

MAHARASHTRA VILLAGE PANCHAYATS (TEMPORARY POSTPONEMENT OF ELECTIONS DUE TO ELECTIONS TO LOK SABHA) ACT, 1980

[3 of 1980]¹

[Received the assent of Governor on the 9th day of February 1980; assent first published in the M.G.G., Part IV, on the 12th day of February 1980]

An Act to provide for temporary postponement of elections to village panchayats due to ensuing elections to Lok Sabha.

WHEREAS, under Section 12 of the Bombay Village Panchayats Act, 1958 the electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950 and in force on such date as the State Government may by general or special order notify in that behalf for such part of the constituency of the Assembly as is included in a ward or a village is the list of voters for such ward or village;

AND WHEREAS, the electoral roll of the Maharashtra Legislative Assembly was prepared with reference to the 1st January 1977;

AND WHEREAS, on the 22nd August 1979, the President dissolved the Lok Sabha and after the dissolution of the Lok Sabha directions were issued by the Election Commission for the preparation of the electoral rolls for the conduct of elections to the Lok Sabha;

AND WHEREAS, for complying with the directions, the electoral roll for the Maharashtra Legislative Assembly with reference to the 1st January 1979 was to be prepared by the end of October 1979 for the conduct of elections to the Lok Sabha;

AND WHEREAS, it was desirable that elections to panchayats should be conducted on the basis of the electoral roll of the Maharashtra Legislative Assembly prepared with reference to the 1st day of January 1979, instead of on the basis of the electoral roll of the said Assembly prepared with reference to the 1st January 1977 and for that purpose, to postpone elections to the panchayats;

AND WHEREAS, it was considered necessary to postpone the elections to the panchayats also for the reason that Collectors, and their staff and other officers, who were necessary for holding such elections, were required to direct all efforts towards preparation of electoral roll of the Maharashtra Legislative Assembly and holding elections to the Lok Sabha;

AND WHEREAS, in consequence of such postponement, it was necessary to extend suitably the term of office of members and administrators of the panchayats;

AND WHEREAS, both Houses of the Legislature of the State were not in session;

AND WHEREAS, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to provide for the postponement of the elections and consequent extension of the term of office, is aforesaid, and also to provide for purposes connected with the said matters; and, therefore, promulgated the Maharashtra Village Panchayats (Temporary Postponement of Elections due to elections to Lok Sabha) Ordinance, 1979, on the 11th day of September, 1979;(Mah.Ord.VII of 1979)

1. For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1980, Part V, Extra., page 13.

AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-first year of the Republic of India as follows:-

1. Short title, commencement and duration :- (1) This Act may be called the Maharashtra Village Panchayats (Temporary Postponement of Elections due to elections to Lok Sabha) Act, 1980 For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1980, Part V, Extra., page 13.

(2) It shall be deemed to have come into force on the 11th day of September 1979.

(3) It shall remain in operation upto, and inclusive of, the 31st March 1980, or such earlier date as may be notified by the State Government in the Official Gazette; and shall then expire. Section 7 of the Bombay General Clauses Act, 1904 , (Bom I of 1904) shall apply upon the expiry of this Act, as if it had been repealed by a Maharashtra Act.

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

(a) "administrator" means an administrator appointed under clause (b) of sub-section (1) of Section 160 of the panchayats Act, and includes any person appointed under clause (b) of sub-section (2) of Section 145 or clause (a) of sub-section (1) of Section 151 of that Act;

(b) "election to a panchayat" means the election of a member of the panchayat, but does not include the election of a Sarpanch or Upa-Sarpanch ;

(c) "panchayat" means a panchayat established or deemed to have been established under the Panchayats Act;

(d) "the Panchayats Act" means the Bombay Village Panchayats Act, 1958.(Bom III of 1959)

3. Temporary postponement of certain elections to panchayats and extension of term of office of members and administrators of panchayats :- (a) during the period from the date of commencement of this Act upto, and inclusive of, the 21st March 1980 or such earlier date as may be notified by the State Government under sub-section (3) of Section 1 (hereinafter in this Act referred to as "the said period"), no general election to any panchayat and no by-election to fill any casual vacancy in any panchayat, shall be held;

(b) the term of office (including any extended term of office) of the members (whether elected or appointed) of any panchayat or of the administrator or administrators of any panchayat, who were in office on the day immediately preceding the date of commencement of this Act (whether their term has expired before, on or after the said date at any time during the said period), shall be deemed to have been extended, or to be extended, as the case may be; and every such member or administrator shall continue to hold office during the said period:

Provided that, after the expiry of the term of office of the members or the administrators as so extended by this Section, they shall continue in office until the first meeting of the reconstituted panchayat, at which a quorum is present.

4. Powers of members and administrators, whose term of office stands extended and validation of certain acts :- All members of panchayats and all administrators of panchayats, whose term of office is deemed to have been extended or is extended, as the case may be, under the last preceding Section, shall through out the extended period also (whether before of after the commencement of this Act), be deemed to have been and be competent to exercise all powers and to perform all duties and functions as such members of administrators, as the case may be; and no act done by any such member or administrator during the said period shall be deemed invalid, or shall be called in question in any Court,

merely on the ground that the term of office was not extended in time, or was not otherwise duly extended, or that during the extended period the panchayat, member of administrator could not exercise all powers and perform all duties and functions of the panchayat, member or administrator, as the case may be.

5. Arrangements to be made to reconstitute new panchayats at the expiry of extended term of existing panchayats members and administrators :- Notwithstanding anything contained in this Act, after a date (being a date before the expiry of the said period) to be notified by the State Government in the official Gazette, arrangements shall be made by the Collectors and other officers concerned to constitute new panchayats in accordance with the provisions of the panchayats Act and the rules and by-laws made thereunder, before or as soon as possible after, the expiration of the term of office of the existing panchayats, members and administrators, which stands extended under this Act.

6. Application of Bom.III of 1959 :- Except as otherwise provided by or under this Act, the provisions of the panchayats Act shall in all other respects apply to the panchayats concerned.

7. Removal of difficulties :- If any difficulty arises in giving effect to the provisions of this Act the State Government may, as occasion arises, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

8. Act not to apply to certain elections to panchayats :- Nothing contained in this Act shall apply to any election or by-election to any panchayats for which the Tahsildar had appointed dates for various stages of the election or by-election before the commencement of this Act and such election or by-election shall be completed according to the programme fixed by the Tahsildar.

9. Repeal of Mah.Ord.7 of 1979 and saving :- (1) The Maharashtra Village Panchayats (Temporary Postponement of Elections due to elections to the Lok Sabha) Ordinance, 1979, is hereby repealed.

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