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संगळवार, मार्च १५, १९८८/फाल्गुन २५, शके १९०९

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 15th March 1988 :—

L. A. BILL No. III OF 1988.

A BILL

further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980.

Mah. XXX-
VII
of
1987. WHEREAS by the Maharashtra Zilla Parishads and Panchayat Samitis and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections (Amendment) Act, 1987, the term of office of the Councillors of certain Zilla Parishads and of the Administrators of the Osmanabad and Parbhani Zilla Parishads, who were holding office as such Councillors or Administrators on the 31st December 1987, was extended upto the 29th February 1988;

AND WHEREAS on account of the splitting up of the Districts of Ratnagiri, Aurangabad, Osmanabad and Chandrapur, Administrators have been appointed on the successor *Zilla Parishads* of Ratnagiri, Sindhudurg, Aurangabad, Jalna, Latur, Chandrapur and Gadchiroli;

AND WHEREAS it was proposed to hold general elections to elect Councillors to all *Zilla Parishads* and members of all *Panchayat Samitis* on or before the 29th February 1988;

AND WHEREAS, in the meantime, in Writ Petition No. 2162 of 1985 (The Communist Party of India and others *versus* State of Maharashtra) and Writ Petition No. 2210 of 1985 (Adivasi Arakshan Saurakshan Samiti and others *versus* State of Maharashtra), decided on the 25th January 1988, the High Court of Bombay, Nagpur Bench, has held that although the definition of the expression "population" in clause (20A) of section 2 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, which means the population as ascertained in the 1971 census until the relevant figures for the first census taken after the year 2000 have been published, is valid, nevertheless, the population figures of the 1971 census in regard to the Scheduled Castes and Scheduled Tribes population shall be the population figures as notified by the census authority under sub-section (3) of section 5 of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976; and consequently has struck down the Zilla Parishads (Electoral Divisions and Reservations of Seats) Rules, 1985 and the District Panchayat Samitis (Electoral Colleges and Reservation of Seats) Rules, 1985; Mah. V of 1962. 108 1976.

AND WHEREAS as a result of the decision of the High Court as aforesaid, it was not possible to hold and complete all the stages of general elections to all the *Zilla Parishads* and *Panchayat Samitis* before the 29th February 1988;

AND WHEREAS it would take a considerable period to examine the implications of the judgment of the High Court and to take such steps in respect thereof as the State Government deems fit, and to make the rules, if necessary, in respect of Zilla Parishads Electoral Divisions and Reservation of Seats and District Panchayat Samitis Electoral Colleges and Reservation of Seats, after following the requisite procedure in this behalf;

AND WHEREAS it was, therefore, expedient further to amend immediately the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980; suitably for the purpose of extending further the term of office of the Councillors of certain *Zilla Parishads* and for postponing the elections to the Osmanabad and Parbhani *Zilla Parishads* and extending the term of office of the Administrators of these *Zilla Parishads*; Mah. V of 1962. Mah. XIX of 1980.

AND WHEREAS both Houses of the State Legislature 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 further to amend these Acts, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Zilla Parishads and Panchayat Samitis and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections (Amendment) Ordinance, 1988, on the 29th February 1988; Mah. Ord. III of 1988.

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

Short title and commencement. 1. (1) This Act may be called the Maharashtra Zilla Parishads and Panchayat Samitis and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections (Amendment) Act, 1988.

(2) It shall be deemed to have come into force on the 29th February 1988.

Mah. V of 1961. 2. In section 10 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, in sub-section (2), in the third proviso,— Amendment of section 10 of Mah. V of 1962.

(a) for the figures, letters and word "31st December 1987", where they occur for the first time, the figures, letters and word "29th February 1988" shall be substituted;

(b) for the figures, letters and word "29th February 1988" the figures, letters and word "28th February 1989" shall be substituted;

(c) for the words, figures and letters "held or completed after the 31st December 1987" the words, figures and letters "held after the 29th February 1988" shall be substituted.

Mah. XIX of 1980. 3. In section 1 of the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 (hereinafter referred to as "the said Act"), in sub-section (3), for the words, figures and letters "the 29th February 1988" the words, figures and letters "the 28th February 1989," shall be substituted. Amendment of section 1 of Mah. XIX of 1980.

4. In section 3 of the said Act, in sub-section (2), in clause (b), for the words, figures and letters "the 29th February 1988" the words, figures and letters "the 28th February 1989" shall be substituted. Amendment of section 3 of Mah. XIX of 1980.

Mah. Ord. III of 1988. 5. (1) The Maharashtra Zilla Parishads and Panchayat Samitis and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections (Amendment) Ordinance, 1988, is hereby repealed. Repeal of Mah. Ord. III of 1988 and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any appointment made or notification or order issued), under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980, as amended by the said Ordinance, shall be deemed to have been done, taken, made or issued, as the case may be, under the relevant Acts, as amended by this Act. Mah. V of 1962. Mah. XIX of 1980.

STATEMENT OF OBJECTS AND REASONS.

By the Maharashtra Zilla Parishads and Panchayat Samitis and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections (Amendment) Act, 1987, the term of office of the Councillors of certain *Zilla Parishads* and of the Administrators of the Osmanabad and Parbhani *Zilla Parishads*, who were holding office as such Councillors or Administrators on the 31st December 1987, was extended upto the 29th February 1988. The Districts of Ratnagiri, Aurangabad, Osmanabad and Chandrapur, have been split up and consequently Administrators have been appointed on the successor *Zilla Parishads* of Ratnagiri, Sindhudurg, Aurangabad, Jalna, Latur, Chandrapur and Gadchiroli.

2. It was proposed to hold general elections to elect Councillors to all *Zilla Parishads* and members of all *Panchayat Samitis* on or before the 29th February 1988. However, in the meantime, in Writ Petition No. 2162 of 1985 (The Communist Party of India and others *versus* State of Maharashtra) and Writ Petition No. 2210 of 1985 (Adivasi Arakshan Saurakshan Samiti and others *versus* State of Maharashtra), decided on 25th January 1988, the High Court of Bombay, Nagpur Bench, has held that although the definition of the expression "population" in clause (20A) of section 2 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, which means the population as ascertained in the 1971 census until the relevant figures for the first census taken after the year 2000 have been published, is valid, nevertheless, the population figures of the 1971 census in regard to the Scheduled Castes and the Scheduled Tribes population shall be the population figures as notified by the census authority under sub-section (3) of section 5 of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976; and consequently, has struck down the Zilla Parishads (Electoral Divisions and Reservation of Seats) Rules, 1985 and the District Panchayat Samitis (Electoral Colleges and Reservation of Seats) Rules, 1985. As a result of the decision of the High Court as aforesaid it was not possible to hold and complete all the stages of general elections to all the *Zilla Parishads* and *Panchayat Samitis* before the 29th February 1988.

3. It would take a considerable period to examine the implications of the judgment of the High Court and to take such steps in respect thereof as the State Government deems fit and to make the rules, if necessary, in respect of Zilla Parishads Electoral Divisions and Reservation of Seats and District Panchayat Samitis Electoral Colleges and Reservation of Seats, after following the requisite procedure in this behalf. It was, therefore, expedient further to amend immediately the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980, suitably for the purpose of extending further the term of office of the Councillors of certain *Zilla Parishads* and for postponing the elections to the Osmanabad and Parbhani *Zilla Parishads* and extending the term of office of the Administrators of those *Zilla Parishads*.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the said Acts, for the purposes aforesaid, the Maharashtra Zilla Parishads and Panchayat Samitis and the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections (Amendment) Ordinance, 1988 (Mah. Ord. III of 1988) was promulgated on the 29th February 1988.

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

Dated the 13th March 1988.

Bombay, dated the 15th March 1988.

BHAGWANTRAO GAIKWAD,
Minister for Rural Development.

BHASKAR SHETYE,

Secretary (I),
Maharashtra Legislative Assembly.