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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 24th July, 2015.

GUJARAT ORDINANCE NO. 1 OF 2015.

AN ORDINANCE

further to amend the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993;

Bom. LIX of 1949.
Guj. 34 of 1964.
Guj. 18 of 1993.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :-

1. **Short title and commencement.**- (1) This Ordinance may be called the Gujarat Local Authorities Laws (Amendment) Ordinance, 2015.

(2) It shall come into force at once.

2. **Bom. LIX of 1949, Guj. 34 of 1964 and Guj. 18 of 1993 to be temporarily amended.**-During the period of operation of this Ordinance, the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 shall have effect subject to the amendments specified in sections 3 to 11.

Bom. LIX of 1949
Guj. 34 of 1964.
Guj. 18 of 1993.

3. **Amendment of section 10 of Bom. LIX of 1949.**- In the Gujarat Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the Municipal Corporations Act"), in section 10, after sub-section (3), the following sub-section shall be added, namely :-

Bom. LIX of 1949.

"(4) A person shall be disqualified to continue as a councillor if such person has been declared as a defaulter voter under section 16D, subject to the decision in appeal, if preferred under section 16E."

4. **Amendment of section 15 of Bom. LIX of 1949.**- In the Municipal Corporations Act, in section 15, in sub-section (1), after the existing proviso, the following proviso shall be added, namely:-

"Provided, however, that such vacancy of a councillor in any Corporation, if any, existing on the date of coming into force of the Gujarat Local Authorities Laws (Amendment) Ordinance, 2015, if could not be filled within such period of six months, the same shall be filled in at the time of the general elections if the same are to be held on or before the 31st December, 2015 for constituting the other Corporations whose term are due to expire."

Guj. Ord. 1 of 2015.

5. **Amendment of section 11 of Guj. 34 of 1964.**- In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the Municipalities Act"), in section 11, after sub-section (4), the following sub-section shall be added, namely :-

Guj. 34 of 1964.

"(5) A person shall be disqualified to continue as a councillor if such person has been declared as a defaulter voter under section 15D, subject to the decision in appeal, if preferred under section 15E."

6. *Amendment of section 42 of Guj. 34 of 1964.*-In the Municipalities Act, in section 42, to sub-section (2), the following proviso shall be inserted, namely:-

Guj. Ord. 1 of
2015.

“Provided, however, that vacancy of a councillor in any municipality, if any, existing on the date of coming into force of the Gujarat Local Authorities Laws (Amendment) Ordinance, 2015, if could not be filled within such period of six months, the same shall be filled in at the time of the general elections if the same are to be held on or before the 31st December, 2015 for constituting the other municipalities whose term are due to expire.”.

7. *Amendment of section 266 of Guj. 34 of 1964.*- In the Municipalities Act, in section 266, in sub-section (1), to clause (i), the following proviso shall be inserted, namely:-

Guj. Ord. 1 of
2015.

“Provided, however, that if any such election is required to be held on the date of coming into force the Gujarat Local Authorities Laws (Amendment) Ordinance, 2015, or immediately thereafter, if could not be held within such period of six month, the same shall be held at the time of general elections, if the same are to be held on or before 31st December, 2015, for constituting the other municipalities whose term are due to expire.”.

8. *Amendment of section 266B of Guj. 34 of 1964.*- In the Municipalities Act, in section 266B, to clause (dd), the following proviso shall be inserted, namely :-

Guj. Ord. 1 of
2015.

“Provided, however, that if any such municipality is required to be reconstituted on the date of coming into force of the Gujarat Local Authorities Laws (Amendment) Ordinance, 2015 or immediately thereafter, if could not be reconstituted within such period of six months, the same shall be reconstituted at the time of general elections if the same are to be held on or before 31st December, 2015 for constituting other municipalities whose term are due to expire;”.

9. *Amendment of section 277 of Guj. 34 of 1964.*- In the Municipalities Act, in section 277, to sub-section (3), the following proviso shall be inserted, namely:-

“Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.”.

Guj. 18 of 1993.

10. *Amendment of section 30 of Guj. 18 of 1993.*- In the Gujarat Panchayats Act, 1993 (hereinafter referred to as “the Panchayats Act”), in

section 30, after sub-section (2), the following sub-section shall be added, namely:-

“(3) A person shall be disqualified to continue as a member of a Panchayat if such person has been declared as a defaulter voter under sub-section (3) of section 34D subject to the decision in appeal, if preferred under section 34E.”.

11. Amendment of section 274 of Guj. 18 of 1993.- In the Panchayats Act, in section 274, for sub-section (5), the following sub-section shall be substituted, namely:-

“(5) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section:

Provided further that such previous publication of the rules shall not be necessary where the rules provide for any of the matters specified in Chapter XIII.”.

STATEMENT

The State Government has inserted certain provisions in the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 for the purpose of making it obligatory on the voters to vote at an election as also for providing fifty per cent. reservation of seats for women in the local bodies vide the Gujarat Local Authorities Laws (Amendment) Act, 2009 (Guj. Act No. 21 of 2014). The said provisions so inserted *inter alia* provide for prescribing by rules the disadvantages or consequences to be suffered by a defaulter voter. In this context it is thought fit to disqualify a person to continue as a councillor or a member of the Corporation, the Municipality or the Panchayat, as the case may be, if he is declared as a defaulter voter and therefore necessary provisions to that effect have been incorporated in the above said three Acts.

Since as stated herein above fifty per cent. reservation of seats for women in the local bodies and compulsory voting in such bodies are to be implemented for the first time in the ensuing general elections of the local bodies slated to be held in October/November, 2015 and also that the process of delimitation is required to be undertaken in those local bodies in view of the Census-2011, it is felt that the elections for filling up the casual vacancies either in any Corporation or the Municipality, as the case may be, should be held, if could not be filled so far, along with the general elections even if such vacancies were required to be filled up sometime before such general elections are held. For the same reasons, it is also felt necessary to hold the elections if, could not be held within the statutory time limit of six months for reconstituting the Municipalities as provided under section 266B of the Gujarat Municipalities Act, 1963 as also the election if, could not be held within the

statutory time limit of six months as required to be held under sub-clause (i) of clause (a) of sub-section (1) of section 266 for the local areas which have been added to the different Municipal Boroughs, along with the general elections slated to be held in October/November, 2015. It is therefore, considered necessary to amend certain provisions of the Gujarat Provincial Municipal Corporations Act, 1949 and the Gujarat Municipalities Act, 1963 to achieve the aforesaid objects.

Section 456 of the Gujarat Provincial Municipal Corporations Act, 1949, *inter alia* provides for the powers of the State Government to make rules for carrying out the purposes of the said Act, subject to the condition of previous publication of the rules in question. However, the said section also provides that the State Government can, for sufficient reasons dispense with the requirement of such previous publication. However, as is the case under the provisions of the Provincial Municipal Corporations Act, 1949, there is no provision either in the Gujarat Municipalities Act, 1963, or the Gujarat Panchayats Act, 1993, for dispensing with the previous publication of the rules for sufficient reasons or where the State Government is required to take immediate actions. It is therefore, considered necessary to have similar provisions in all the Local Authorities Acts, so that there is a parity in all such Acts, in so far as dispensing with the publication of the rules is concerned. Therefore, the provisions of section 277 and section 274 of the Gujarat Municipalities Act, 1963, and the Gujarat Panchayats Act, 1993 respectively are suitably amended.

Since the State Government has taken a decision to implement the provisions with regard to the compulsory voting as also fifty per cent. reservation of seats for women in local bodies, the elections of which are stated to be held in October-November, 2015, certain suitable amendments in the existing provisions of the aforesaid Acts are required to be carried out imminently.

As the Legislative Assembly of the State of Gujarat is not in session, this Ordinance is promulgated to amend the aforesaid three Acts to achieve the aforesaid objects.

Gandhinagar,

Dated the 23rd July, 2015.

O.P.KOHLI,

Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

DR. RAJIV KUMAR GUPTA,
Principal Secretary to Government.