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सोमवार, जुलै ३, १९७८/आषाढ १२, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 3rd July 1978 :—

L. A. BILL No. XX OF 1978.

A BILL

to provide for further revision of the municipal election roll and extension of the term of office of the Councillors of the Municipal Corporation of Greater Bombay.

WHEREAS the term of office of the Councillors of the Municipal Corporation of Greater Bombay was extended for the period upto and inclusive of the 31st day of May 1978 under the Maharashtra Municipal Councils and Municipal Corporations (Postponement of Elections due to ensuing General Elections to the State Legislative Assembly) Act, 1977, and arrangements were to be made by the Municipal Commissioner to reconstitute the Municipal Corporation before, or as soon as possible after, the expiration of the extended term of office of the Councillors ;

AND WHEREAS in order to have more upto date municipal election roll and in view of the examinations of schools and colleges and the rainy season and to save the voters, candidates and members of the public in general from the inconvenience and hardships likely to be caused by holding the general ward elections by that time, the general elections could not be held so far;

AND WHEREAS it is expedient to provide for further revision of the municipal election roll and postponement of the general elections till the roll is so revised and in consequence of such postponement, to extend further the term of office of the existing Councillors of the Municipal Corporation of Greater Bombay upto noon on the 15th day of November 1978 and to provide for other connected matters; It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows :—

Short title and commencement. 1. (1) This Act may be called the Bombay Municipal Corporation (Revision of Election Roll and further Extension of Term) Act, 1978.

(2) It shall be deemed to have come into force on the 31st May 1978.

Further extension of term of office of Councillors. 2. (1) Notwithstanding anything contained in the Maharashtra Municipal Councils and Municipal Corporations (Postponement of Elections due to ensuing General Elections to the State Legislative Assembly) Act, 1977 (hereinafter referred to as "the Postponement of Elections Act") and in the Bombay Municipal Corporation Act (hereinafter referred to as "the principal Act"), the term of office of the Councillors of the Municipal Corporation of Greater Bombay, which would have expired after the 31st day of May 1978, shall be deemed not to have expired and shall be deemed to have been extended, and is hereby further extended, upto noon on the 15th day of November 1978, when these Councillors shall retire from office for the purposes of section 7 of the principal Act. Mah. XLV-III of 1977.

(2) Notwithstanding anything contained in sections 9 and 22 of the principal Act, but subject to the provisions of section 4 of this Act, during the period commencing on the 1st day of June 1978 and ending upto noon on the 15th day of November 1978, no general elections and no bye-election to the office of any Councillor shall be held ;

Provided that, the general elections shall be held at the appropriate time towards the end of the said period, so that the newly elected Councillors may come into office on the day for the retirement of the Councillors whom they are to succeed.

Powers of Councillors whose term is further extended and validation of certain acts. 3. All Councillors, whose term of office is deemed to have been extended, or is further extended, under section 2, shall, throughout the further extended period also, be deemed to have been and be competent to exercise all powers, perform all duties and discharge all functions as such Councillors, and no act done by any of them, or any of the municipal authorities or bodies during the period aforesaid shall be 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 Municipal Corporation or any of the authorities or other bodies thereof or any of the Councillors could not exercise all or any of the powers or perform all or any of the duties or discharge all or any of the functions of the Corporation, authority, body or Councillor, as the case may be.

Fresh revision of municipal election roll. 4. (1) The final ward rolls published on the 23rd day of March 1978 under paragraph (vi) of clause (b) of sub-section (1) of section 19 of the principal Act shall again be published as draft ward rolls under paragraph (i) of the said clause (b) for inviting applications for the inclusion of names or for correction of entries therein, within a period of thirty days from the date of their publication.

(2) Notwithstanding anything contained in the principal Act or in any notification issued thereunder, the relevant date for the purposes of paragraph (i) of the said clause (b) in respect of the draft ward rolls published as required by sub-section (1) shall be the 1st day of June 1978.

(3) After following the further procedure laid down in the said clause (b), and carrying out the necessary changes, the final ward rolls shall be published under paragraph (vi) of the said clause (b). The final ward rolls so published shall collectively be deemed to be the municipal election roll for the purposes of the ensuing general elections.

(4) Notwithstanding anything contained in sub-section (1A) of section 5 read with sub-section (1) of section 19 of the principal Act, Government Notification, Urban Development and Public Health Department, No. BMC-1177/3094-UD-3, dated the 30th August 1977, shall be deemed to be cancelled, and the State Government shall issue a fresh notification to provide for reservation for members of Scheduled Castes such number of seats out of the total number of seats available and to specify the wards in which the seats shall be reserved, having regard to the population of such members in Greater Bombay and having regard to the necessity of spreading over such reserved seats in different parts of Greater Bombay.

(5) After the final ward rolls are published and the fresh notification referred to in sub-section (4) is issued, the Municipal Commissioner shall fix the dates for the various stages of the general elections and take other necessary action for holding the elections under section 22 and other relevant provisions of the principal Act.

5. In section 19 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

Amendment
of section 19
of Bom. III
of 1888.

“(1A)(a) Notwithstanding anything contained in this section,—

(i) if any person whose name is not included in the final roll for any ward desires his name to be included in that roll, or

(ii) if any person whose name is included in the final roll for any ward desires his name to be deleted therefrom and to be included in the final roll for any other ward,—

he may, at any time, subject to clause (d) of this sub-section, apply to an officer of the State Government designated by it in this behalf, for inclusion of his name in the final roll for the specified ward. Such application shall bear a court-fee stamp of *fifty paise*, which shall, in no case, be refunded.

(b) On receipt of such application, the designated officer shall exhibit the particulars of the application so received on the notice board of his office and, after the expiry of a week from the date of such exhibition, if the designated officer is satisfied that the applicant is entitled under this section to be registered in the final roll for any ward, he shall direct his name to be registered therein, and thereupon the final roll shall stand amended accordingly. If the applicant is registered in the final roll for any other ward, the designated officer shall delete the applicant's name from that roll. Where the designated officer is not so satisfied, he shall give the person concerned a reasonable opportunity of being heard before rejecting his application.

(c) An appeal shall lie to an officer of the State Government appointed by it to be the appellate officer, from any order of the designated officer under this sub-section ; and the provisions of paragraph (v) of clause (b) of sub-section (1) shall *mutatis mutandis* apply to any appeal made under this sub-section.

(d) No direction for the inclusion of a name in the final roll for any ward shall be given under this sub-section, after the last date for nominations for any general election or by-election in that ward and before completion of that election.”

Consequences of extension of term of existing Councillors and fixation of day for retirement for them.

6. As a result of the extension of the term of office of the Councillors and the fixation of the day for retirement in respect of them under sub-section (I) of section 2, the following consequences shall ensue, and the provisions of the principal Act, existing in so far as they relate to the matters hereinafter specified in this section, shall be deemed to have been amended accordingly—

(i) All Councillors who are elected at the general elections referred to in sub-section (5) of section 4 and all Councillors who are elected to fill casual vacancies thereafter, shall, notwithstanding anything contained in sections 7 and 9 of the principal Act, retire from office at noon on the first day of April 1983.

(ii) The Councillors shall, at their first meeting held after such general elections, appoint one of their own number to be Mayor until the first meeting of the Corporation in the official year commencing on the first day of April 1979.

(iii) The members of the Standing Committee, the Improvements Committee, the Bombay Electric Supply and Transport Committee, the Education Committee and other Committees shall be appointed at the first meeting of the Councillors after such general elections, or as soon as possible thereafter.

(iv) The Standing Committee, the Improvements Committee, the Bombay Electric Supply and Transport Committee and the Education Committee appointed under clause (iii) shall, each at their first meeting, appoint one of their own number to be its Chairman, until the first meeting of such Committee in April 1979.

(v) One-half of the members of the Standing Committee and the Improvements Committee appointed under clause (iii) shall retire at noon on the first day of April 1979. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1979 and in such manner as the Chairman of the concerned Committee may determine.

(vi) One-half of the members of the Bombay Electric Supply and Transport Committee appointed under clause (iii) shall retire on the first day of April 1980. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1980 and in such manner as the Chairman of that Committee may determine.

(vii) One-half of the Councillor members and one-half of the other members of the Education Committee appointed under clause (iii) shall retire at noon on the first day of April 1979. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1979 and in such manner as the Chairman of that committee may determine.

Application of principal Act.

7. Except as otherwise provided by or under this Act, the provisions of the principal Act shall apply *mutatis mutandis* in respect of any matter contained in this Act or any matter connected therewith.

Removal of difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act, or by reason of anything contained therein, or in giving effect to the principal Act in respect of the matters contained in 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.

STATEMENT OF OBJECTS AND REASONS

As a result of the enactment of the Maharashtra Municipal Councils and Municipal Corporations (Postponement of Elections due to ensuing General Elections to the State Legislative Assembly) Act, 1977, the term of office of the Councillors of the Municipal Corporation of Greater Bombay was extended for the period upto and inclusive of the 31st day of May 1978, and arrangements were to be made by the Municipal Commissioner to re-constitute the Municipal Corporation before, or as soon as after, the expiration of the extended term of office of the Councillors.

2. In order to enable the Municipal Commissioner to hold the general ward elections for re-constituting the Municipal Corporation, a notification was issued by Government under paragraph (i) of clause (b) of sub-section (1) of section 19 of the Bombay Municipal Corporation Act specifying the 1st January 1978 to be the date for the purpose of the said paragraph. Thereafter, steps were taken in accordance with the provisions of the said section 19 for preparing the ward rolls and the final ward rolls were published by the Municipal Commissioner on the 23rd March 1978.

3. The Municipal Corporation of Greater Bombay, however, passed a Resolution on the 13th March 1978 to the effect that the Assembly Rolls on the basis of which the ward rolls have been prepared suffered from very serious defects and that after the Assembly Rolls were finalised a large number of citizens have become entitled for exercising their franchise, but their names could not be included in the rolls. The Resolution, therefore, recommended to the State Government to hold the general election to the Municipal Corporation only after taking steps to bring the rolls up-to-date. Representations were also received by the Mayor of Bombay as well as Government from students and their guardians requesting that the general elections may not be held in the month of May 1978, as holding of these elections would seriously affect the studies of the students, who would at that time be preparing for their annual examinations. The ward rolls as finally published on the 23rd March 1978 cannot now be revised without suitable legislation. Further, the general elections cannot be held during the monsoon season as the rains are likely to hinder the citizens from exercising their right of voting. Even after the Act is suitably amended, sufficient time has to be given for enabling the citizens to make applications for inclusion of their names in the ward rolls or for suggesting corrections therein. Sufficient time has also to be allowed to the designated officers for deciding these applications and for the Government and the Municipal Officers to prepare and finally print and publish the final ward rolls. It has, therefore, become necessary to extend the term of office of the existing Councillors of the Bombay Municipal Corporation upto noon on the 15th day of November 1978 and to hold the general elections at an appropriate time towards the end of the said period after updating the ward rolls.

4. The Bill seeks to achieve the above objects.

5. The notes on important clauses of the Bill are as follows :—

Clause 2.—This clause seeks to extend further the term of office of the Councillors upto noon on the 15th day of November 1978. It also provides that the general elections for electing new Councillors shall be held at the appropriate time towards the end of the aforesaid period.

Clause 3.—This clause provides for validating certain acts of the Councillors, whose term is extended under this Bill.

Clause 4.—This clause provides for publishing the final ward rolls, which were published on the 23rd March 1978 as draft ward rolls and for inviting applications for inclusion of names and for correction of entries therein, within a period of 30 days from the date of their publication. Sub-clause (2) of this clause provides that for the purpose of paragraph (i) of clause (b) of sub-section (1) of section 19, the date shall be the 1st day of June 1978 (instead of the 1st day of January 1978) so that any person who is not less than 21 years of age on the 1st June 1978 and who is ordinarily a resident in a ward shall be eligible to have his name included in the ward roll. Sub-clause (4) provides for issue of

notification to specify the number and names of wards in which seats shall be reserved for Scheduled Castes, having regard to their population as well the necessity of spreading over such reserved seats to different parts like suburbs of Greater Bombay. Sub-clause (5) empowers the Municipal Commissioner to fix the dates for the various stages of general elections after the final ward rolls are published, and wards in which seats shall be reserved for Scheduled Castes are specified.

Clause 5.—On the lines of section 23 of the Representation of the People Act, 1950, this clause is intended to give an opportunity to any person to apply at any time for inclusion of his name in a ward roll even after it is finally published. However, when an election is being made, he must apply in advance, because no direction for inclusion of a new name shall be given after the last date for nominations and before completion of that election.

Clause 6.—This clause provides for making the consequential provisions which are required to be made as a result of the Corporation being reconstituted in the middle of November instead of on the 1st April as provided in the principal Act. The consequential provisions are as follows :—

(1) All the Councillors who are elected at the general elections to be held in accordance with the provisions of this Act and the other Councillors who are elected to fill in casual vacancy of the said Councillors shall retire from office at noon on the 1st day of April 1983.

(2) The Councillors shall at their first meeting held after such general elections elect the Mayor.

(3) The members of the Standing Committee, the Improvements Committee, the Bombay Electric Supply and Transport Committee and the Education Committee shall be appointed at the first meeting of the Councillors or as soon as possible thereafter.

(4) The Standing Committee, the Improvements Committee, the Bombay Electric Supply and Transport Committee and the Education Committee shall each at their first meeting to be held after their appointment, elect one of their own number to be the Chairman of the respective Committee until the first meeting of the said Committee held in April 1979.

(5) One-half of the members of the Standing Committee and the Improvements Committee shall retire at noon on 1st April 1979. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1979 and in such manner as the Chairman of the concerned committee may determine.

(6) One-half of the members of the Bombay Electric Supply and Transport Committee shall retire on the 1st day of April 1980. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1980 and in such manner as the Chairman of the said Committee may determine.

(7) One-half of the Councillor members and one-half of the other members of the Education Committee shall retire at noon on the first day of April 1979. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1979 and in such manner as the Chairman of that Committee may determine.

Clause 8.—This clause empowers the State Government to remove any difficulty arising in giving effect to the provisions of this Act by issuing orders for removing the difficulty.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves certain proposals for the delegation of legislative powers. The important proposals are explained below :—

Clause 4(4).—Under this clause, Government Notification, Urban Development and Public Health Department, No. BMC-1177/3094-UD-3, dated the 30th August 1977, by which the seats were reserved for the members of Scheduled Castes is being cancelled, and power is taken to the State Government to issue a fresh notification to provide for reservation for members of Scheduled Castes, such number of seats out of the total number of seats available and to specify the wards in which the seats shall be reserved, having regard to the population of such members in Greater Bombay and having regard to the necessity of spreading over such reserved seats in different parts of Greater Bombay.

Clause 5.—In new sub-section (IA) to be inserted in section 19 of the principal Act, in clauses (a) and (c), power is taken to the State Government to designate the officer of the State Government to whom application for inclusion of the name in ward roll shall be made and to appoint the officer of the State Government to be the appellate officer to whom an appeal shall lie from any order of the designated officer under that sub-section, respectively.

Clause 8.—This is a usual removal of difficulties, clause. For the purpose of removing any difficulty, which may arise in giving effect to the provisions of the Act, it is intended to empower the State Government to issue necessary orders to remove the difficulties.

All the above proposals for delegation of legislative powers are of a normal character.

Bombay, dated the 3rd July 1978.

G. S. NANDE,
Secretary,
Maharashtra Legislative Assembly.