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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. XLIX OF 1978

*A BILL*

*to provide for the postponement of elections to certain Municipal Councils and of certain Presidents and Councillors for a short period on account of ensuing general elections to the majority of the Municipal Councils in the State.*

(As passed by the Legislative Assembly on the 4th December 1978)

Mah.  
XLVII  
of  
1973.

WHEREAS the system of direct election of Presidents of Municipal Councils by voters was introduced by the Maharashtra Municipalities (Amendment of Election Law and other Provisions and Further Postponement of Elections) Act, 1973;

AND WHEREAS the general elections to the Municipal Councils and of the Presidents on the basis of direct election system were held in November 1974;

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AND WHEREAS since then some of the Municipal Councils have been dissolved, some offices of Presidents have become vacant and some casual vacancies of Councillors have occurred and general elections to these Councils or elections to fill in the vacancies of Presidents or Councillors are required to be held in November-December 1978 ;

AND WHEREAS the Councillors of the new Councils (including the new Presidents) are entitled to hold office for so long only as the Councillors of the dissolved Councils would have held office i.e. up to December 1979 ;

AND WHEREAS representations were received by Government not to hold the elections for such a short period, as it would be inconvenient to the candidates as well as the voters in general to have these elections again within a short time lag of about a year ;

AND WHEREAS it was considered that double expenses on elections to be incurred by the Municipal Councils within a short spell of one year would be a waste of public money, which could be utilised for providing a few more amenities to the residents of the municipal areas ;

AND WHEREAS the Government of Maharashtra had appointed a Committee to review the system of direct election of Presidents by the voters, and after considering the recommendations made by the Committee had introduced L. A. Bill No. I of 1977 in the Legislative Assembly to abolish the said system, and the said Bill has lapsed and the decision whether the said Bill should be re-introduced or not has not as yet been taken by Government ;

AND WHEREAS for these and other reasons hereinafter appearing it was expedient to postpone general elections and by-elections to the Municipal Councils (including elections of Presidents) ;

AND WHEREAS in consequence of such postponement, it was necessary to extend the term of office of the administrators concerned ;

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 make a law providing for the matters aforesaid and for matters connected therewith, and, therefore, promulgated the Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Ordinance, 1978, on the 13th November 1978 ;

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,  
commence-  
ment and  
duration.

1. (1) This Act may be called the Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Act, 1978.

(2) It shall be deemed to have come into force on the 13th day of November 1978.

(3) It shall remain in force up to and inclusive of the 31st day of December 1979, 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, shall apply upon the expiry of this Act, as if it had been repealed by a Maharashtra Act.

Mah.  
Ord.  
IX of  
1978.

Bom.  
I of  
1904.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) " administrator " means any person, by whatever name called, appointed by or under section 55, 313 or 315 or any other provisions of the Municipalities Act, to exercise the powers and perform the duties of any Council or of the President of any Council;

(b) " Council " or " Municipal Council " and " election " shall have the meanings assigned to them in the Municipalities Act;

(c) " the Municipalities Act " means the Maharashtra Municipalities Act, 1965 ;

(d) words and expressions used in this Act and not defined herein shall, in relation to any Municipal Council, have the meanings assigned to them under the Municipalities Act.

Mah.  
XL of  
1965.

3. (1) Notwithstanding anything contained in the Municipalities Act, or any rules, orders and bylaws made thereunder or in any judgment, decree or order of any Court,—

Postpone-  
ment of  
certain  
municipal  
elections and  
extension of  
term of  
administra-  
tors.

(a) during the period from the date of commencement of this Act and up to and inclusive of the 31st day of December 1979 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 of the Councillors or President of any Municipal Councils, of which general elections were held in November-December 1974, and no election to fill, any casual vacancy of any Councillor or President in such Municipal Councils, shall be held ;

(b) the term of office of any administrator or administrators of any Municipal Councils or for exercising the powers and performing the duties of any President, who were in office on the date of commencement of this Act (whether their term or extended term had expired before or will expire 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 administrator or any other person appointed as administrators in their places, from time to time, shall continue to hold office during the said period.

(2) Notwithstanding anything contained in sub-section (1), after the term of office of the administrators as extended by this Act expires, they shall continue to hold office till the date immediately preceding the day on which the first meeting of the constituted or reconstituted Municipal Council, as the case may be, is held, where there is a quorum.

4. Notwithstanding anything contained in this Act, after a date (being a date before the expiry of the said period) notified by the State Government in the *Official Gazette*, arrangements shall be made by the Director and Collectors and other Government and municipal officers concerned to constitute or reconstitute new Municipal Councils in accordance with the provisions of the Municipalities Act and the rules and bye-laws made thereunder, before, or as soon as possible after, the expiration of the term of office of the existing administrator or administrators, which stands extended during the said period.

Arrange-  
ments to be  
made to  
constitute  
new  
Municipal  
Councils  
at the expiry  
of extended  
term of  
existing  
administra-  
tors.

5. Except as otherwise provided by or under this Act, the Municipalities Act shall in all other respects apply to the Municipal Councils concerned.

Application  
of Muni-  
cipalities Act.

6. 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.

Removal of  
difficulties.

Repeal of  
Mah. Ord.  
IX of 1978.

7. (1) The Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Ordinance, 1978 is hereby repealed.

Mah.  
Ord.  
IX of  
1978.

(2) Notwithstanding such repeal anything done or any action taken (including any 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.

## STATEMENT OF OBJECTS AND REASONS

The system of direct elections of Presidents of Municipal Councils was introduced by the Maharashtra Municipalities (Amendment of Election Law and other Provisions and Further Postponement of Elections) Act, 1973. Under this new system, general elections to 193 Municipal Councils and elections of the Presidents of these Councils were held in November 1974. General elections of the remaining Municipal Councils and the Presidents thereof, were held in May 1978. Some of the Municipal Councils of which general elections were held in November 1974 have been dissolved. Out of these dissolved Councils, except Nanded, Warora and Dhulia, all other Municipal Councils have been re-established. The dates of re-establishment of Nanded, Warora and Dhulia Municipal Councils had been declared. For Nanded Municipal Council, the date of re-establishment was announced to be the 27th November 1978, which was already an extended one and could be extended under the existing provisions of law only up to the 4th December 1978. This date could not be extended further unless the Act was amended. Moreover, some vacancies in the office of the Presidents elected in November 1974 had occurred. General elections to these three dissolved Municipal Councils and elections of the Presidents thereof and also of three Presidents of Municipal Councils of Panvel, Satara City and Chandrapur, whose office had become vacant were due to be held in November/December 1978. There were also some casual vacancies of the Councillors of some of the Municipal Councils, for which by-elections had also to be held. It may be possible that some casual vacancies of Councillors or vacancies to the office of President may occur before December 1979, when general elections will be due. The Councillors and the Presidents, who will be elected in these elections, if held, would be entitled to hold office so long only as the old Councillors or the Presidents would have held such office, that is to say, they would hold office up to December 1979, when general elections to majority of the Councils would become due and would be held.

2. Representations had been received by Government not to hold these elections for a short period up to December 1979, as it would be inconvenient to the candidates as well as the voters in general to have these elections held again within a short time lag of about a year. Holding of these elections would also involve double expenses to be incurred by the Municipal Councils within a short spell of one year and it would be a waste of public money, which could be utilised for providing a few more amenities to the residents of the municipal areas.

3. Government had appointed a Committee and on its recommendations had introduced L. A. Bill No. I of 1977 in the Assembly to abolish the system of direct election of President by the voters. The Bill has lapsed, but the question whether such a Bill should be re-introduced or not has not as yet been decided by Government.

4. In the circumstances stated in the last three paragraphs, it was considered expedient to postpone general elections to the Municipal Councils which had been dissolved or elections to the office of President which had become vacant or elections to fill in the casual vacancies of Councillors in some of the Municipal Councils.

and consequently to extend the term of office of Administrator or Administrators of the Municipal Councils or of the officer exercising the powers and performing the duties of any President of any Council, immediately.

5. As both Houses of the State Legislature were not in session and it was necessary to take immediate action to make a law providing for the matters aforesaid and for matters connected therewith, the Governor of Maharashtra promulgated the Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Ordinance, 1978, on the 13th November 1978.

6. This Bill is intended to convert the said Ordinance into an Act of the State Legislature and to extend the term of office of the administrators concerned up to the 31st December 1979 or such earlier date as may be notified by the State Government.

Dated the 25th November 1978.

HASHU ADVANI,  
Minister for Urban Development,

MEMORANDUM REGARDING DELEGATED LEGISLATION

If any difficulty arises in giving effect to the provisions of this Act, clause 6 empowers the State Government to issue an order to remove such difficulty.

The delegation of this power is on the usual lines and is of a normal character.

G. S. NANDE,  
Secretary.

Nagpur, dated 29th November 1978.

Maharashtra Legislative Assembly.