

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1997

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ORISSA ACT 10 OF 1997

***THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1997**

[Received the assent of the Governor on the 19th October 1997, first published in an extraordinary issue of the Orissa Gazette, dated the 21st October 1997]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950

BE it enacted by the Legislature of the State of Orissa in the Forty-eighth Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1997.
- (2) It shall be deemed to have come into force on the 19th day of May 1997.

Amendment of section 4.

2. In section 4 of the Orissa Municipal Act, 1950 (hereinafter referred to as the Orissa Act principal Act), before the Explanation in sub-section (2), the following proviso shall be inserted, namely :—

“Provided that before publication of the notification under this sub-section, the State Government shall publish in the prescribed manner a draft of such notification inviting objections and suggestions from all persons likely to be affected thereby within such period as may be prescribed, and shall consider the objections and suggestions, if any, as may be received on the said draft.”.

Amendment of section 16.

3. In section 16 of the principal Act, after clause (xvii) of sub-section (1), the following clauses shall be inserted, namely:—

“(xviii) has given appointment to any person in contravention of the provisions of this Act and the rules made thereunder during his tenure in the Municipality immediately preceding the election ;

(xix) has been removed under section 53 during the term of his office as the Chairperson or the Vice-Chairperson of the Municipality immediately preceding the election.”.

Insertion of new section 17-A.

Limitation on election expenditure and accounts thereof.

4. In the principal Act, after section 17, the following section shall be inserted, namely :—

“17-A. (1) No candidate for an election as a Councillor to a Municipality shall, either by himself or through any person authorised by him, incur expenditure in connection with such election an amount exceeding twenty-five thousand rupees :

Provided that the Election Commission may, by notification from time to time and in consultation with the State Government, enhance the limit of such expenditure up to fifty thousand rupees.

- (2) For the purposes of this section, every candidate referred to in sub-section (1) shall maintain, or cause to be maintained, a true and separate account of all expenditure incurred or authorised by him in connection with the election between the date on which he has been nominated as a candidate and the date of declaration of the result of the election.
- (3) Any person who contravenes any of the provisions of this section shall be deemed to have committed corrupt practice within the meaning of section 28.
- (4) The account shall contain such particulars as may be notified by the Election Commission.
- (5) Within one month from the date of declaration of the result of the election, every candidate, either personally or through his agent, shall lodge or cause to be lodged, with the Election Commission the account of the election expenditure maintained under sub-section (2).”.

* For the Bill see *Orissa Gazette*, Extraordinary dated the 15th September 1997 (No. 1165).

Amendment of section 63. 5. In section 63 of the principal Act, after the words "convenient place", the words "within the Municipal area" shall be inserted.

Amendment of section 73. 6. In section 73 of the principal Act, in sub-section (2), for the words "six months", the words "forty-four days" shall be substituted.

Insertion of new sections 73-A, 73-B and 73-C. 7. In the principal Act, after section 73, the following new sections shall be inserted, namely :—

Penalties. "73-A. (1) Where any holder of an elective office or any officer or authority makes any appointment, or causes any appointment to be made, in contravention of the provisions of this Act,—

(a) it shall be deemed in the case of the holder of an elective office that he has abused his position or power and accordingly the State Government shall initiate proceedings for his removal; and

(b) in the case of an officer or authority, it shall be deemed that he is guilty of misconduct and the competent authority shall initiate action under the relevant disciplinary rules,

and such holder of elective office or the officer or authority, as the case may be, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend up to two years and also with fine which shall not be less than five thousand rupees and which may extend up to ten thousand rupees.

(2) In addition to taking action under sub-section (1), the pay and allowances paid to the person whose appointment is in contravention of the provisions of this Act shall be deemed to be an illegal payment and a loss to the Municipality and the same shall be recoverable by surcharging it under the Orissa Local Fund Audit Act, 1948 against such holder of elective office, officer or authority who makes such appointment. Orissa Act 5 of 1948.

(3) No court shall take cognizance of an offence punishable under sub-section (1) except with the previous sanction of the State Government.

Bar for regularisation of services.

73-B. No person who is appointed on a temporary basis under sub-section (2) of section 73 and is continuing as such at the commencement of the Orissa Municipal (Amendment) Act, 1997 shall have or shall be deemed ever to have a right to claim for regularisation of his services on any ground whatsoever and the services of such person shall be liable to be terminated at any time without any notice and without assigning any reason thereof :

Provided that in case of workmen falling within the scope of section 25-F of the Industrial Disputes Act, 1947, one month's wages and such compensation as would be payable under the said section shall be paid in case of termination of services. 14 of 1947.

Abatement of claims.

73-C. Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, the claims for regular appointment of all persons appointed on a temporary basis under sub-section (2) of section 73 shall stand abated and, accordingly,—

(a) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority by the temporary appointees against the Municipality or any person or authority whatsoever for the regularisation of the services;

(b) no court shall enforce any decree or order directing the regularisation of the services of such persons; and

(c) all proceedings pending in any court or tribunal claiming the regularisation of services of such persons shall abate."

Amendment of section 75. 8. In section 75 of the principal Act, in the first proviso, the words "of primary schools" shall be omitted.

Amendment of section 124. 9. In section 124 of the principal Act, the word and comma "school," occurring in sub-section (1) and sub-section (2) shall be omitted.

Amendment of section 382. 10. Section 382 of the principal Act, shall be renumbered as sub-section (1) thereof and, after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Nothing in sub-section (1) shall apply to a person who is liable under section 73-A.”.

Amendment of Schedule IV.

11. In Schedule IV to the principal Act,—

- (a) for the word “Ditto” occurring in column 4 against section 258, the words “Five hundred rupees” shall be substituted; and
- (b) for the word “Ditto” occurring in column 4 against section 259, the words “Fifty rupees” shall be substituted.

Amendment of Schedule V.

12. In Schedule V to the principal Act,—

- (a) for the words “Ten rupees” occurring in column 4 against section 258, the words “One hundred rupees” shall be substituted; and
- (b) for the word “Ditto” occurring in column 4 against section 259, the words “Ten rupees” shall be substituted.

Repeal and Savings.

13. (1) The Orissa Municipal (Amendment) Ordinance, 1997 is hereby repealed. Orissa Ordinance No. 2 of 1997.

(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 under the principal Act as amended by this Act.