



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Municipalities
(Amendment) Bill, 2024**

(Bill No. 29 of 2024)

(To be introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2024**

— 3 —

**The Goa Municipalities (Amendment)
Bill, 2024**

(Bill No. 29 of 2024)

A

BILL

*further to amend the Goa Municipalities Act, 1968
(Act 7 of 1969).*

5 BE it enacted by the Legislative Assembly of
Goa in the Seventy-fifth Year of the Republic of
India as follows:—

10 **1. Short title and commencement.**— (1) This
Act may be called the Goa Municipalities
(Amendment) Act, 2024.

(2) It shall come into force at once.

15 **2. Amendment of section 22.**— In section 22
of the Goa Municipalities Act, 1968 (Act 7 of 1969)
(hereinafter referred to as the "principal Act"),
in sub-section (7), for the expression "sections
480 and 482 of the Code of Criminal Procedure,
1898 (V of 1889)", the expression "sections 384
and 385 of the Bharatiya Nagarik Suraksha
Sanhita, 2023 (Central Act No. 46 of 2023)" shall
20 be substituted.

30 **3. Amendment of section 51.**— In section 51
of the principal Act, in sub-section (5), in Clause
(a), for the expression "Chapter XXV of the Code
of Criminal Procedure, 1973, (Central Act 2 of
25 1974)", the expression "Chapter XXVII of the
Bharatiya Nagarik Suraksha Sanhita, 2023
(Central Act No. 46 of 2023)" shall be substituted.

4. Amendment of section 91.— In section 91 of the principal Act, in sub-section (1), for the expression "section 168 of the Indian Penal Code (XLV of 1860)" the expression "section 202 of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)" shall be substituted. 5

5. Amendment of section 184 C.— In section 184 C of the principal Act, in sub-section (7),-

(i) for the expression "sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (Central Act 45 of 1860)", the expression "sections 229 and 267 and for the purpose of section 233 of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)" shall be substituted; 10 15

(ii) for the expression "section 195 and Chapter XXVI of the Code of Criminal Procedure 1973 (Central Act 2 of 1974)", the expression "section 215 and Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2024)" shall be substituted. 20

6. Amendment of section 184 D.— In section 184 D of the principal Act, for the word "Government", wherever it occurs, the word "High Court" shall be substituted. 25

7. Amendment of section 184 F.— In section 184F of the principal Act, for the expression "prepare every year", the expression "prepare by the 31st day of January of every year" shall be substituted. 30

8. Amendment of section 210.— In section 210 of the principal Act, in sub-section (5), for the expression "section 277 of the Indian Penal Code XLV of 1860", the expression "section 279 of the 35

Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)" shall be substituted.

5 **9. Amendment of section 248.**— In section 248 of the principal Act, in sub-section (1), in clause (j), for the expression "section 176 of the Code of Criminal Procedure, 1898 (V of 1898)", the expression "section 196 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023)" shall be substituted.

10 **10. Amendment of section 281.**— In section 281 of the principal Act, in sub-section (4), for the expression "section 257 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)", the expression "section 280 of the Bharatiya
15 Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023)" shall be substituted.

11. Amendment of section 287.— In section 287 of the principal Act, for the expression "within the meaning of section 21 of the Indian Penal
20 Code XLV of 1860", the expression "as defined in clause (28) of section 2 of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)" shall be substituted.

12. Amendment of section 290 A.— In section
25 290A of the principal Act,—

(i) for the expression "The Code of Criminal Procedure, 1973 (Central Act 2 of 1974)", the expression "The Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023)" shall
30 be substituted;

(ii) for the expression "section 42 of that Code", the expression "section 39 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2023)" shall be substituted.

13. Amendment of section 296.— In section 296 of the principal Act, in sub-section (2), for the expression "sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898)", the expression "sections 384 and 385 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023)" shall be substituted. 5

14. Amendment of section 321.— In section 321 of the principal Act, in sub-section (2), in clause (b), for the expression "Chapter VII of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)", the expression "Chapter VII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023)" shall be substituted. 10

Statement of Objects and Reasons

In view of repeal of the Indian Penal Code, 1860 (45 of 1860), the Code of Criminal Procedure, 1973 (2 of 1974) and the Code of Criminal Procedure, 1898 (V of 1898) and enactment of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 46 of 2023) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Bill seeks to carry out consequential amendments to sections 22, section 51, Section 91, section 184C, section 210, section 248, section 281, section 287, section 290A, section 296 and section 321 of the Goa Municipalities Act, 1968 (Goa Act 7 of 1969).

The Bill seeks to amend section 184D of the Goa Municipalities Act, 1968 (Goa Act 7 of 1969) so as to substitute the word "Government" with the word "High Court" in order to make provision for judicial review of the decision of the Appellate Authority.

The Bill seek to amend section 184 F of the Goa Municipalities Act, 1968 (Goa Act 7 of 1969) so as to prescribe a date of submission of development plan to the District Planning Committee to comply with the directives issued by the Hon'ble High Court of Bombay at Goa in judgement dated 12-2-2020 passed in IPL W.P. No. 6 of 2018.

This Bill seeks to achieve the above objects

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, Goa
26th July, 2024

(Vishwajit P. Rane)
Minister for Urban
Development

Assembly Hall
Porvorim, Goa
26th July, 2024

(Namrata Ulman)
Secretary to the Legislative
Assembly of Goa

ANNEXURE

Extracts of the Goa Municipalities Act, 1968
(Act 7 of 1969)

22. Disputes in respect of election, of Councillors.—

(1) No election, of a Councillor may be called in question, except by a petition presented to the District Court by a candidate at the election or by any person entitled to vote at the election, within ten days after the publication of the names of the Councillors in the Official Gazette under section 20, as the case may be.

(2) Any such petition— (a) shall contain a concise statement of the material facts on which the petitioner relies,

(b) shall, with sufficient particulars, set forth the ground or grounds on which the election, is called in question, and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings. V of 1908.

(3) A petitioner may claim all or any one of the following declarations, namely:— (a) that the election of all or any of the returned candidates is void; or

(b) that the election of all or any of the returned candidates is void and that he himself or any other candidate has been duly elected; or

(4) A petitioner shall join as respondents to his petition— (a) where the petitioner claims a declaration under clause (a) of sub-section (3), the returned candidate or candidates in respect of whom such declaration is claimed;

(b) where the petitioner claims a declaration under clause (b) of sub-section (3), all the contesting candidates other than the petitioner;

(c) any other candidate against whom allegations of any corrupt or illegal practice are made in the petition; Explanation:— The expression “returned candidate” means a candidate whose name has been published in the Official Gazette under section 20.

(5) Such petition shall be inquired into and disposed of by the District Judge or by any Judge not lower in rank than a Civil Judge Senior Division to whom the case or such cases generally may be referred to by the District Judge.

(6) All petitions under sub-section (1), in which the validity of the election of the same Councillor elected to represent the same ward is in question shall be heard together.

(7) For the trial of such petition, the Judge shall have all the powers of a civil court including powers in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence on affidavit; and
- (g) issuing commissions for the examination of witnesses;

and the Judge may summon and examine suo motu any person whose evidence appears to him to be material. The Judge shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

(8) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit— V of 1908.

- (a) any application to be compromised or withdrawn, or

(b) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is bona fide and not collusive.

(9) The Judge, after such inquiry as he deems necessary, may pass suitable order and his order shall be conclusive.

(10) If the petitioner has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Judge is satisfied that—

(a) the petitioner or such other candidate received sufficient number of valid votes to have been elected; or

(b) but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a sufficient number of valid votes to have been elected,

The Judge may, after declaring the election of the returned candidate void, declare the petitioner or such other candidate to have been duly elected: Provided that—

(i) for the purpose of such computation, no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown in giving or obtaining it;

(ii) after such computation, if any equality of vote is found to exist between any candidates and the addition of one vote would entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been recorded in favour of the candidate, selected by lot drawn in the presence of the Judge in such manner as he may determine.

(11) Where any charge is made in the petition of any corrupt practice, the Judge shall make an order recording the names of all persons including any candidates, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice and may disqualify any such person for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order, as the Judge may specify in the order:

Provided that no person shall be named in such order unless— (a) he has been given notice to appear before the Judge and to show cause why he should not be so named; and

(b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Judge and has given evidence against him, of calling evidence in his defence and of being heard.

(12) If the Judge sets aside the election of a candidate on the ground that a corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the candidate or his election agent and if such candidate's name has not been included in any order made under sub-section (11), the Judge shall declare such candidate disqualified for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order, as the Judge may specify in the order.

(13) The Judge may also make an order fixing the total amount of costs payable and specifying the person by and to whom costs shall be paid. Such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908. V of 1908.

(5) Corrupt practices and other electoral offences.

51. Duties and functions of the Council.— (1) Except as otherwise provided in this Act, [the administration of municipal area] shall vest in the Council.

(2) In addition to the duties imposed upon it by or under this Act or any other law for the time being in force, unless the Government otherwise directs it shall be the duty, of every Council to undertake and to make reasonable provision for the following matters within the limits of the municipal area, and when effective measures cannot otherwise be made then even outside the said limits, namely:—

- (a) lighting public streets, places and buildings;
- (b) watering public streets, and places;
- (c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or not; removing noxious vegetation; and abating all public nuisances;
- (d) extinguishing fires, and protecting life and property when fires occur;
- (e) regulating or abating offensive or dangerous trades or practices;
- (f) removing obstructions and projections in public streets or places and, in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or in Government;
- (g) securing or removing dangerous buildings or places and reclaiming unhealthy localities;
- (h) acquiring and maintaining, changing; and regulating places for the disposal of' the dead;
- (i) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost;

(k) naming streets and numbering of premises;

(l) public vaccination;

(m) suitable accommodation for any calves, cows or buffaloes required within the municipal area for the supply of animal lymph;

(n) printing such annual reports on the municipal administration of the municipal area as the Government by general or special orders requires the Council to submit;

(o) erecting substantial boundary marks of such description and in such position as shall be approved by the, defining the limits, or any alteration in the limits of the municipal area;

(p) disposing of night-soil and rubbish and if so required by the Government, preparation of compost manure, from such night-soil and rubbish;

(q) providing special medical aid and accommodation for the sick in time of dangerous or communicable disease and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of such disease;

(r) giving relief and establishing and maintaining relief works in time of scarcity or for destitute persons within the limits of the municipal area;

(s) imposing compulsory taxes which are specified in section, 101;

(t) establishing and maintaining public dispensaries, and providing public medical relief and organising Family Planning Centres;

- (u) establishing and maintaining primary schools.
- (3) A Council may, at its discretion, provide, either wholly or partly, out of the municipal property and funds for—
- (a) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof to abut on such streets;
 - (b) establishing or maintaining public hospitals, institutions for pre-primary and secondary education, libraries, museums, lunatic asylums, gymnasiums, akhadas, and homes for disabled and destitute persons, and constructing and maintaining buildings therefor, along with such other public buildings like town halls, municipal offices, shops, dharmashalas, open air theatres, stadia and rest houses;
 - (c) laying out or maintaining public parks and gardens, and also planting and maintaining road-side and other trees;
 - (d) providing music for the people;
 - (e) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;
 - (f) making a survey;
 - (g) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate; or any portion of any such charges;
 - (h) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 278 of this Act or under any law for the time being in force the Union territory;
 - (i) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in section 265;

(j) supplying, constructing and maintaining, in accordance with a general system approved by the Director of Public Health, receptacles, fittings, pipes and other appliances whatsoever on or for the use of private, premises, for receiving and conducting the sewage thereof into sewers under the control of the Council;

(k) the acquisition and maintenance of grazing grounds; and the establishment and maintenance of dairy farms and breeding stud;

(l) establishing and maintaining a farm or factory for the disposal of sewage;

(m) promoting the well-being of municipal employees or any class of municipal employees and of their dependants;

(n) providing accommodation for servants employed by the Council;

(o) the construction of sanitary dwellings for the poorer classes;

(p) the purchase, organisation, maintenance, extension and management of mechanically propelled transport facilities for the conveyance of the public;

(q) the construction, maintenance, repairs, purchase of any works for the supply of electrical energy or gas;

(r) making contributions towards the construction, establishment or maintenance of educational institutions including libraries and museums, any hospital, dispensary or similar institution providing for public medical relief, or any other institution of a charitable nature;

(s) giving grants or donations to privately run primary or secondary schools or hostels for students;

(t) the setting up of dairies or farms for the supply, distribution and processing of milk or milk products

for the benefit of the inhabitants of the municipal area;

(u) any public reception, ceremony, fair, entertainment or exhibition held in the municipal area, within the amount as may be determined by Director from time to time.

(i) in each case, where the expenses are above the permissible limits herein before specified;

(ii) in each case, whatever the expense involved, after the annual limits hereinbefore specified are reached;

(v) any other measure not specified in sub-section (2) likely to promote public safety, health and convenience.

(4) No suit for damages or for specific performance shall be maintainable against any Council or any Councillor or officer or servant thereof on the ground that any of the duties specified in sub-section (2) above have not been performed.

(5) Every Council shall also, out of the municipal property and fund, make payments at such rates as the Government may from time to time by general or special order specify for the maintenance and treatment either in the municipal area or at any asylum, hospital or house, whether within or without such municipal area, which the Government declares by notification to be suitable for such purpose,—

(a) of lunatics, not being persons for whose confinement an order under Chapter 114[XXV] of the Code of Criminal Procedure, [1973 (Central Act 2 of 1974)], is in force, and

(b) of leprosy patients, resident within, or under any enactment for the time being in force removed from, the municipal area:

Provided that the Council shall not be liable under this sub-section for the maintenance and treatment of

any lunatic or leprosy patient in any such asylum, hospital or house as aforesaid, unless such lunatic or leprosy patient, immediately previous to his admission thereto, has been resident in the municipal area for at least one year:

Provided further that, where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no, order for the payment of the cost of maintenance of the lunatic by a Council shall be made without an opportunity being given to such Council to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a Council is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the Council on application.

(6) Where a Council has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Council or its successors, with the sanction of the Government, to cancel such arrangement or promise, or to discontinue, or diminish such yearly contribution, provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

91. Penalty to Councillors, officers and servants for improper interest in contracts, etc.— (1) if any Councillor, or any officer or servant of a Council, without the written permission of the Director, is directly or indirectly interested in any contract made with such Council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(2) A Councillor or an officer or servant of a Council shall not, by reason only of being a shareholder in, or a member of any company, or co-operative society, be deemed to be interested in any contract entered into between the company or the society and the Council.

184 C. Procedure of the Appellate Tribunal.— (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order or notice appealed against or may refer the case back to the authority or officer against whose order or notice the appeal is filed, for a fresh order or notice, after taking additional evidence, if necessary, or such other action as the Appellate tribunal may specify.

(2) The Appellate Tribunal shall send a copy of every order passed by it to the parties to appeal.

(3) No Appellate Tribunal shall, in any appeal pending before it in respect of any order or notice under this Act, make an interim order (whether by way of injunction or stay) against the Municipal Council or against any officer or servant of the Municipal Council acting or purporting to act in his official capacity, unless an opportunity is given to the Municipal Council or its officer or servant to be heard in the matter: Provided that the Appellate Tribunal may without giving an opportunity as aforesaid, make an interim order as an exceptional measure, if it is satisfied for reasons to be Act recorded by it in writing that it is necessary so to do for preventing any loss being caused to the person filling the appeal which cannot be adequately compensated in money:

Provided further that every such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless before the expiry of that period, the Appellate Tribunal confirms or modifies that order after giving to the Municipal Council or its officer or servant an opportunity of being heard.

(4) Subject to rules that may be made by the Government in this behalf, the awarding of damages in and the cost of, and incidental to, any appeal before an Appellate Tribunal, shall be in its discretion and it shall have full power to determine by and to whom, and to what extent and subject to what conditions, if any, such damages or costs are to be paid and to give, in its order disposing of an appeal, necessary directions for the purpose aforesaid.

(5) An order of the Appellate Tribunal made under this section may be executed or caused to be executed by it on the application of the person in whose favour the order has been made.

(6) In hearing and deciding an appeal or in the execution of an order, the Appellate Tribunal shall follow such procedure as may be prescribed by rules.

(7) Every Appellate Tribunal shall, in addition to the powers conferred on it under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) Summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public records or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed by rules, and every proceeding of an Appellate tribunal in hearing or deciding an appeal or in connection with the execution of its order, shall be deemed to be a judicial proceeding within the meaning of sections

193 and 228 and for the purpose of section 196 of the Indian Penal Code (Central Act 45 of 1860), and every Appellate Tribunal shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

184D. Appeal against order of Appellate Tribunal.—

(1) An appeal shall lie to the Government against an order of the Appellate Tribunal, made in an appeal under section 184 confirming, modifying or annulling an order made or notice issued under this Act.

(2) The provisions of section 184 and the rules made there under, shall, so far as may be, apply to the filing and disposal of an appeal under that section.

(3) An order of the Government on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 184, and subject to such orders of the Government or an Appellate Tribunal, an order or notice referred to in that section, shall be final.

184F. Preparation of development plan.— Every Council shall prepare every year a development plan and submit it to the District Planning Committee constituted under section 239 of the Goa Panchayat Raj Act, 1994 (Act 14 of 1994).]

210. Prohibition of certain acts affecting the municipal water works.— (1) A Council may, with the sanction of the Director, demarcate and notify the limits of the water-shed of any lake, tank, well or reservoir from which water is derived for the municipal water-work, or use by the residents of the municipal area.

(2) Except with the permission of the Council, no person shall—

(a) erect any building for any purpose whatever within such limits;

(b) remove, alter, injure, damage or in any way interfere with any boundary marks of such watershed;

(c) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits; or

(d) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatever, whereby injury may arise to any such lake, tank, well or reservoir or to any portion thereof or whereby the water of such lake, tank, well or reservoir may be fouled or rendered less wholesome.

(3) Except with the permission of the Chief Officer, no person shall—

(a) cause or suffer to percolate or drain into or upon any municipal water-work or to be brought therein to or thereupon anything, or to be done any act, whereby the water therein may be in any way fouled or polluted or its quality altered;

(b) alter the surface of any municipal land adjacent to or forming part of any such work by digging therein to or depositing thereon any substance;

(c) cause or suffer to enter into the water in such work any animal;

(d) bathe in or near such work;

(e) throw or put anything into or upon the water in such work;

(f) wash or cause to be washed in or near such work any animal or thing.

(4) Whoever contravenes any provision of sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to 363[Five thousand rupees], or with both.

(5) Whoever contravenes any provision of sub-section (3) shall be deemed to have committed an offence punishable under section 277 of the Indian Penal Code. XLV of 1860.

(6) When any person is convicted under sub-section (4), the Magistrate who convicts him may order the immediate removal of any building, or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(7) If any order made under sub-section (6) is disobeyed or the execution thereof resisted, the offender shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to [ten thousand rupees], or with both.

248. Acts prohibited in connection with disposal of dead.— (1) Except with the permission of the Chief Officer, no person shall—

(a) burn, bury or otherwise dispose of any corpse except at a place provided or maintained for the purpose;

(b) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(c) carry a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Council may, by public notice, from time to time, think fit to require;

(d) except when no other route is available, carry a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Council in this behalf;

(e) remove a corpse which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(f) whilst conveying a corpse, place or leave the same on or near any street without urgent necessity;

(g) reopen for the interment of a corpse a grave or vault already occupied;

(h) after bringing or causing to be brought to a burning ground any corpse fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(i) when burning or causing to be burnt any corpse, permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or burning of such corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes;

(j) exhume any body except under the provision of section 176 of the Code of Criminal Procedure, 1898 or of any other law for the time being in force, from any place for the disposal of the dead. V of 1898.

Explanation:— For the purposes of this section, the expression "corpse" includes any part thereof.

(2) Any person who contravenes any provision of sub-section (1), shall, on conviction, be punished with fine which may extend to [Five thousand rupees].

281. Provisions as respects institution, compounding, etc., of criminal actions.— (1) Subject to the general control of the Council, the Chief Officer may take proceedings against any person who is charged with—

(a) any offence against this Act or any rules or bye-laws made thereunder;

(b) any offence which affects or is likely to affect any property or interest of the Council or the due administration of this Act; or

(c) committing any nuisance whatever: Provided that the Chief Officer shall not, except with the

previous approval of the Council, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely:—

(i) sub-section (7) of section 171 read with sub-sections (8) and (9) of section 184;

(ii) sub-section (6) of section 178;

(iii) sub-section (5) of section 243.

(2) No prosecution for any offence under this Act or the rules or bye-laws made thereunder shall be instituted, except within six months next after the date of the commission of the offence, or if such date is not known or the offence is a continuing one within six months after the commission or discovery of such offence.

(3) Any prosecution under this Act or the rules or bye-laws made thereunder may, save as therein otherwise provided, be instituted before any Magistrate; and every fine or penalty imposed under or by virtue of this Act or any rule or bye-law, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to any Magistrate, by the distress and sale of any movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(4) Notwithstanding anything contained in section of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), no Magistrate shall permit withdrawal of a complaint under that section in respect of an offence punishable under this Act or the rules and bye-laws made thereunder, unless the Magistrate is satisfied that although the complaint was made in good faith it was based on incorrect facts or insufficient information. V of 1898.

(5) Any offence committed under this Act or the rules or bye-laws made thereunder, whether committed before

or after the commencement of the Goa Municipalities (First Amendment) Act, 2002, may, either before or after the institution of the prosecution, be compounded by such officers or authorities, on such conditions and for such amounts, as the State Government may, by Notification in the Official Gazette, specify in this behalf.]

(6) [omitted]

(7) Where an offence has been compounded under sub-section (5), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of this offence.]

(8) The expenses of all prosecutions or proceedings shall be paid out of the municipal fund.

287. Councillors, officers, servants, etc., to be public servants.— Every Councillor and every officer or servant of a Council, every contractor or agent appointed by it for the collection of any tax and every person employed by such contractor or agent for the collection of such tax shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

290 A. Certain offences to be cognizable.— The Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply to an offence under sub-section (7) of section 175 or sub-section (3) of section 176 or sub-section (6) of Section 178 or sub-section (9) and (10) of section 184, as if it were a cognizable offence—

(i) for the purpose of investigation of such offence;

(ii) for the purposes of all matters other than—

(a) matters referred to in section 42 of that Code, and

(b) arrest of a person, except on the complaint of, or upon information received from, such officer of the Council, not being below the rank of a Chief Officer, as may be appointed by the Government:

Provided that no offence of the contravention of any condition subject to which sanction was accorded for the erection of any building or the execution of any work shall be cognizable, if such contravention relates to any deviation from any plan if such erection or execution sanctioned by the Council, is compoundable on payment of an amount under the bye-laws relating to buildings made under this Act].

296. Inquiry into municipal matters by Government.— (1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any Council or any matters with respect to which sanction, approval or consent of the Government is required under this Act.

(2) The officer holding such inquiry shall for the purpose thereof have the powers which are vested in a Court under Code of Civil Procedure, 1908, in respect of the following matters: — V of 1908.

- (a) discovery and inspection,
- (b) enforcing the attendance of witnesses, and requiring the deposits of their expenses,
- (c) compelling the production of documents,
- (d) examination of witnesses on oath,
- (e) granting adjournments,
- (f) reception of evidence on affidavit, and
- (g) issuing commissions for the examination of witnesses, and may summon and examine suo motu any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. Vof 1898.

Explanation:— For the purpose of enforcing the attendance of witnesses the local limit of such officer's jurisdiction shall be the limits of the [State of Goa].

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid and such costs shall be recoverable as an arrear of land revenue.

321. Power of Collector to recover record and money.— (1) Where on information received, the Director is of the opinion that any person, who in his capacity as a [Chairperson], [Vice-Chairperson], Councillor, or officer or servant of a Council had in his custody any records, stores or money or other property belonging to the Council, in spite of the expiry of his term of office or his removal or suspension from office, as the case may be, has not delivered such records, stores, money or other property to his successor in the office, the Director may by a written order require that the records, stores, money or other property so detained, be delivered to such successor within the time to be specified in such order.

(2) If such [Chairperson], [Vice-Chairperson], Councillor, or officer or servant of the Council fails to comply with the order of the Director under the foregoing sub-section, it shall be lawful for the Director,—

(a) for recovering any such money, to direct that such money may be recovered as an arrear of land revenue and on such direction being given by the Director such money shall be recoverable as an arrear of land revenue from such person;

(b) for recovering any such records or stores or other property, to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973 ["(Central Act 2 of 1974)"].

(3) No action shall be taken under this section, unless the person concerned has been given a reasonable opportunity to show cause why such action should not be taken against him.

(4) The fact that action is or has been taken against an outgoing [Chairperson] or [Vice-Chairperson] under the provisions of this section shall not be a bar to the prosecution of such [Chairperson] or [Vice-Chairperson] under sub-section (4) of section 58.

LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

The Goa Legislative Assembly
Panaji, Goa

(1984-85)