



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक ६७(७)]

शुक्रवार, सप्टेंबर १, २०१७/भाद्र १०, शके १९३९

[पृष्ठे ५ किंमत : रुपये २७.००

असाधारण क्रमांक १३८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Local Authority Members' Disqualification (Amendment and Continuance) Ordinance, 2017 (Mah. Ord. XIX of 2017), is hereby published under the authority of the Governor.

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

N. J. JAMADAR,
Principal Secretary and R.L.A.
to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Local Authority Members' Disqualification (Amendment and Continuance) Ordinance, 2017 (Mah. Ord. XIX of 2017), published under the authority of the Governor).

RURAL DEVELOPMENT AND WATER CONSERVATION DEPARTMENT

Bandhkam Bhavan, 25, Marzban Path, Fort, Mumbai 400 001,
dated the 1st September 2017.

MAHARASHTRA ORDINANCE No. XIX OF 2017.

AN ORDINANCE

*further to amend the Maharashtra Local Authority Members'
Disqualification Act, 1986.*

WHEREAS the Governor of Maharashtra has promulgated the Mah. Maharashtra Local Authority Members' Disqualification (Amendment) Ord. XI Ordinance, 2017 (hereinafter referred to as "the said Ordinance"), on the of 2017. 1st July 2017;

(१)

AND WHEREAS upon the reassembly of the State Legislature on the 24th July 2017, the Maharashtra Local Authority Members' Disqualification (Amendment) Bill, 2017 (L. A. Bill No XXXVIII of 2017), for converting the said Ordinance into an Act of the State Legislature, was passed by the Maharashtra Legislative Assembly on the 27th July 2017 and was transmitted to the Maharashtra Legislative Council ;

AND WHEREAS thereafter, as the Maharashtra Legislative Council was prorogued on the 11th August 2017, the said Bill could not be passed by the Maharashtra Legislative Council ;

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance would cease to operate at the expiration of six weeks from the reassembly of the State Legislature, that is, on the 3rd September 2017 ;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance ;

AND WHEREAS both Houses of the State Legislature are not in session; and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance ;

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

Short title
and
Commence-
ment.

1. (1) This Ordinance may be called the Maharashtra Local Authority Members' Disqualification (Amendment and Continuance) Ordinance, 2017.

(2) It shall be deemed to have come into force on the 1st July 2017.

Amendment
of section 7
of Mah. XX
of 1987.

2. (a) Section 7 of the Maharashtra Local Authority Members' Disqualification Act, 1986 (hereinafter referred to as "the principal Act"), shall be renumbered as sub-section (1) of that section and in sub-section (1) as so renumbered, for the portion beginning with brackets, letters and words " (ii) in the case of any other councillor or " and ending with the words " Collector shall be final ", the following portion shall be substituted, namely :—

" (ii) in the case of any other councillor or member, to the Collector,

for his decision : " ;

(b) after sub-section (1) as so renumbered the following sub-sections shall be added,—

"(2) The decision of the Commissioner or the Collector, as the case may be, shall forthwith be communicated to all concerned.

(3) Any person aggrieved by the decision of the Commissioner or Collector may, prefer an appeal to the State Government within a period of thirty days from the date of such order. "

Mah.
Ord. XI
of 2017.

3. (1) The Maharashtra Local Authority Members' Disqualification (Amendment) Ordinance, 2017, is hereby repealed.

Repeal of
Mah. Ord.
XI of 2017
and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act as amended by this Ordinance.

STATEMENT

The Maharashtra Local Authority Members' Disqualification Act, 1986 (Mah. XX of 1987) is enacted to prevent the defection in local authorities. Sub-section (1) of section 3 of the said Act provides the grounds of defection for disqualification for being councillor or member of the local authorities. Sub-section (1) of section 3A provides that, if a councillor or a member belonging to any political party or *aghadi* or front is disqualified under clause (b) of sub-section (1) of section 3, he shall be disqualified for being a councillor or a member for six years from the date of his disqualification.

2. Section 7 of the said Act provides that the decision of the Commissioner, in the case of councillor of a Municipal Corporation, and the Collector, in the case of any other councillor or member, regarding such disqualification shall be final.

It was considered to provide for an opportunity to the aggrieved person to prefer an appeal against such decision. It was, therefore, considered expedient to provide that a person aggrieved by the decision of the Commissioner or Collector, as the case may be, may prefer an appeal to the State Government, within a period of thirty days, from the date of such order. For the purpose, it was proposed to amend section 7 of the said Act, accordingly.

3. 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 Maharashtra Local Authorities Members' Disqualification Act, 1986 (Mah. XX of 1987), for the purposes aforesaid, the Maharashtra Local Authority Members' Disqualification (Amendment) Ordinance, 2017 (Mah. Ord. XI of 2017), was promulgated by the Governor of Maharashtra on the 1st July 2017.

4. Thereafter, upon the reassembly of the State Legislature on the 24th July 2017, the Maharashtra Local Authority Members' Disqualification (Amendment) Bill, 2017 (L. A. Bill No. XXXVIII of 2017), for converting the said Ordinance into an Act of the State Legislature, was passed by the Maharashtra Legislative Assembly on the 27th July 2017 and was transmitted to the Maharashtra Legislative Council. However, as thereafter the Maharashtra Legislative Council was prorogued on the 11th August 2017, the said Bill could not be passed by the Maharashtra Legislative Council.

5. As provided by article 213(2)(a) of the Constitution of India, the said Ordinance would cease to operate at the expiration of six weeks from the reassembly of the State Legislature, that is, on the 3rd September 2017. It is, therefore, necessary to take immediate action to continue the provisions of the said Ordinance by promulgating a fresh Ordinance.

6. As both Houses of the State Legislature are not in session; and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the Maharashtra Ordinance No. XI of 2017, this Ordinance is promulgated.

Mumbai,

Dated the 31st August 2017.

CH. VIDYASAGAR RAO,

Governor of Maharashtra.

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

ASEEM GUPTA,
Secretary to Government.