for any act done by any person without licence or written permission;

(iii) the higher fee levied under clause (ii) of this proviso shall be leviable in addition to any other penalty or liability to which such person may be liable under the provisions of this Act or any rules or by-laws made thereunder.

(3) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority, if such authority is satisfied that it has been secured by the holder through misrepresentation or fraud or if any of its restrictions or conditions are infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any rule or by-laws pertaining to any matter to which such licence or permission relates.

(4) When any such licence or written permission is suspended or revoked or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the licence or written permission is cancelled or until the licence or written permission is renewed, as the case may be :

Provided that, when an application has been made for the renewal of a licence or written permission by the date specified therein, the applicant

shall be entitled to act as if it has been renewed, pending the receipt of orders.

(5) Every person to whom any such licence or written permission has been granted shall, at all reasonable times, while such written permission or licence remains in force, if so required by the Chief Officer or any municipal officer duly authorised in this behalf, produce such licence or written permission.

(6) Every application for a licence or written permission shall be addressed to the Chief Officer.

(7) The acceptance by or on behalf of the Council of the fee for a licence or permission shall not in itself entitle the person paying the fee to the licence or permission.

**339. Power to order closure of place.-** Upon a conviction being obtained in respect of the use of any place for any purpose without a licence or permission or in contravention of the conditions subject to which any licence or permission may have been granted, the Magistrate may, on the application of the authority competent to grant such licence or permission but not otherwise, order such place to be closed, and thereupon appoint any person or persons or take other steps to prevent such place being so used.

**340. Power of State Government to make suitable provisions by order when a municipal area is created or altered.-** (1) In this section, unless the context otherwise requires, -

- (a) "specified day" means the day from which any local area is declared to be a <sup>1</sup>[smaller urban area under sub-section (2)] of section 3 or the day from which a change referred to in any of the clauses (a) to (d) of sub-section (1) of section 6 takes effect;
- (b) "existing local authority" in relation to any local area, means the Municipal Council or the panchayat or where there is no Municipal Council or panchayat, the Zilla Parishad having jurisdiction over such area immediately before the specified day;
- (c) "successor local authority" in relation to any local area, means the Municipal Council or the panchayat or where there is no Municipal Council or panchayat, the Zilla Parishad having jurisdiction over such area from the specified day;
- (d) "Zilla Parishad", in relation to any local area, means a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and having jurisdiction over such area;

1. These words were substituted for the words "municipal area under sub-section (1)" by Mah. 41 of 1994, s. 159(a).

(4)(a) Where an order is made under this section, the Director shall, <sup>1</sup>[\* \* \*] take steps in accordance with <sup>2</sup>[sections 9 and 10] of this Act for the purpose of determining the number of Councillors of, and for holding election for, the new Council or Councils, as the case may be;

<sup>3</sup>[(b) \* \* \*]

(c) save as otherwise provided by or under this section, the provisions of this Act shall *mutatis mutandis* apply to any such Council, its Councillors <sup>4</sup>[(including the President and the Vice-President)] or administrator.

**341. Abolition of municipalities.-** When the whole of the local area comprising a municipal area ceases to be a municipal area, with effect from the day on which such local area ceases to be a municipal area,-

- (i) the Council constituted for such municipal area shall cease to exist or function;
- (ii) the Councillors of the Council <sup>5</sup>[\* \* \*] shall vacate office;
- (iii) the Director may, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the *Official Gazette*, provide in respect of such area for all or any of the matters specified in paragraphs (vi) to (xii) (both inclusive) of sub-section (2) of section 340 and the provision of sub-section (3) of that section shall apply to such order.

#### <sup>6</sup>[CHAPTER XXVI-A NAGAR PANCHAYATS

**341-A. Specification of a transitional area and incorporation of a Nagar Panchayat.-** (1) The State Government, may, having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India, specify, by notification in the *Official Gazette*, an area in transition from a rural to an urban area to be a transitional area :

Provided that, no such area shall be so specified as a transitional area unless,-

- (a) such area has a population of not less than ten thousand and not more than twenty-five thousand; and

- 
1. The portion beginning with the words "before the" and ending with the words "sub-section (1)" were deleted by Mah. 41 of 1994, s. 159(c)(1)(i).
  2. These words and figures were substituted for the words and figures "section 9" *ibid.*, s. 159(c)(1)(ii).
  3. This clause was deleted, *ibid.*, s. 159(c)(2).
  4. These brackets and words were inserted, by Mah. 47 of 1973, s. 27(2)(b).
  5. The brackets and words "(including the President)" were deleted by Mah. 19 of 1981, s. 20.
  6. Chapters XXVI-A and XXVI-B were inserted by Mah. 41 of 1994, s. 160.

(b) such area is not more than twenty kilometers away from the territorial limits of any Municipal Corporation or a "A" Class Council and the percentage of employment in non-agricultural activities in such area is not less than twenty-five per cent. or

(c) such area is more than twenty kilometers away from the territorial limits of any Municipal Corporation or a "A" Class Council but the percentage of employment in non-agricultural activities in such area is not less than fifty per cent.

<sup>1</sup>[(1A) Notwithstanding anything contained in the proviso to sub-section (1), the State Government may, by notification in the *Official Gazette*, declare an area which is a District Headquarter or a Taluka Headquarter to be a transitional area.

(1B) Prior to the publication of a notification under sub-section (1) or (1A), the procedure prescribed in sub-sections (3), (4) and (5) of section 3 shall *mutatis mutandis* be followed.]

(2) For every transitional area so specified under sub-section (1), there shall be constituted a *Nagar Panchayat* as provided in section 341B which shall be known by the name of ..... *Nagar Panchayat*. Every such *Nagar Panchayat* shall be a body corporate and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contract and may by the said name sue and be sued.

**341-B. Constitution and Elections to Nagar Panchayat.**- (1) A *Nagar Panchayat* shall consist of <sup>2</sup>[seventeen] directly elected Councillors.

(2) For the purpose of elections, a transitional area shall be divided into such number of territorial constituencies, to be known as wards, as there are Councillors.

(3) Each ward shall elect one Councillor.

(4) The provisions of sections 9 and 10 relating to reservation of seats for Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women in a Council and of section 51-1A relating to reservation of office of the President of a Council shall, *mutatis mutandis*, apply to a *Nagar Panchayat*.

**341-C. Power to extend provisions of this Act relating to Councils to a transitional area.**- (1) The State Government may, by order to be published in the *Official Gazette*, apply to a transitional area, with such incidental or consequential modifications as the State Government may

1. Sub-sections (1A) and (1B) were inserted by Mah. 11 of 2002, s. 52.

2. This word was substituted for the word "ten" by Mah. 30 of 2001, s. 2.

consider necessary for giving effect to the provisions of this Chapter, any provisions of this Act which apply to a Municipal Council for a 'C' Class smaller urban area.

(2) When any tax is imposed by a *Nagar Panchayat* in its local area under any of the provisions of this Act as extended under sub-section (1), the proceeds of such tax shall be expended in the same manner in which and for the purposes for which the municipal fund may be expended by a Council.

**341-D. Abolition or alteration of a transitional area.-** The State Government may, at any time, in accordance with the provisions of this Act, by notification in the *Official Gazette*, -

- (a) constitute a transitional area or a part thereof to be a smaller urban area; or
- (b) include a transitional area or any part thereof within a smaller urban area.

**341-E. Consequences of such abolition or alteration.-** (1) When the whole of a transitional area is constituted to be a smaller urban area, the transitional area shall cease to exist and the properties, funds and other assets vested in the *Nagar Panchayat* of that transitional area and all the rights and liabilities of such *Nagar Panchayat* shall vest in and devolve on the Council of that smaller urban area.

(2) When a part of a transitional area is constituted to be or is included in any smaller urban area such part shall be deemed to have been excluded from the transitional area specified under section 341-A and so much of the properties, fund and other assets vested in the *Nagar Panchayat* of that transitional area and such of the rights and liabilities of such *Nagar Panchayat* as may be allocated by the State Government by an order in this behalf, shall vest in and devolve on the Council for such smaller urban area.

# **The Maharashtra [Municipal Councils and Nagar Panchayats] Election Rules, 1966**

**G.N., U.D., P.H. & H.D., No. UMR-1065-UNI-IV,  
dated 22nd November, 1966 (M.G., Pt. IV-B, p. 2089)**

Amended by G.N., U.D., P.H. & H.D., No. UMR-1067/Unification-N, dated 13th April, 1967 (M.G., Pt. IV-B, p. 832).

Amended by G.N., U.D., P.H. & H.D., No. UMR-1067/Unification-N, dated 26th April, 1967 (M.G., Pt. IV-B, p. 1241).

Amended by G.N., U.D., P.H. & H.D., No. UMR-1067/Unification-N, dated 16th October, 1969 (M.G., Pt. I-A-C.S., p. 75).

Amended by G.N., U.D., P.H. & H.D., No. UMR-1067/58280/ Unification-N, dated 15th June, 1970 (M.G., Pt. I-A-C.S., p. 51).

Amended by G.N., U.D., P.H. & H.D., No. MUN(M)-2469/39532-N, dated 13th March, 1972 (M.G., Pt. I-A, p. 33).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1371/27086(a)-N, dated 28th March, 1972 (M.G., Pt. I-A, Extraordinary, p. 29).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1371/44731/N, dated 13th July, 1972 (M.G., Pt. I-A, p. 84).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1071/50772/N, dated 16th November, 1973 (M.G., Pt., I-A, Extraordinary, p. 73).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1373/79776/A-1, dated 10th December, 1973 (M.G., pt. I-A, Extraordinary, p. 81).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1373/79776/A-I, dated 25th January, 1974 (M.G., Pt. I-A, Extraordinary, p. 5).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1373/72359(a)-N, dated 22nd August, 1974 (M.G., Pt. I-A, Extraordinary, p. 48).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1374/33715-N, dated 6th November, 1974 (M.G., Pt. I-A, Extraordinary, p. 65).

Amended by G.N., U.D., P.H. & H.D., No. MMR-1374/61574(a), dated 9th January, 1975 (M.G., Pt. I-A, Extraordinary, p. 3).

Amended by G.N., U.D., P.H. & D., No. MMR-1374/67007/UD-9, dated 4th March, 1977 (M.G., Pt. I-A, p. 4).

Amended by G.N., U.D., P.H. & D., No. MMR-1377/1669/CR-197(a), dated 25th August, 1977 (M.G., Pt. I-A, p. 27).

Amended by G.N., U.D., P.H. & D., No. ELN-1078/238(a)/CR-17/78/ UD-9, dated 24th April, 1978 (M.G., Pt. I-A, Extraordinary, p. 14).

Amended by G.N., U.D. & P.H.D., No. ELN-1078/1606/CR-180/78/ UD-9, dated 6th July, 1979 (M.G., Pt. I-A, p. 19).

Amended by G.N., U.D. & P.H.D., No. ELN-1078/1519/CR-173/78/ UD-9, dated 6th December, 1980 (M.G., Pt. I-A, p. 159).

Amended by G.N., U.D. & P.H.D., No. ELN-1079/1963/CR-367/79/ UD-9, dated 8th May, 1981 (M.G., Pt. I-A, p. 19).

Amended by G.N., U.D. & P.H.D., No. MUG-1081/774/CR-118/ UD-9, dated 16th July, 1981 (M.G., Pt. I-A, Extraordinary, p. 41).

Amended by G.N., U.D. & P.H.D., No. MUG-1083/784/ CR-184/83/ UD-14, dated 12th October, 1983 (M.G., Pt. I-A, Extraordinary, p. 163).

1. Sub. by G.N. of 26.10.1994.

Amended by G.N., U.D. & P.H.D., No. ELN-1081/1824/CR-100/83 UD-14, dated 21st November, 1983 (M.G., Pt. I-A, Extraordinary, p. 187).

Amended by G.N., U.D.D., No. ELN-1084/2069(a)/CR-274/84/ UD-14, dated 8th January, 1985 (M.G., pt. I-A-C-S, p. 8).

Amended by G.N., U.D.D., No. ELN-1090/74(a)/CR-36/90/UD-14, dated 16th November, 1990 (M.G., Pt. I-A-C-S, p. 714).

Amended by G.N., U.D. & P.H.D., No. ELN. 1091/1922(a)/CR-245/91/UD-14, dated 21st October, 1991 (M.G., Pt. I-A-C-S, p. 224).

Amended by G.N., U.D.D., No. ELN-1094/CR-40/94/UD-32, dated 26th October, 1994 (M.G., Pt. I-A-C-S, p. 125).

Amended by Mah. Act No. 44 of 1994.

Amended by Mah. Act No. V of 1995, dated 18th April, 1995 (M.G.G., Part IV, 1995, pp. 88-89 of 20th April, 1995).

Amended by G.N., U.D. & P.H.D., No. SEC/MNC/2000/CR-12(1)/D-11, dated 12th December, 2000 (M.G., Pt. I-A-C-S, p. 77).

Amended by G.N. U.D., & P.H.D., No. MMC/2001/353/CR-60/2001/UD-32, dated 21st September, 2001 (M.G., Pt. I-A-C-S, p. 172).

In exercise of the powers conferred by <sup>1</sup>[sub-section (I-A), clauses (b), (c) and (d) of sub-section (2) of section 9, section 10 and] clauses (a) to (q) of sub-section (2) of section 17 read with sub-section (2) of section 321 of the Maharashtra <sup>2</sup>[Municipal Councils Nagar Panchayats and Industrial Township] Act, 1965 (Mah. XL of 1965), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following Rules, the same having been previously published as required by sub-section (3) of the said section 321 namely :-

**1. Short title and commencement.**-(1) These rules may be called the Maharashtra <sup>2</sup>[Municipal Councils and Nagar Panchayats] Election Rules, 1966].

(2) They shall come into force at once.

**2. Definitions.**- In these rules, unless requires,-

<sup>2</sup>[(a) "Act" means the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965).

(a-1) "Council" means a Municipal Council and includes a Nagar Panchayat constituted under Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965).

<sup>1</sup>[(a-2) "Counterfoil" means the counterfoil attached to a ballot paper printed under the provisions of these rules].

(b) "Form" means a Form appended to these rules;

<sup>3</sup>[(b-1) "Public holiday" means any day which is declared to be public holiday under the Explanation to section 25 of the Negotiable Instruments Act, 1881 (26 of 1881) or any day which is notified by the State Government to be a holiday for government offices in the State;

(b-2) "Marked copy of the list of voters" means the copy of the list of voters set apart for the purpose of marking the names of voters to whom ballot papers are issued at an election];

<sup>4</sup>[(b-b) \* \* \* \*]

(c) "Section" means section of the Act.

1. Ins. by G.N. of 26.10.1994.

2. Sub., *ibid*.

3. Ins. by G.N. of 6.12.1980.

4. Deleted by G.N. of 4.3.1977.



**3. Maintenance of lists of voters.-** (1) The Chief Officer shall maintain the authentic copy of each list of voters prepared under [sub-section (6) of section 11] without making any alterations therein.

(2) The said lists of voters shall be kept in the municipal chest or safe under lock and key; and the officer whose duty is to keep the key of the chest or safe shall be responsible for the safe custody of the said list.

**<sup>1</sup>[3-A. Manner of allotment and rotation of seats reserved for Scheduled Castes and Scheduled Tribes.-** Subject to the provisions of clause (c) of sub-section (2) of section 9 of the Act, the seats to be reserved for the Scheduled Castes and the Scheduled Tribes shall be allotted and rotated in accordance with following principles namely :-

(1) Where the number of seats to be reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, and the number of wards in a Council is the same, then there shall be allotted to such Castes, or as the case may be, the Tribes, one seat in every ward.

(2) Where the number of seats to be reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, is less than the number of wards in a Council, then the seats shall be allotted in descending order beginning with a ward where the percentage of population of the Scheduled Tribes, with regard to the total population of such ward is the highest :

Provided that, the seats to be reserved shall be rotated, in the subsequent elections, to the wards in the Council in which no such seat has been reserved for such Castes or Tribes until such reservation is given to all the wards in the Council.

(3) Where the number of seats to be reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, is more than the number of wards in a Council, then with a view to securing representation of the members of such Castes or Tribes in as many wards in the Council as possible, one seat shall be allotted in each wards for such Castes or Tribes and the remaining seats shall be allotted and rotated as provided in the proviso to sub-rule (2).

*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.]

**<sup>2</sup>[3-B. Manner of allotment and rotation of seats reserved for women.-** Subject to the provisions of clause (b), the proviso to clause (c) and the proviso to clause (d) of sub-section (2) of section 9, read with section 10 of the Act, the seats to be reserved for women shall be allotted and rotated in accordance with the following principles, namely :-

(1) 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:

(2) Notwithstanding anything contained in sub-rule (1) 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.

(3) Once seats are reserved in the appropriate wards for women belonging to the Scheduled Castes, Scheduled Tribes or the Backward Class of citizens, then the remaining seats to be reserved for women shall be reserved in the different wards by drawing lots.

(4) Notwithstanding anything contained in sub-rule (3), 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 given to all the wards by rotations.

1. Sub. by G.N. of 21.9.2001.

2. Ins. by G. N. of 26.10.1994.

<sup>1</sup>[(5) Where -

- (i) only one seat is reserved, either for the Scheduled Castes, or as the case may be, for the Scheduled Tribes, then it shall be reserved for Women once in three elections by draw of lots, and
- (ii) two seats are reserved, either for the Scheduled Castes, or, as the case may be for the Scheduled Tribes, then out of those two seats, one seat shall be allotted to Women, by drawing lots in two out of the three elections.

<sup>2</sup>[\* \* \*]

<sup>3</sup>**3-C. Manner of allotment and rotation of seats reserved for category of Backward Class of citizens.-** (1) Subject to the provisions of clause (d) of sub-section (2) of section 9 of the Act, the seats to be reserved for 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 Scheduled Castes and Scheduled Tribes shall be excluded.

(2) Notwithstanding anything contained in sub-rule (1), 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 Council.

*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-D. Powers of State Election Commissioner to appoint and deploy the staff of Council.-** The State Election Commissioner shall have the power to appoint or deploy the officers and members of the staff of Council for the preparation of electoral rolls; formation of wards and conduct of election of Council under these Rules. Such officers and members of staff shall function under the superintendence, direction and control of the State Election Commissioner.

**4. Fixation of various stages of election.-** (1) For the purpose of holding a general election the <sup>4</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] shall, as occasion may require by order in Form I <sup>5</sup>[\* \* \*], <sup>6</sup>[appoint or re-appoint dates, time and place for all or any of the stages of the election, follows :-

- <sup>7</sup>[(a) the last date for making nominations which shall be after <sup>8</sup>[eight days] from the date of final publication of the list of voters <sup>9</sup>[\* \* \*] and the time and place for making nominations);
- <sup>4</sup>[(b) the date for the scrutiny of nominations shall be the next day after the last date for making nominations and where such date is reappointed under a subsequent order such date shall be the next-day after the date of such subsequent order];
- <sup>7</sup>[(c) the last date for withdrawal of candidatures, which shall be a date not later than the fifteenth day and not earlier than the fifth day after the date, or the reappointed date, for scrutiny of nominations <sup>9</sup>[\* \* \*] and where such date for withdrawal and subsequent stages of the election are reappointed under a subsequent order such date for withdrawal shall not be later than the fifteenth

1. Sub-rule (5) was substituted by G. N. of 21.9.2001.

2. Explanation was deleted, *ibid*.

3. Ins. by G.N. of 26.10.1994.

4. Sub. by G.N. of 26.10.1994.

5. Deleted by G.N. of 16.7.1981.

6. Sub. by G.N. of 22.8.1974.

7. Sub. by G.N. of 6.12.1980.

8. Sub. by Mah. 44 of 1994.

9. Deleted by G.N. of 26.10.1994.

day and not earlier than the fifth day after the date of such subsequent order or, if that day is a public holiday, the next succeeding day which is not a public holiday;]

- <sup>1</sup>[(d) the date on which a poll shall, if necessary, be taken, shall be a date not earlier than the eighth day after the last date, or the re-appointed last date, for withdrawal of candidatures, and where previous stages of the election are completed and the date on which a poll shall, if necessary, be taken is appointed under a subsequent order, such date shall be a date not earlier than the eighth day after the date of such subsequent order. In every case, the time during which the poll shall be taken on the date so appointed or re-appointed shall be specified:

Provided that, such date shall not be earlier than two months before the date of expiry of term of office of Councillors of the Council to which such election is to be made.]

- <sup>2</sup>[(e) the date or dates <sup>3</sup>[\* \* \*] and the time and place for the counting of votes; and]  
(f) the dates, time and places for other stages of the elections.

(2) <sup>4</sup>[Where the <sup>1</sup>[State Election Commissioner or an Officer authorised by the State Election Commissioner] makes any order under sub-rule (1), he shall,-

- (a) if the order is for appointing or re-appointing dates for all stages of the election not less than ten days before the last date fixed for the nomination of candidates,  
(b) if the order is for re-appointing the date for taking a poll not less than <sup>5</sup>[eight days] before the revised date fixed for taking the poll,  
(c) if the order is for re-appointing the date for scrutiny of nominations or for any of the subsequent stages (other than the date for poll) not less than five days before the revised date fixed for the next stage of the election,

cause the order to be published as a public notice in the same manner as is provided in clauses (a) and (c) of sub-section (2) of section 326 of the Act, and where there are local newspapers, also additionally by publication in one or more of such newspapers. The <sup>1</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] shall also arrange to give wide publicity to the election programme by affixing copies of the order in Marathi at the municipal office and at such other conspicuous places within the municipal area as may be deemed fit and by causing the said order to be published in such other manner as he deems fit.

<sup>6</sup>[(3) Where an appeal is presented under rule 15 against the decision of a Returning Officer accepting or rejecting a nomination paper in respect of the election in any ward, <sup>7</sup>[\* \* \* the revised last date for the withdrawal of candidatures in respect of such election shall be the third day after the date on which such appeal is decided. If it is necessary to take a poll and the date appointed therefor under sub-rule (1) is already passed or is earlier than the <sup>5</sup>[eighth day] after the revised last date for the withdrawal of candidatures, the <sup>1</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] shall appoint a revised date on which the poll shall be taken (which shall be a date not earlier than the <sup>5</sup>[eighth day] after the revised last date for the withdrawal of candidatures), and a revised date for the counting of votes, in respect of that election. Such order shall be

1. Sub. by G.N. of 26.10.1994.
2. Sub. by G.N. of 6.12.1980.
3. Deleted by G.N. of 26.10.1994.
4. Sub. by G.N. of 22.8.1974.
5. Sub. by Mah. 5 of 1995.
6. Ins. by G. N. of 13.4.1967.
7. Deleted by G. N. of 16.7.1981.

published in the same manner in which the original order made under sub-rule (1) is published].

**<sup>1</sup>4-A. Postponement of elections during the period of National or State mourning.-**

(1) If the last date appointed for making nominations falls during a period which is declared by Government to be a period of National or State mourning, the <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] shall postpone the election programme and appoint fresh dates so as to commence various stages of the election after the expiry of such period, irrespective of the fact whether the last date appointed for making nominations has been declared a public holiday or not.

(2) If the period of such mourning commences on the date appointed for scrutiny of nominations or on the last date appointed for withdrawal of candidatures, any such date shall not be postponed, but the dates for subsequent stages of the election shall be revised by the <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] so that those stages may commence after the expiry of the mourning period.

(3) If the period of such mourning commences on any date appointed for taking a poll or for counting of votes and the poll or counting of votes has already commenced, then the poll or the counting of votes, as the case may be, shall not be postponed, but in other cases the dates shall be revised by the <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] so that these stages of the election may be held after the expiry of the mourning period.

**5. Appointment of Returning Officer and Assistant Returning Officer.-** (1) The <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] shall <sup>3</sup>[by order in Form I <sup>4</sup>[\* \* \*], appoint the Chief Officer or any other officer of the Council or any officer of Government to be a Returning Officer in respect of any election or part of an election under these rules.

(2)(a) The <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] may, if deemed necessary, appoint any officer of a Council or of Government to be an Assistant Returning Officer to assist any Returning Officer in the performance of his functions.

(b) The Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer :

Provided that, no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relates to the scrutiny of nomination papers <sup>5</sup>[\* \* \*] unless the Returning Officer is unavoidably prevented from performing the said function.

**6. Returning Officer to include Assistant Returning Officer performing functions of Returning Officer.-** Subject to the provisions of sub-rule (2) of rule 5, reference in these rules to the Returning Officer shall, unless the context otherwise requires be deemed to include an Assistant Returning Officer.

**7. General duty of Returning Officer.-** It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by these rules.

**8. Polling Stations.-** The Returning Officer shall provide a sufficient number of polling stations for each ward in which election is to be held and shall not later than seven days before the date of poll, publish a list showing the polling stations and the areas<sup>6</sup>[in which] they will be set up (hereinafter referred to as the "polling area").

1. Ins. by G.N. of 16.11.1973.

2. Sub. by G. N. of 26.10.1994.

3. Ins. by G. N. of 10.12.1973.

4. Deleted by G. N. of 16.7.1981.

5. Deleted by G. N. of 6.7.1979.

6. Sub. by G. N. of 10.12.1973.

**9. Appointment of Presiding and Polling Officers.-** (1) The Returning Officer shall appoint a Presiding Officer for each Polling Station and such polling officer or Officers to assist the Presiding Officer, as he thinks necessary, but shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election :

Provided that, if a Polling Officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station, other than a person, who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(2) A polling officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under these rules.

(3) If the Presiding Officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Returning Officer to perform such functions during any such absence.

(4) References in these rules to the Presiding Officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-rule (2), or as the case may be, under sub-rule (3).

**10. General duty of Presiding Officer.-** It shall be the general duty of the Presiding Officer at a polling station to keep order thereat and to see that the poll is fairly taken.

**11. Control.-** The Returning Officer, Assistant Returning Officer, Presiding Officers, polling officers and all other persons appointed for any matter connected with these rules shall work under the direction and supervision of the <sup>1</sup>[State Election Commissioner or an Officer authorised by the State Election Commissioner].

<sup>2</sup>**[11-A. Numbering of Wards.-** Every seat of a Ward shall be numbered as 1-A, 1-B, 1-C or 2-A, 2-B, 2-C and so on.]

**12. Nomination of candidates.-** (1) Any person may be nominated as a candidate for election to fill a seat, if he is qualified to be chosen to fill that seat under the provisions of the Act.

<sup>1</sup>[(2) Every nomination paper shall be in form specified by the State Commission which shall be supplied by the Returning Officer to any voter on demand. The nomination paper duly completed and signed by the candidate and by a voter of the ward as proposer in case the candidate is sponsored by a recognised political party, or by five voters of the ward as proposers in case of any other candidates. The nomination paper shall be delivered to the Returning Officer by such candidates either in person or by his proposer, on or before the date appointed under sub-rule (1) of Rule 4 during the time and at the place specified thereunder.]

(3) Any person who is qualified to vote under sub-section (1) of section 12 and whose name is entered in the list of voters for the ward for which the candidate is nominated, may subscribe as proposer <sup>3</sup>[\* \* \*]. He shall not subscribe as proposer more than one such nomination paper. If he does so, all the nomination papers so subscribed, except the one received first shall notwithstanding anything contained in sub-rule (2) of rule 13, be invalid. The same candidate may, however, be nominated by more than one such nomination paper for election <sup>4</sup>[in the same ward, if the nomination papers are subscribed by different proposers :

1. Sub. by G. N. of 21.9.2001.

2. Ins., *ibid*.

3. Deleted by G.N. of 16.7.1981.

4. Sub. by G.N. of 16.10.1969.

Provided that, not more than four such nomination papers shall be presented by or on behalf of any candidate, or accepted by the Returning Officer, for such election.]

<sup>1</sup>[(3-A) \* \* \*]

<sup>2</sup>[(4) In a ward where the seat is reserved for Scheduled Castes or Scheduled Tribes or Backward Class of citizens or women, a candidate shall not be deemed to be qualified to be chosen to fill that seat, unless nomination paper contains a declaration by him specifying the particular Scheduled Caste or Scheduled Tribe or category of Backward Class of citizens to which he or, as the case may be, she belongs.]

(5) On receiving a nomination paper under sub-rule (2), the Returning Officer shall inform the person delivering the same of the day, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him. The Returning Officer shall then sign a receipt for the nomination paper and the notice of scrutiny in Form III <sup>1</sup>[\* \* \*] and hand over the same to the person presenting the nomination paper. As soon as may be after receipt of a nomination paper, the Returning Officer shall cause to be affixed in some conspicuous place in his office and a notice of the nomination along <sup>3</sup>[with a true copy] of Part A of the nomination paper.

(6) When elections are to be held at or about the same time in two or more wards, one and the same person, if qualified, may be nominated for election in all or any number of the said wards.

<sup>1</sup>[(7) \* \* \*]

**13. Scrutiny of nomination papers.-** (1) The candidates, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no other person, may attend at the time and place fixed for the scrutiny of the nomination papers under rule 4 and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered as required by sub-rule (2) of rule 12.

(2) The Returning Officer shall examine the nomination papers and decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination paper on any of the following grounds, that is to say,-

- (a) that the candidate is not qualified or is disqualified for election under the Act.
- (b) that the proposer is not qualified to nominate the candidate;
- (c) that there has been a failure to comply with any of the provisions of the Act or prescribed by these rules;
- (d) that the candidate or proposer is not identical with the person whose electoral number is specified in the nomination paper as the number of such candidate or proposer, as the case may be;
- (e) that the signature of the candidate or the proposer on the nomination paper is not genuine or is obtained by fraud.

(3) Nothing contained in clause (c), (d), or (e) of sub-rule (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

1. Deleted by G.N. of 16.7.1981.  
2. Sub. by G. N. of 26.10.1994.  
3. Sub. by G. N. of 16.10.1969.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (d) of sub-rule (1) of rule 4 and shall not allow any adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control :

Provided that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this rule, the production of a certified copy of an entry made in the list of voters shall be conclusive evidence of the right of any voter named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate or the proposer is disqualified.

(8) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of validly nominated candidates in Form IV. <sup>1</sup>[\* \* \*]. The Returning Officer shall then affix such list on his notice-board and shall record the date on which and time at which the list was so affixed.

**14. Deposit.**- <sup>2</sup>[(1) On or before the date appointed for the delivery of nomination papers, each candidate shall deposit, or cause to be deposited, with the Returning Officer a deposit of a sum of,-

- (i) rupees 2,500 in case of 'A' Class Municipal Council,
- (ii) rupees 1,000 in case of 'B' Class Municipal Council,
- (iii) rupees 500 in case of 'C' Class Municipal Council,

in cash and no candidate shall be deemed to be duly nominated, unless such deposit is made :

Provided that, the seat is reserved for Women or for Scheduled Castes or for Scheduled Castes or for Scheduled Tribes or, as the case may, be for the Backward Class of Citizens, the sum to be so, deposited by or on behalf of a candidate, shall be 50 per cent. of the amount payable under this rule.]

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in these rules; or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

(3) On a candidate being elected, such deposit shall be returned to him or to the person who made it, as the case may be, as soon as may be after the declaration of the result.

(4) On a candidate failing to get elected, if the number of valid votes polled by him does not exceed one-eighth of the total number of valid votes polled by all the candidates, the deposit shall be forfeited to the Council.

(5) A deposit made in respect of an unsuccessful candidate, if not forfeited under sub-rule (4) shall be returned to the person making it as soon as may be, after the publication of the result of the election in the *Official Gazette*.

1. Deleted by G.N. of 16.7.1981.

2. Sub. by G. N. of 21.9.2001.



**15. Appeal.**- (1) An appeal shall lie to the District Judge of the district in which the municipal area is situated as herein provided from any decision of a Returning Officer accepting or rejecting a nomination paper.

(2) Any candidate aggrieved by a decision of the Returning Officer accepting or rejecting a nomination paper, may present an appeal therefrom to the District Judge within a period of three days from the date of publication of the list of validly nominated candidates :

<sup>1</sup>[Provided that, where an appeal is presented, such candidate shall, not later than 3 o'clock in the afternoon of the day next following the date of presentation of the appeal to the District Judge, give a notice of the appeal to the Returning Officer.]

(3) If one or more notices has or have been received in accordance with the proviso to sub-rule (2), the Returning Officer shall, immediately after the expiry of <sup>2</sup>{four days from the date of publication of the list of validly nominated candidates] :-

<sup>3</sup>[(a) publish a notice in Form V by affixing it to his notice board together with a statement that the hearing of the appeal shall commence before the District Judge on the third day after the date of such publication of the notice or if that day is a public holiday, the next succeeding day which is not a public holiday and that the copy of the petition of appeal is available with the Returning Officer; and]

(b) send to the District Judge a copy of each of the notices, the intimation referred to in clause (a) and the list of validly nominated candidates.

<sup>2</sup>[(3-A) On receipt of copies of notices and other documents referred to in the last preceding sub-rule, the District Judge shall intimate to the Returning officer the day or days appointed by him for hearing of the appeal or appeals and also notify such day or days on his notice-board. As soon as such intimation is received from the District Judge, the Returning Officer shall also display a copy of such intimation on his notice-board for informing the parties concerned the date or dates appointed for hearing the appeal or the appeals, as the case may be.]

(4) The Returning Officer shall, on application made by or on behalf of a candidate, supply forthwith to the applicant a copy of the decision accepting or rejecting a nomination paper together with the statement of reasons, recorded by him.

(5) In every appeal under this rule, the appellant shall join as respondents all the candidates (other than himself) whose nominations have been accepted by the Returning Officer.

(6) <sup>1</sup>[The intimations] affixed to the notice-board of the Returning Officer <sup>1</sup>[under sub-rules (3) and (3-A)] shall be deemed to be sufficient notice, both of the presentation of an appeal under this rule and of the date on which the hearing thereof shall commence before the District Judge and it shall not be necessary to give any other notice to the appellants or the respondents and the appeal or appeals shall be deemed to have been fixed for peremptory hearing on the said date. For the purpose of the appeal, the District Judge may, except as provided in this rule, exercise any of the powers of a Civil Court.

(7) Every appeal under this rule shall be heard *de die in diem* and disposed of by the District Judge as expeditiously as possible, and his decision shall be communicated forthwith to the Returning Officer.

<sup>4</sup>[(8) \* \* \*]

1. Sub. by G. N. of 16.10.1969.
2. Ins. by G. N. of 16.10.1969.
3. Sub. by G. N. of 6.12.1980.
4. Deleted, *ibid*.



(9) In every case <sup>1</sup>[where notice of any appeal has been given] to the Returning Officer, he shall, upon receipt of the communications of the District Judge referred to <sup>2</sup>[in sub-rule (7)], republish by affixing to his notice-board the list of validly nominated candidates after revising it, if necessary in conformity with the decision of the District Judge.

(10) The decision of the District Judge on appeal under this rule, and subject only to such decision, the decision of the Returning Officer, accepting or rejecting the nomination of a candidate shall be final and conclusive and shall not be called in question in any Court.

(11) Any appeal presented to the District Judge under this rule may be inquired in to and disposed of by any Judge not lower in rank than an Assistant Judge to whom the case or such cases generally may be referred to by the District Judge, and any reference to the District Judge in this rule shall then be construed as a reference to such Judge.

**16. <sup>3</sup>[Assignment of symbols to and publication of list of contesting candidates].-**

(1) <sup>3</sup>[Subject to any general or special directions issued by the <sup>4</sup>[State Election Commissioner] the Returning Officer shall] on the day immediately following the last day for withdrawal of candidatures, allot to each candidate a symbol in the manner hereinafter appearing from amongst the following symbols, namely :-

**<sup>5</sup>[TABLE  
PART I  
RESERVED SYMBOL**

Symbol (1)	Name of Party (2)
1. Lotus	Bharatiya Janata Party
2. Ears of Corn and Sickle	Communist Party of India
3. Hammer, Sickle and Star	Communist Party of India, (Marxist)
4. Charkha within a Rectangle	Indian Congress (Socialist Sarat Chandra Sinha)
5. Hand	Indian National Congress
6. Chakra (Wheel)	Janata Dal
7. Haldhar within wheel (Chakra Haldhar)	Janata Party
8. Farmer ploughing the field (Khet Jotata Hua Kisan)	Lok Dal
9. A woman carrying pot on her head	Janata Dal (Samajwadi).
10. Cart	Peasants and Workers Party of India
11. Bow and Arrow	Shivsena.

**PART II  
FREE SYMBOL**

1. Aeroplane
2. Apple
3. Almirah
4. Axe
5. Bell
6. Belt

1. Sub. by G. N. of 16.10.1969.
2. Ins. by G. N. of 16.10.1969.
3. Sub. by G. N. of 26.4.1967.
4. Sub. by G. N. of 26.10.1994.
5. Sub. by G. N. of 21.10.1991.

7. Bicycle
8. Bucket
9. Basket containing vegetables
10. Boat
11. Black Board
12. Boy and Girl
13. Brick
14. Bat
15. Balloon
16. Candles
17. Chair
18. Car
19. Ceiling Fan
20. Clock
21. Conch
22. Coconut tree bearing fruits
23. Cultivator winnowing grain
24. Cup and Saucer
25. Drum
26. Dam
27. Electric Bulb
28. Flaming Torch
29. Fire Engine
30. Frock
31. Glass Jar
32. Glass Tumbler
33. Gas Cylinder
34. Gas Stove
35. Hat
36. Hockey and Ball
37. Hurricane Lamp
38. Hand pump
39. Inkpot and Pen
40. Jug
41. Jeep
42. Kettle
43. Kite
44. Ladder
45. Lock and Key
46. Lady Purse
47. Letter Box
48. Motorcycle
49. Plough
50. Pot
51. Pressure Cooker
52. Radio
53. Ring
54. Road Roller
55. Railway Engine
56. Rising Sun
57. Ship

58. Spade
59. Spade and Stoker
60. Spectacles
61. Sewing Machine
62. Saw
63. Scooter
64. Slate
65. Stool
66. Shuttle
67. Table Lamp
68. Table Fan
69. Television
70. Telephone
71. Top
72. Trumpet
73. Two Swords and a Shield
74. Two Leaves
75. Umbrella
76. Violin
77. Wool:]

Provided that, where the number of candidates contesting the election exceeds the number of symbols '[Specified in Part II of the Table above], the Returning Officer may assign any other symbol to any candidates to whom no symbol has been assigned.

<sup>1</sup>[(2) Any candidate sponsored by a political party mentioned in column (2) in Part I of the Table mentioned in sub-rule (1) shall choose, and shall be allotted, the reserved symbol of that party specified in column (1), in Part I of the said Table and no other symbol.

<sup>2</sup>[Explanation. - For the purpose of this rule, a candidate shall be deemed to be sponsored by a political party if, and only if, on or before the last date fixed for filing of nominations, a notice in writing to that effect has been delivered to the Returning Officer by a person who is authorised by the said party to send such notices and whose name and specimen signature have been communicated in advance to the Returning Officer.]

(2-A) Any other candidate shall choose, and shall be allotted, one of the free symbols specified in Part II of the Table and no other symbol :

Provided that, if more candidates than one indicate their preference for the same symbol, the Returning Officer shall, after due notice to the candidates concerned, decide by lot, in the presence of such of those candidates as may be present at the appointed time, to which of those candidates the symbol shall be assigned].

(3) The decision of the Returning Officer in assigning any symbol to a candidate under this rule shall be final.

(4) The Returning Officer shall thereafter publish a list of contesting candidates. Such list shall be in Form VIII <sup>3</sup>[\*\*\*] and shall contain the names in alphabetical order determined with reference to the surnames of the candidates having surnames, and the names proper, of other candidates, and their addresses as given in the nomination papers. <sup>4</sup>[The particulars and alphabetical order shall be in such language as is adopted by the Council under clause (12) of section 81 for keeping the minutes].

1. Sub. by G. N. of 16.11.1990.
2. Sub. by G. N. of 21.9.2001.
3. Deleted by G. N. of 16.7.1981.
4. Added by G. N. of 26.4.1967.

**17. Withdrawal of candidature.-** (1) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer,-

- (a) where no appeal is presented under rule 15 on or before the day appointed under clause (c) of sub-rule (1) of rule 4, and
- (b) where such appeal is made, on or before the third day after the date on which the appeal is decided.

(2) The notice shall be delivered to the Returning Officer before 3 o'clock in the afternoon on the last day fixed under sub-rule (1) for withdrawal of candidature.

(3) The notice may be given either by the candidate in person or by his proposer or election agent who has been authorised in this behalf in writing by the candidate.

(4) No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the notice.

(5) The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-rule (1), cause a notice to be affixed on the notice-board in his office.

**18. Appointment of Election Agent and revocation of such appointment.-** (1) If a candidate desires to appoint an election agent such appointment shall, subject to the provisions of sub-rule (3), be made in Form VIII <sup>1</sup>[\* \* \*] and lodged with the Returning Officer either at the time of delivering the nomination paper or at any time before the election.

(2) The appointment of the election agent may be revoked by the candidate at anytime by a declaration in writing signed by him and lodged with the Returning Officer. Such revocation shall take effect from the date on which it is so lodged. In the event of such revocation or in the event of the election agent dying before, or during the period of the election, the candidate may appoint a new election agent in accordance with the provisions of sub-rule (1).

(3) No person, who is for the time being disqualified under sub-section (11) of section 21 from being elected at any election to a Council, shall so long as the disqualification subsists, be appointed as an election agent.

**19. Appointment of Polling Agent.-** (1) At an election at which a poll is to be taken any contesting candidate, or his election agent, may, appoint one agent and two relief agents to act as polling agents, of such candidate at each polling station. Such appointment shall be made by a letter in writing in duplicate <sup>2</sup>[in Form IX-1] <sup>1</sup>[\* \* \*] signed by the candidate or his election agent.

(2) The candidate or his election agent shall deliver the duplicate copy of the letter of appointment to the polling agent, who shall, on the date fixed for the poll, present it to, and sign the declaration contained therein before, the Presiding Officer. The Presiding Officer shall retain the duplicate copy presented to him in his custody. No polling agent shall be allowed to perform any duty at the polling station, unless he has complied with the provisions of this sub-rule.

**20. Appointment of Counting Agent.-** (1) Each contesting candidate or his election agent may appoint not more than four agents to act as counting agents of such candidate by letter in writing in duplicate <sup>2</sup>[in Form IX-2] signed by the candidate or his election agent <sup>1</sup>[\* \* \*].

(2) Before the commencement of the counting of votes, the candidate or his election agent shall give notice of the appointment of such counting agents to the Returning Officer by forwarding to such officer the letter of appointment referred to in sub-rule (1).

(3) The candidate or his election agent shall also deliver the duplicate copy of the letter of appointment to the counting agent who shall, on the date fixed for the counting of votes, present it to, and sign the declaration contained therein before, the Returning Officer. The

1. Deleted by G. N. of 16.7.1981.

2. Sub. by G. N. of 4.3.1977.

Returning Officer shall retain the duplicate copy presented to him in his custody. No counting agent shall be allowed to perform any duty at the place fixed for the counting of votes, unless he has complied with the provisions of this sub-rule.

**21. Revocation of appointment or death of Polling Agent.-** (1) The appointment of the polling agent may be revoked by the candidate at any time before the commencement of the poll by a declaration in writing signed by him.

(2) Such declaration shall -

- (a) in the case where the appointment is revoked not less than seven days before the commencement of the poll, be lodged with the Returning Officer;
- (b) in any other case, be lodged with the Returning Officer or the Presiding Officer of the polling station where the polling agent was appointed for duty.

(3) If the polling agent of a candidate dies before the close of the poll, the candidate or his election agent shall forthwith report in writing the fact of such death,-

- (a) in the case where the death takes place not less than seven days before the commencement of the poll, to the Returning Officer, and
- (b) in any other case, to the Returning Officer or the Presiding Officer of the polling station where the polling agent was appointed for duty.

(4) Wherever the Returning Officer receives any declaration or report made under sub-rule (1) or (2), he shall forthwith communicate such declaration or report, as the case may be, to the Presiding Officer of the polling station where such polling agent was appointed for duty.

(5) Where the appointment of a polling agent is revoked under sub-rule (1) or where the polling agent dies before the close of the poll, the candidate or his election agent may, at any time before the poll is closed, appoint a new polling agent in accordance with the provisions of sub-rule (1) of rule 19 :

Provided that, the letter of appointment of a new polling agent shall-

- (a) in the case where such appointment is made not less than seven days before the commencement of the poll, be given to the Returning Officer, and
- (b) in any other case, be given to the Returning Officer or the Presiding Officer of the polling station where the new polling agent is appointed.

(6) The provision of sub-rule (2) of rule 19, shall apply in relation to a polling agent appointed under sub-rule (5) as they apply in relation to a polling agent appointed under sub-rule (1) of rule 19.

**22. Revocation of appointment or death of Counting Agent.-** (1) The appointment of the counting agent may be revoked by the candidate at any time before the commencement of the counting of votes by a declaration in writing signed by him. Such declaration shall be lodged with the Returning Officer.

(2) If the counting agent of a candidate dies before the completion of the counting of votes, the candidate or his election agent shall forthwith report the death in writing to the Returning Officer.

(3) Where the appointment of a counting agent is revoked under sub-rule (1) or where the counting agent dies before the completion of the counting of votes, the candidate or his election agent may appoint a new counting agent in the manner, laid down in sub-rule (1) of rule 20.

(4) The provisions of sub-rules (2) and (3) of rule 20, shall apply in relation to a counting agent appointed under sub-rule (3) as they apply in relation to a counting agent appointed under sub-rule (1) of rule 20.

**23. Death of candidate before poll.-** If a contesting candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll in respect of the ward to the election of which the deceased was a

candidate <sup>1</sup>[\* \* \*] and report the fact to the <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] and all proceeding with reference to the election of such ward; <sup>1</sup>[\* \* \*] shall be commenced a new in all respects, as if for a new election;

Provided that -

- (i) no further nomination shall be necessary in the case of a person who was a validly nominated candidate at the time of the countermanding of the poll; and
- (ii) no person who has given a notice of withdrawal of his candidature under rule 17 before the countermanding of the poll, shall be ineligible for being nominated as a candidate for the election after such countermanding.

**24. Uncontested election.**- (1) If in any ward, <sup>1</sup>[\* \* \*] if only one candidate has filed a nomination, and his nomination has been accepted, the Returning Officer shall forthwith declare such candidate to be duly elected.

(2) If in any ward, only one nomination out of several nominations made, has been accepted and if no appeal under rule 15, has been filed or if the appeal or appeals so filed, have been duly rejected, the Returning Officer shall declare the candidate whose nomination has been accepted, to be duly elected.

**25. Contested elections.**- In case other than those covered by rule 24, a poll shall be taken.

**26. Manner of voting at elections.**- At every contested election, votes shall be given by ballot in the manner hereinafter provided.

**27. Ballot box.**- Every ballot box shall be of such design and colour, as may be approved by the <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner]. It shall be so constructed that ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken.

<sup>3</sup>**[28. Ballot paper.**- The ballot paper shall be in the form specified by the State Election Commission.]

**29. Arrangement at polling stations.**- (1) Outside each polling station, there shall be displayed prominently,-

- (a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station, and where the polling station has more than one polling booth, at each one of such booths, the description of voters allotted to such booth; and
- (b) another notice giving the name of each candidate in the same language or languages and in the same order in which the names of such candidates appear <sup>4</sup>[in the list of contesting candidates] at the election published under rule 16 together with the description of the symbol which has been assigned to each such candidate under that rule.

(2) The Returning Officer shall cause to be provided at every polling station <sup>5</sup>[compartment] (referred to in these rules as a "polling compartment") in which voters can record their votes screened from observation.

(3) The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, ballot papers, copies of the list of voters in respect of the polling area or areas the voters of which are entitled to vote at such polling station, instruments for stamping the officials mark on the ballot papers, and articles necessary for voters to mark the ballot paper. The Returning Officer shall also provide at each polling station such other equipment and accessories as may be required for taking the poll at such polling station.

1. Deleted by G. N. of 16.7.1981.
2. Sub. by G. N. of 26.10.1994.
3. Sub. by G. N. of 21.9.2001.
4. Sub. by G. N. of 13.4.1967.
5. Sub. by G. N. of 16.7.1981.

**30. Admission to polling station.-** The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than -

- (a) polling officers;
- (b) public servants on duty in connection with the election;
- (c) persons authorised by the [State Election Commission or an office authorised by the State Election Commissioner] or the Returning Officer;
- (d) candidates, their election agents and subject to the provisions of rule 19, one polling agent of each candidate;
- (e) a child in arms accompanying a voter;
- (f) a person accompanying a blind or infirm voter who cannot move without help; and
- (g) such other person as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the voter.

**31. Preparation of ballot boxes for poll.-** (1) Where a paper seal is used for securing the ballot box, the Presiding Officer shall fix in the space meant therefor a paper seal provided for the purpose. He shall also affix on such paper his signature and obtain thereon signatures of such candidates or such election or polling agents of the candidates as may be present and may desire to affix their signatures. He shall then secure and seal the ballot box in such manner that the slit for insertion of ballot papers therein remains open.

(2) Where it is not necessary to use a paper seal for securing a ballot box, the Presiding Officer shall secure and seal the box in such manner that the slit in the box for insertion of ballot papers therein remains open and shall also allow the candidates or their election or polling agents who may be present to affix their own seals on the space in the box meant therefor, if they so desire.

(3) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with,-

- (a) the serial number, if any, and the name of the ward;
- (b) the serial number and name of the polling station;
- (c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and
- (d) the date of poll.

(4) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the candidates, their election agents and their polling agents, who may be present at such station and all other persons present that the ballot box is empty and bears the labels referred to in sub-rule (3).

(5) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the polling agents.

**32. Facilities for women voters.-** (1) Where a polling station is for both men and women voters, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) The Returning Officer or the Presiding Officer may appoint a woman to serve as an assistant at a polling station to assist women voters and also to assist the Presiding Officer generally in taking the polling in respect of women voters, and, in particular, to help in searching any women voters in case it becomes necessary.

**33. Identification of voters.-** (1) The Presiding Officer may employ at the polling station such persons, as he thinks fit, to help in the identification of the voters or to assist him otherwise in taking a poll.

(2) As each voter enters the polling station, the Presiding Officer or the Polling Officer, authorised by him in this behalf, shall check the voter's name and other particulars with

1. Sub. by G. N. of 26.10.1994.



the relevant entry in the list of voters and then call out the serial number, name and other particulars of the voter.

(3) In deciding the right of a person to obtain a ballot paper, the Presiding Officer or the Polling Officer, as the case may be shall overlook merely clerical or printing errors, in an entry in the list of voters, if he is satisfied that such person is identical with the voter to whom such entry relates.

**34. Challenging of identity.-** (1) Any candidate, election agent or polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of Rs. 2/- in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, the Presiding Officer shall -

- (a) warn the person challenged of the penalty for personation;
- (b) read the relevant entry in the list of voters in full and ask him whether he is person referred to in that entry;
- (c) enter his name and address in the list of challenged votes in Form XI, <sup>1</sup>[\* \* \*] and
- (d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose-

- (a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;
- (b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and
- (c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to the Council, and in any other case, he shall return it to the challenger at the conclusion of the inquiry.

**35. Safeguards against personation.-** (1) With a view to preventing personation of voters, every voter about whose identity the Presiding Officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or the polling officer and an indelible ink mark to be put on it.

(2) If any voter refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed to vote.

(3) Any reference in this rule to the left forefinger of a voter shall, in the case where the voter has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall, in the case where all his fingers of both the hands are missing, be construed as reference to such extremity of his left or right arm as he possesses.

**36. Issue of ballot paper.-** (1) No ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll.

(2) No ballot paper shall be issued to any voter after the hours fixed for the closing of the poll, except to those voters who are present at the polling station at the time of the

1. Deleted by G. N. of 16.7.1981.



closing of the poll. Such voters shall be allowed to record their votes even after the poll closes.

<sup>1</sup>[(3) Every ballot paper shall, before it is issued to a voter and the counterfoil attached to such ballot paper, be stamped on the back with such distinguishing mark as <sup>2</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] may direct, and every ballot paper shall, before such issue, be signed in full on its back by the Presiding Officer.

(4) At the time of issuing a ballot paper to a voter, the Polling Officer shall -

- (a) record on its counterfoil the serial number of the voter as entered in the marked copy of the list of voters;
- (b) obtain the signature or thumb impression of that voter on the said counterfoil; and
- (c) mark the name of the voter in the marked copy of the list of voters to indicate that a ballot paper has been issued to him, without, however recording therein the serial number of the ballot paper issued to that voter :

Provided that, no ballot paper shall be delivered to a voter unless he has put his signature or thumb impression on the counterfoil of that ballot paper.

(5) No person in the polling station shall note down the serial number of the ballot paper issued to a particular voter.]

**37. Voting procedure.-** (1) The voter on receiving the ballot paper shall forthwith -

- (a) proceed to one of the polling compartments;
- (b) there make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;
- (c) fold the ballot paper so as to conceal his vote;
- (d) if required, show to the Presiding Officer the distinguishing mark on the ballot paper;
- (e) insert the folded ballot paper into the ballot box; and
- (f) quit the polling station.

(2) Every voter shall vote without undue delay.

(3) No voter shall be allowed to enter a polling compartment when another voter is inside it.

**[38. Recording of votes of blind or infirm voter.-** (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmity, a voter is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than twenty-one years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box :

Provided that, no person shall be permitted to act as the companion of more than one voter at any polling station on the same day :

Provided further that, before any person is permitted to act as the companion of a voter on any day under this rule, he shall be required to declare that he will keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any polling station on that day.

(2) The Presiding Officer shall keep a record in Form XI-A-1 <sup>3</sup>[\* \* \*] of all cases under this rule].

1. Sub. by G. N. of 6.12.1980.  
2. Sub. by G. N. of 26.10.1994.  
3. Deleted by G. N. of 16.7.1981.

**39. Spoilt and returned ballot papers.-** (1) A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned shall be marked "Spoilt-cancelled" by the Presiding Officer.

(2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned shall be marked as "Returned-cancelled" by the Presiding Officer.

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

**40. Tendered votes.-** (1) If a person representing himself to be a particular voter applies for a ballot paper after another person has already voted as such voter, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter in these rules referred to as a "tendered ballot paper") in the same manner as any other voter.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form XII <sup>1</sup>[\* \* \*]

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling station, except that it shall be,-

(a) serially the last in the bundle of ballot papers issued for use at the polling station; and

(b) endorsed on the back with the words "tendered ballot paper" by the Presiding Officer in his own hand and signed by him.

(4) The voter, after marking a tendered ballot paper in the polling compartment and folding it, shall, instead of putting it into the ballot box, give it to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

**41. Closing of poll.-** (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 4 and shall not thereafter admit any voter into the polling station :

Provided that, all voters present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether a voter was present at the Polling Station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

**42. Sealing of ballot boxes after poll.-** (1) As soon as practicable after the closing of the poll, the Presiding Officer shall, in the presence of any candidates or their election or polling agents, if in attendance, close the slit of the ballot box, and where the ballot box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

(2) The ballot box shall thereafter be sealed and secured.

(3) Where it becomes necessary to use a second ballot box by reason of the first box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

**43. Account of ballot papers.-** <sup>2</sup>[(1)] The Presiding Officer shall, at the close of the poll, prepare a ballot paper account in Form XIII <sup>1</sup>[\* \* \*] and enclose it in a separate cover with the words "Ballot Paper Account" superscribed thereon.

<sup>3</sup>[(2)] The Presiding Officer shall permit a polling agent who so desires to take a true copy of the entries made in the ballot paper account and shall attest it as true copy.]

1. Deleted by G. N. of 16.7.1981.

2. Re-numbered by G. N. of 6.12.1980.

3. Ins., *ibid*.

**44. Sealing of other packets.-** (1) The Presiding Officer shall then make into separate packets,-

- (a) the marked copy of the list of voters;
- (b) the unused ballot papers;
- (c) the cancelled ballot papers;
- (d) the cover containing the tendered ballot papers and the list of tendered ballot papers;
- (e) the list of challenged votes; and
- (f) any other papers directed by the Returning Officer to be kept in a sealed packet.

(2) Each such packet shall be sealed with the seals of the Presiding Officer and of those polling agents present who may desire to affix their seals thereon.

**45. Transmission of ballot boxes, packets, etc. to the Returning Officer.-** (1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct,-

- (a) the ballot boxes;
- (b) the ballot paper account;
- (c) the sealed packets referred to in rule 44; and
- (d) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of the counting of votes.

**46. Adjournment of poll in emergencies.-** (1) If at an election, the proceedings at any polling station for the poll are interrupted or obstructed by any riot or open violence, or if, at an election, it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause, the Returning Officer or the Presiding Officer for such polling station shall announce an adjournment of the poll to a date to be fixed later, and where the poll is so adjourned by the Presiding Officer, he shall forthwith inform the Returning officer concerned.

(2) Whenever a poll is adjourned under sub-rule (1), the Returning Officer shall, immediately report the circumstances to the <sup>1</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] who shall, as soon as may be, fix the day on which the poll shall recommence and fix the polling station at which and the hours during which, the poll shall be taken. The Returning Officer shall not count the votes cast at such election, until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the <sup>1</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] shall publish the date, place and hours of the poll fixed under sub-rule (2) in the manner laid down in rule 4; and the provisions of these rules governing the original poll shall *mutatis mutandis* apply to the fresh poll taken under this rule.

**47. Procedure on adjournment of poll.-** (1) If the poll at any polling station is adjourned under rule 46, the provisions of rules 42 to 45 (both inclusive) shall, as far as practicable, apply, as if the poll was closed at the hour fixed in that behalf under rule 4.

(2) When an adjourned poll is recommenced under sub-rule (2) of rule 46, the voters who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the list of voters and a new ballot box.

(4) The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the list of voters for recording the serial numbers of the ballot papers issued to voters at the adjourned poll.

1. Sub. by G. N. of 26.10.1994.

(5) The provisions of rules 26 to 45 (both inclusive) shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

**48. Fresh poll in case of destruction, etc., of ballot boxes.-** (1) If at any election,-

- (a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station cannot be ascertained, or
- (b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station, the Returning Officer shall forthwith report the matter to the '[State Election Commissioner or an officer authorised by the State Election Commissioner].

(2) Thereupon, the '[State Election Commissioner or an officer authorised by the State Election Commissioner] shall, after taking all material circumstances into account, either-

- (a) declare the poll at that polling station to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station and notify the day so appointed and the hours so fixed in such manner as he may deem fit, or
- (b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity is not material, issue such directions to the Returning Officer as he may deem proper for the further conduct and completion of the election.

(3) The provisions of the Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

**49. Counting of votes.-** At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of, the Returning Officer, and each contesting candidate, his election agent and his counting agents shall have right to be present at the time of counting.

**50. Admission to the place fixed for counting.-** (1) The Returning Officer shall exclude from the place fixed for counting of votes all persons except-

- (a) such persons as he may appoint to assist him in the counting;
- (b) persons authorised by the '[State Election Commissioner or an officer authorised by the State Election Commissioner];
- (c) public servants on duty in connection with the election; and
- (d) candidates, their election agents and counting agents.

(2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).

(3) The Returning Officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.

(4) Any person, who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer, may be removed from the place where the votes are being counted by the Returning Officer or by any police officer on duty or by any person authorised in this behalf by the Returning Officer.

**51. Maintenance of secrecy of voting.-** The Returning Officer shall, before he commences the counting, read out the provisions of section 29 to such persons as may be present.

**52. Scrutiny and opening of ballot boxes.-** <sup>2</sup>[(1) The Returning Officer shall,-

- (i) open or cause to be opened simultaneously the ballot box or boxes used at more than one polling station; and

<sup>3</sup>[(ii) have the papers counted and recorded in Part-II of Form XIII].

1. Sub. by G. N. of 26.10.1994.
2. Sub. by G. N. of 6.11.1974.
3. Sub. by G. N. of 12.10.1983.

<sup>1</sup>[(1-A) Discrepancy, if any, between the total number of such ballot papers recorded as aforesaid and the total number of ballot papers in the ballot box <sup>2</sup>[shall also be recorded in Part-II of the Form XIII].

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The Returning Officer shall satisfy himself that none of the ballot boxes has in fact, been tampered with.

(4) If the Returning Officer is satisfied that any ballot box has, in fact, been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in rule 48 in respect of that polling station.

**53. Scrutiny and rejection of ballot papers.**- (1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised.

(2) The Returning Officer shall reject a ballot paper,-

- (a) if it bears any mark or writing by which the voter can be identified; or
- (b) if no vote is recorded thereon; or
- (c) if votes are given on it in favour of more than one candidate; or
- (d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given; or
- (e) if it is a spurious ballot paper; or
- (f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (g) if it bears a serial number or is of a design, different from the serial numbers or, as the case may be, design of the ballot papers authorised for use at the polling station; or
- (h) if it does not bear the mark which it should have borne under the provisions of sub-rule (3) of rule 36 :

Provided that,-

- (i) where a Returning Officer is satisfied that any such defect as is mentioned in clause (g) or (h) has been caused by any mistake or failure on the part of the Presiding Officer or the polling officer, the ballot paper shall not be rejected merely on the ground of such defect;
- (ii) a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2), the Returning Officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

(4) The Returning Officer shall record on every ballot paper which he rejects the letter 'R' and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.

(5) All ballot papers rejected under this rule shall be bundled together.

**<sup>1</sup>[54. Counting of votes.**- (1) Ballot papers, which are not rejected under rule 53 shall be taken for counting.

(2) The votes recorded in favour of each candidate shall be counted with the aid of persons appointed to assist the Returning officer under clause (a) of sub-rule (1) of rule 50.

(3) Counting shall be subject to such general or special directions, if any, as may be given by the Director in this behalf :

1. Sub. by G. N. of 6.11.1974.

2. Sub. by G. N. of 12.10.1983.

<sup>1</sup>[Provided that, no cover containing tendered ballot papers shall be opened and no such paper shall be counted].

(4) After the counting of all ballot papers for the Councillors' election contained in all the ballot boxes used in a polling station has been completed, the Returning Officer shall make the entries in a result sheet in Form XIV and announce the particulars. The valid ballot papers shall, thereafter, be bundled together and kept alongwith the bundle of rejected ballot papers but in a separate packet, which shall be sealed after recording thereon the following particulars, namely :-

(a) The name of the Council;

(b) The name and number of the ward and against it the name and number of the polling station; and

(c) The date of counting.

<sup>2</sup>[(5)\* \* \*].

**55. Counting to be continuous.**- The Returning Officer shall, as far as practicable, proceed continuously with the counting of votes and shall, during any intervals when the counting has to be suspended, keep the ballot papers, packets and other papers relating to the election sealed with his own seal and the seals of such candidates or election or counting agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody during such intervals.

**56. Recommencement of counting after fresh poll.**- (1) If a fresh poll is held under rule 48, the Returning Officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by the <sup>3</sup>[State Election Commissioner or an officer authorised by the State Election Commissioner] in that behalf and of which notice has been previously given to the candidates and their election agents.

(2) The provisions of rules 53 and 54 shall apply, so far as may be, to such further counting.

**57. Re-count of votes.**- (1) After the completion of the counting, the Returning Officer shall record in the result sheet in Form XIV <sup>4</sup>[\* \* \*] the total number of votes polled by each candidate and announce the same.

(2) After such announcement has been made, a candidate or, in his absence, his election agent may, apply in writing to the Returning Officer for a re-count of all or any of the ballot papers already counted stating the grounds on which he demands such re-count.

(3) On such an application being made, the Returning Officer shall decide the matter and may allow the application, in whole, or in part, or may reject it *in toto* if it appears to him to be frivolous or unreasonable.

(4) Every decision of the Returning Officer under sub-rule (3) shall be in writing and contain the reasons therefor.

(5) If the Returning Officer decides under sub-rule (3) to allow an application, either in whole or in part, he shall,-

(a) count the ballot papers again in accordance with his decision;

(b) amend the result sheet in Form XIV <sup>4</sup>[\* \* \*] to the extent necessary after such re-count; and

(c) announce the amendments so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the Returning Officer shall complete and sign the result sheets in Form XIV. <sup>4</sup>[\* \* \*] and no application for a re-count shall be entertained thereafter :

1. Sub. by G. N. of 12.10.1983.

2. Deleted, *ibid*.

3. Sub. by G. N. of 26.10.1994.

4. Deleted by G. N. of 16.7.1981.

Provided that, no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

**58. Equality of votes.**- If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

**59. Declaration of result.**- The Returning Officer shall declare the results of the elected candidates seatwise. The result of each seat shall be declared separately. The candidate who has secured highest number of valid votes shall be declared elected from particular seat. The Returning Officer shall then complete and certify the return of election in Form XV send signed copies thereof to the State Election Commission or an officer authorised by the State Election Commissioner as soon as possible.]

**60. Custody of election papers.**- The Returning Officer shall retain in his custody the packets referred to in rule 44 and all other documents relating to the election.

**61. Production and inspection of election papers.**- (1) While in the custody of the Returning Officer,-

- (a) the packets of unused ballot papers;
- (b) the packets of used ballot papers whether valid, tendered or rejected;
- (c) the packets of marked copies of the list of voters;

shall not be opened and their contents shall not be inspected by, or produced before, any person or authority, except under the order of a competent court.

(2) All other papers relating to the election shall be open to public inspection.

**62. Disposal of election papers.**- (1) The packets referred to in sub-rule (1) of rule 61 shall be retained for a period of one year and shall thereafter be destroyed, subject to any direction to the contrary given by the <sup>2</sup>[State Election Commissioner] or by a competent court.

(2) All other papers relating to the election shall be retained, until the termination of the next general election for the ward to which they relate and shall thereafter be destroyed, subject to any direction to the contrary given by the <sup>2</sup>[State Election Commissioner] or a competent court.

**63. Casual vacancies.**- Whenever a report is received by the <sup>2</sup>[State Election Commissioner] or an officer authorised by the State Election Commissioner] from the Chief Officer under sub-section (2) of section 48 of a vacancy in the office of Councilor <sup>3</sup>[\*\*\*] <sup>4</sup>[the <sup>2</sup>[State Election Commissioner] shall after verifying and satisfying himself that there is a casual vacancy, fix a date], as soon as conveniently may be, for holding by-election to fill the vacancy and the provisions of these rules shall thereupon *mutatis mutandis* apply accordingly.

**64. Expenses in connection with municipal election.**- All expenses in relation to holding of any election under the Act shall be payable by the Municipal Council from the municipal fund.]

1. Sub. by G. N. of 21.9.2001.
2. Sub. by G. N. of 26.10.1994.
3. Deleted by G.N. of 16.7.1981.
4. Sub. by G.N. of 13.7.1972.
5. Ins. by G.N. of 5.6.1970.



**[FORM I**

[See rules 4 and 5]

office of the <sup>2</sup>[Officer authorised by the State Election Commissioner) of.....**Order**

No.....In exercise of the powers conferred by rules 4 and 5 of the Maharashtra  
<sup>2</sup>[Municipal Councils and Nagar Panchayats] Election Rules, 1966.

I.....<sup>2</sup>[Officer authorised by the State Election Commissioner] of.....hereby  
appoint in relating to the election to the.....Council by the ward specified in column 1  
of the Schedule hereto-

- (a) the officers whose names are specified in columns 2(a) or 2 (b) (against the ward specified in column 1 hereinafter referred to as "against the ward"), to be the Returning Officer and the Assistant Returning Officer;
- (b) the date and time specified in column 3 (against the ward) thereof, to be the last date and time for making nominations;
- (c) the place specified in column 4 (against the ward) to be the place for making nominations;
- (d) the date and time specified in column 5 (against the ward) to be the date and time for the scrutiny of nominations;
- (e) the place specified in column 6 (against the ward) to be the place for making scrutiny and withdrawal of nominations;
- (f) the date specified in column 7 (against the ward) to be the date for the publication of the list of validly nominated candidates;
- (g) the date specified in column 8 (against the ward) to be the last date for withdrawal of candidatures;
- (h) the date specified in column 9 (against the ward) to be the date for the publication of the list of contesting candidates;
- (i) the date or dates and time specified in column 10 (against the ward) to be the date or dates on which and the time during which the poll shall be taken;
- (j) the date and time specified in column 11 (against the ward) to be the date and time for counting of votes;
- (k) the place specified in column 12 (against the ward) to be the place for counting of votes.]

1. Sub. by G.N. of 4.3.1977.  
2. Sub. by G.N. of 26.10.1994.



Name of Number of ward (1)	Name of		Last date and time for making nominations (3)	Place for making nominations (4)	Date and time for scrutiny of nominations (5)	Place for making scrutiny and withdrawal of nominations (6)
	Return- ing Officer 2(a)	Assistant Returning Officer 2(b)				

  

Date of publica- tion of list of validly nominated candidates (7)	Last date for with- drawal of candidatures (8)	Date of publica- tion of list of contesting candidates (9)	Date or dates on which and time during which poll shall be taken (10)	Date and time for counting of votes (11)	Place for counting of votes (12)
-------------------------------------------------------------------------------	------------------------------------------------------------	------------------------------------------------------------------------	-----------------------------------------------------------------------------------	------------------------------------------------------	-------------------------------------------

- 1.
- 2.
- 3.
- 4.
- 5.

Date : \_\_\_\_\_

State Election Commissioner of an \_\_\_\_\_  
Officer authorised by the State Election  
Commissioner of \_\_\_\_\_

2[FORM I-A  
\* \* \*

**<sup>3</sup>[FORM II**  
**\* \* \*]**

[See rule 12(3)]

**Receipt for Nomination paper and Notice of Scrutiny**

(To be handed over to the person presenting the nomination paper) Serial No. of  
Nomination Paper.....

The nomination paper of.....a candidate for election from the.....ward of.....Council was delivered to me at my office at.....(hour) on .....(date) by the \*Candidate of the candidate.

\*Proposer

1. Sub. by G. N. of 12.12.2000.
2. Deleted by G. N. of 16.7.1981.
3. Deleted by G. N. of 21.9.2001.
- \* Strike off if unnecessary.

All nomination papers will be taken up for scrutiny at..... (hour) on..... (date)  
at..... (place).

Date :

Signature of Returning Officer.

**<sup>1</sup>[FORM III-A**

\* \* \*]

**FORM IV**

[See rule 13(8)]

**List of validly nominated Candidates**

Election to the ..... Council from..... Ward .....  
(Name) (Number)

Serial No.	Name of Candidate	Address of Candidate
1.		
2.		
3.		
4.		
etc.		

Place :

Date :

Returning Officer

**<sup>1</sup>[FORM IV-A**

\* \* \*]

**<sup>2</sup>[FORM V**

[See rule 15(3)(a)]

**Intimation of Hearing Appeals Against Decisions Accepting or Rejecting Nomination Papers**

I hereby publish the notices received by me under sub-rule (2) of rule 15 of the Maharashtra <sup>3</sup>[Municipal Councils and Nagar Panchayats] Election Rules, 1966 and give intimation that the hearing of the appeals, in respect of which notices have been received shall commence before the District Judge on the third day after the date of publication of this notice, that is, on the.....day of..... 20...

A copy of the petition of appeal is available with the Returning Officer and may be collected by the respondent (or respondents) from the office of the Returning officer.

Place :

Date :

.....  
Returning Officer.

Copy forwarded with compliments to the District Judge..... with a copy of each of the notices received and the list of validly nominated candidates.]

**<sup>4</sup>[FORM VI**

\* \* \*]

1. Deleted by G.N. of 16.7.1981.
2. Sub. by G.N. of 6.12.1980.
3. Sub. by G.N. of 26.10.1994.
4. Deleted by G.N. of 16.10.1969.

**FORM VII**

[See rule 16(4)]

**List of Contesting Candidates and Symbols Assigned to them**

Election to the.....Council from.....Ward

No.	Name of Candidate	Address of Candidate	Symbol assigned to the Candidate
1.			
2.			
3.			
4.			
etc.			

Place :

Date :

Returning Officer.

**[FORM VII-A**

\* \* \*]

**FORM VIII**

[See rule 18(1)]

**Appointment of Election Agent**

Election to the .....Council from .....Ward

To

The Returning officer,  
..... Municipal Area.

I,..... of ..... a candidate at the above election do hereby appoint .....  
of .....as my election agent from this day at above election:-

Place :

Date :

Signature of Candidate.

I accept the above appointment.

Place :

Date :

Signature of Election Agent.

**[FORM VIII-A**

\* \* \*]

**[FORM IX-1**

[See rule 19]

**Appointment of Polling Agent**

Election to the ..... Council from .....Ward

To

The Presiding Officer ..... Polling Station

I,.....a candidate\* /the election agent of.....  
who is a candidate at the above election, do hereby appoint.....as a

1. Deleted by G.N. of 16.7.1981.

2. Sub. by G.N. of 4.3.1977.

polling agent to attend Polling Booth No. .... of Polling  
Station No. ....

Place :

Date :

\*Signature of Candidate/Election Agent.

I agree to act as such Polling Agent

Place :

Date :

**Declaration of Polling Agent to be signed before the Presiding Officer.**

I hereby declare that at the above election I will not do anything forbidden by the Maharashtra [Municipal Councils, Nagar Panchayats and Industrial Townships] Act, 1965 or rules made thereunder.

Date :

Signature of Polling Agent.  
Signed before me.

Date :

Presiding Officer.]

\*Only the appropriate alternative should be used.

**[FORM IX-2**

[See rule 20]

**Appointment of Counting Agent**

Election to the ..... Council from ..... Ward

To

The Returning Officer .....

I ..... a candidate\*/the election agent of ..... who is a candidate at the above election, do hereby appoint the following persons as my counting agent to attend the counting of votes at .....

Name of the Counting Agent

Address of the Counting Agent

- 1.
- 2.
- 3.
- 4.

We agree to act as such counting agents.

Signature of candidate\*/Election Agent.

- 1.
- 2.
- 3.
- 4.

Place :

Date :

Signature of Counting Agents.]

1. Sub. by G.N. of 26.10.1994.
2. Sub. by G.N. of 4.3.1977.

**Declaration of Counting Agents**

(To be signed before Returning Officer)

We hereby declare that at the above election we will not do anything forbidden by the Maharashtra <sup>1</sup>[Municipal Councils, Nagar Panchayats and Industrial Townships] Act, 1965 or rules made thereunder.

- 1.
- 2.
- 3.
- 4.

Date :

Signed before me.

Date :

Signatures of Counting Agents.

Returning Officer.]

<sup>2</sup>[FORM IX-A-1

\* \* \*]

<sup>2</sup>[FORM IX-A-2

\* \* \*]

[FORM X]

[See rule 28]

**Ballot Paper**

Election to the ..... Council from ..... Ward

Name of Candidate (1)	Symbol assigned (2)
.....	.....
.....	.....
.....	.....

**Note.-** Serial number of each ballot paper shall appear at the top on the front side.

<sup>2</sup>[FORM X-A

\* \* \*]

**FORM XI**

[See rule 34]

**List of Challenged Votes**

Election to the ..... Council from ..... Ward

Polling Station .....

No. .... of Polling Station, if any .....

Serial Num- ber of voter entry	Name of the voter	Serial number in list of voters	Signature or thumb impres- sion of the voter and his address	Name of identi- fier, if any	Name of person chal- lenging	Amount of de- posit made	Order of Presiding Officer in each case	Signature of Challenger ac- knowledging receipt of deposit when deposit returned
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Date :

Signature of Presiding Officer.

1. Sub. by G.N. of 26.10.1994.

2. Deleted by G.N. of 16.7.1981.

**<sup>1</sup>[FORM XI-A**

\* \* \*]

**<sup>2</sup>[FORM XI-A-1**

[See rule 38(2)]

**List of Blind and Infirm Voters**Election to the ..... Council from ..... Ward  
Polling Station.....

Part No.	Serial	Full Name	Full Name of	Address of	Signature of companion or
No. of voter	of voter	of voter	companion	companion	his thumb impression
(1)	(2)	(3)	(4)	(5)	(6)

Date :

Signature of Presiding Officer.]

**<sup>1</sup>[FORM XI-A-2**

\* \* \*]

**FORM XII**

[See rule 40]

**Tendered Votes List**

Election to the ..... Council from ..... Ward

Polling Station .....

No. of Polling Station, if any .....

Serial	Name of	Serial	Address of	Serial	Serial number	Signature or
Number	voter	Number of	the voter	number of	of ballot paper	thumb impres-
of the		the voter in		tendered	issued to the	sion of the
entry		the list of		ballot paper	person who has	person tendering
		voters			already voted	vote
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Date :

Signature of the Presiding Officer.

**<sup>1</sup>[FORM XII-A**

\* \* \*]

1. Deleted by G.N. of 16.7.1981.
2. Ins. by G.N. of 6.12.1980.

**FORM XIII**

[See rule 43]

**Part I****Ballot Paper Account**

Election to the ..... Council from ..... Ward  
 Polling Station .....

	Serial Number	Total Number
1. Ballot papers received		
2. Ballot papers unused		
(a) with the signature of the Presiding Officer, if any, and		
(b) without the signature of the Presiding Officer		
3. Ballot papers issued to voters		
4. Ballot papers cancelled		
5. Ballot papers used as tendered ballot papers.		

Date :

Signature of the Presiding Officer.

**Part II****Results of Initial Counting**

1. Total number of ballot papers found in the ballot box(es) used at a polling station.
2. Discrepancy, if any, between the total number of ballot papers issued to voters as shown in item 3 of Part I and the sum of the total numbers as shown against item 1 in this Part and the number of ballot papers cancelled as shown in item 4 of Part I and the number of ballot papers used as tendered ballot papers as shown in item 5 of Part I.

Date :

Signature of Counting Supervisor.

Signature of Returning Officer.

**Note.**- If polling station has more than one polling booth, separate account in this Form shall be attached to this account in respect of each such polling booth.

**FORM XIII-A**

\* \* \*

**FORM XIV**

[See rules 54 and 57]

**Result Sheet**

Election to the ..... Council from the ..... Ward

Polling Station	Number of valid votes cast in favour of			Number of		Number of tendered Votes	Remarks
Serial No.	Name	A	B	C etc.	Valid Votes	Rejected Votes	Total Votes for polling station

1. Sub. by G.N. of 6.12.1980.

2. Deleted by G.N. of 16.7.1981.

Total number of votes recorded at Polling Stations :

Date :

Place :

Returning Officer.

<sup>1</sup>[FORM XIV-A

\* \* \*]

**FORM XV**

[See rule 59]

**Return of Election**

Election to the.....Council from.....Ward .....20..

Serial No.	Name of Candidate	Number of valid votes given for the candidate
(1)	(2)	(3)
1.		
2.		
3.		
4.		
etc.		

Total No. of valid votes .....

Total No. of invalid votes .....

Total No. of tendered votes .....

I declare that -

Name .....

Address .....

has been duly elected.

Place :

Signature of Returning Officer.

Dated the.....day of.....20..

<sup>1</sup>[FORM XV-A

\* \* \*]