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बुधवार, नोव्हेंबर २९, १९७८ अग्रहायण ८, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 29th November 1978 :—

L. A. BILL No. XLVIII OF 1978.

A BILL

further to amend the Bombay Municipal Corporation Act.

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

Bom. AND WHEREAS the Governor of Maharashtra was satisfied that circumstances
III of existed which rendered it necessary for him to take immediate action further to
1888. amend the Bombay Municipal Corporation Act for the purposes hereinafter
Mah appearing; and, therefore, promulgated the Bombay Municipal Corporation
Ord. (Amendment) Ordinance, 1978, on the 2nd day of October 1978;
VIII
of
1978.

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AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; 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 (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 2nd day of October 1978.

Amendment of section 16 of Bom. III of 1888. 2. In section 16 of the Bombay Municipal Corporation Act (hereinafter referred to as "the principal Act"), in sub-section (2), after the words "of his having any share or interest in—" the following clause shall be inserted, namely:—

"(g) subject to the provisions of clause (fa) of sub-section (1), any lease including any leave or licence, sale or purchase of land or any agreement for the same, by or on behalf of the Corporation; or"

Amendment of section 26A of Bom. III of 1888. 3. In section 26A of the principal Act, for the words "the sum of two hundred rupees in cash or in Government Promissory Notes of equal value at the market rate of the day," the words "in cash a sum of two hundred rupees or, where a candidate is a member of a Scheduled Caste, a sum of one hundred rupees," shall be substituted.

Repeal of Mah. Ord. VIII of 1978 and savings. 4. (1) The Bombay Municipal Corporation (Amendment) Ordinance, 1978, is hereby repealed.

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

STATEMENT OF OBJECTS AND REASONS

Section 16(1)(f) of the Bombay Municipal Corporation Act provides *inter alia* that a person shall be disqualified for being elected, and for being a Councillor, if such person has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of, the Corporation. But there was clause (g) in sub-section (2) of section 16, which provided that a person shall not be so disqualified or be deemed to have any share or interest in such a contract, by reason only of his having any share or interest in any lease, sale or purchase of land or any agreement for the same. By Maharashtra Act No. IV of 1973, this clause was deleted, and a new clause (fa) has been inserted in sub-section (1) with retrospective effect from the 1st April 1968, to provide that a person shall be disqualified for being elected or for being a Councillor if such a person, having been elected a Councillor, during his term of office as a Councillor has, directly or indirectly, by himself or his partner, any share or interest in any lease including any leave or licence (but excluding any official residence provided by the Corporation), sale or purchase of land or any agreement for the same, by or on behalf of the Corporation. To lessen the rigorous effect of clause (fa), Explanation II was inserted in sub-section (1) by Maharashtra Act No. LI of 1975 clarifying that a person shall not be disqualified under clause (fa) if the share or interest referred to therein is not acquired by him by use of his position or office as a Councillor.

2. It was, however, feared that in spite of the addition of Explanation II, in the absence of restoration of clause (g) in sub-section (2), a person who has acquired any share or interest in any lease (including leave or licence), sale or purchase of land or any agreement for the same by or on behalf of the Corporation even without the use of his position or office as a Councillor would not still be able to contest at the general election to the Corporation as he might stand disqualified under clause (f) of sub-section (1) of section 16. Clause (fa) being a special provision it is possible to take a view that a lease (including leave or licence), sale or purchase of land or any agreement for the same would not, after its insertion, come within the ambit of general provisions contained in clause (f). In order, however, to leave no scope for any doubt in the matter, it was considered necessary to amend section 16 of the Act to restore clause (g) in sub-section (2) thereof with suitable modifications.

3. Section 26A(1) of the Act required a candidate for Ward election to deposit with the Commissioner a sum of Rs. 200 in cash or in Government Promissory Notes of equal value at the market rate of the day. Section 5(1A) provides for reservation of seats for the members of Scheduled Castes. As in the case of candidates for elections to the Parliament or the State Legislature, it was considered necessary to provide that the amount of deposit required to be deposited by a candidate who is a member of the Scheduled Castes should be half of the amount to be deposited by any other candidate. Similarly, the provision regarding deposit of Government Promissory Notes being now obsolete was required to be deleted. It was necessary to amend section 26 A for these purposes.

4. The above proposals were brought to the notice of Government after the last session of the State Legislature was prorogued. As both Houses of the State Legislature were not in session and the general elections to the Bombay Municipal Corporation were scheduled to be held in early November 1978, immediate action was required to be taken to amend the Act suitably to achieve the aforesaid purposes and in order to enable the candidates to have the benefit of the proposed amendments at the said general elections. The Governor of Maharashtra, therefore, promulgated the Bombay Municipal Corporation (Amendment) Ordinance, 1978 on the 2nd October 1978.

5. This Bill is intended to replace the Ordinance by an Act of the State Legislature.

Bombay, dated 17th November 1978.

HASHU ADVANI,
Minister for Urban Development.

Nagpur, dated 29th November 1978.

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