



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक १७

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 Village Panchayats (Amendment and Continuance) Ordinance, 2018 (Mah. Ord. II of 2018), is hereby published under the authority of the Governor.

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

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

[Translation in English of the Maharashtra Village Panchayats (Amendment and Continuance) Ordinance, 2018 (Mah. Ord. II of 2018), published under the authority of the Governor].

RURAL DEVELOPMENT DEPARTMENT

Bandhkam Bhavan, 25, Marzban Path, Fort, Mumbai 400 001,
dated the 20th January 2018.

MAHARASHTRA ORDINANCE No. II OF 2018.

AN ORDINANCE

further to amend the Maharashtra Village Panchayats Act.

WHEREAS the Governor of Maharashtra has promulgated the Mah. Maharashtra Village Panchayats (Amendment) Ordinance, 2017 (hereinafter referred to as "the said Ordinance"), on the 19th July 2017 ;

AND WHEREAS the Maharashtra Village Panchayats (Amendment) Bill, 2017 (L. A. Bill No. LVI of 2017) (hereinafter referred to as "the said Bill") for converting the said Ordinance into an Act of the State Legislature, was introduced in the Maharashtra Legislative Assembly on 10th August 2017 ;

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

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance would have ceased to operate on the 3rd September 2017 ;

AND WHEREAS it was considered expedient to continue the operation of the provisions of the said Ordinance and, therefore, the Maharashtra Village Panchayats (Amendment and Continuance) Ordinance, 2017 (hereinafter referred to as "the said Continuance Ordinance") was promulgated by the Governor of Maharashtra on the 1st September 2017 ;

Mah. Ord.
XVIII of
2017.

AND WHEREAS upon the re-assembly of the State Legislature on 11th December 2017, the said Bill was passed with amendments by the Maharashtra Legislative Assembly on the 19th December 2017 and transmitted to the Maharashtra Legislative Council ;

AND WHEREAS the said Bill has been passed by the Maharashtra Legislative Council with further amendments on the 22nd December 2017 and transmitted to the Maharashtra Legislative Assembly ;

AND WHEREAS before the amendments to the said Bill made by the Maharashtra Legislative Council, could be considered by the Maharashtra Legislative Assembly, the session of the Legislative Assembly was prorogued on the 22nd December 2017 ;

AND WHEREAS as provided by article 213 (2)(a) of the Constitution of India, the said Continuance Ordinance shall cease to operate at the expiration of six weeks from the re-assembly of the State Legislature, that is, after the 21st January 2018 ;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Continuance 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 Continuance Ordinance with certain modifications, for the purposes hereinafter appearing ;

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 Village Panchayats (Amendment and Continuance) Ordinance, 2018.

(2) It shall be deemed to have come into force on the 19th July 2017.

Amendment
of section 3 of
III of 1959.

2. In section 3 of the Maharashtra Village Panchayats Act (hereinafter referred to as "the principal Act"),—

III of
1959.

(a) after clause (11AA), the following clause shall be inserted, namely :—

“(11 AAA) “member” means a member duly elected as a member of *panchayat* under section 11 and include the *Sarpanch* of *panchayat* elected directly under section 30A-1A;”;

(b) in clause (17), after the word and figures “ section 30” the figures, letters and sign “, 30A-1A” shall be inserted.

3. In section 7 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely :— Amendment of section 7 of III of 1959.

“(3A) In respect of the *panchayat* to which the *Sarpanch* is elected directly under section 30A-1A, unless otherwise provided in this Act, all meetings of the *Gram Sabha*, after each general election to a *panchayat*, shall be presided over by the *Sarpanch* and in his absence by the *Upa-Sarpanch*; and in absence of *Sarpanch* and *Upa-Sarpanch* both, it shall be presided over by senior most member of *panchayat* by age present in that meeting of the *Gram Sabha*. In case no member of *panchayat* is present, the said meeting of the *Gram Sabha* shall be adjourned for a period of one week, and such adjourned meeting shall be presided over by *Sarpanch* and in his absence by the *Upa-Sarpanch* and in absence of both the *Sarpanch* and *Upa-sarpanch* by the senior most member of the *panchayat* by age present in the meeting of *Gram Sabha*. In case no member of *panchayat* is present, such meeting shall be presided over by an officer authorised by the Block Development Officer in that behalf.”

4. In section 10 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :— Amendment of section 10 of III of 1959.

“(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the modification that, in sub-section (1), in clause (a), before sub-clause (i), the following sub-clause shall be inserted, namely :—

“(i-A) *Sarpanch* elected under section 30A-1A-*ex officio* member ; and”.”

5. In section 13 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :— Amendment of section 13 of III of 1959.

“(1) Every person whose name is in the list of voters shall, unless disqualified under this Act, or any other law for the time being in force, be qualified to vote at the election of, a member for the ward to which such list pertains and, *Sarpanch* of *panchayat* to be elected directly.

(2) Every person whose name is in the list of voters and who is not less than 21 years of age on the last date fixed for making nomination for every general election or bye-election shall, unless disqualified under the Act, or under any other law for the time being in force, be qualified to be elected for any ward of the village and for *Sarpanch* of *panchayat*. No person whose name is not entered in the list of voters for such village shall be qualified to be elected for any ward of the village and *Sarpanch* of *panchayat*.

(2A) Every person who is not less than 21 years of age on the last date fixed for making nomination for every general election or bye-election and whose name is in the list of voters and who is born on or after 1st January 1995, and who is not disqualified under this Act, or under any other law for the time being in force shall, unless possesses minimum 7th standard of school education passing certificate or acquired educational qualification equivalent to 7th standard, as certified by the competent authority, be qualified to be elected as *Sarpanch*.”

6. In section 14 of the principal Act, in sub-section (1),— Amendment of section 14 of III of 1959.
- (i) in clause (a), in sub-clause (ii), for the words “five years” the words “six years” shall be substituted ;

(ii) in clause (d), for the words “five years” the words “six years” shall be substituted ;

Amendment of section 15 of III of 1959. **7.** In section 15 of the principal Act, in sub-section (2), after the word and figures, “section 11” the words, figures, letters and sign “or section 30A-1A, as the case may be” shall be added.

Amendment of section 16 of III of 1959. **8.** In section 16 of the principal Act, in sub-section (2), for the words “ State Government” at both the places where they occur, the word “Commissioner” shall be substituted.

Amendment of section 29 of III of 1959. **9.** In section 29 of the principal Act, in sub-section (2), for the words “ forward it to the Secretary” the words “ forward it within seven days to the Secretary ” shall be substituted.

Amendment of section 30 of III of 1959. **10.** In section 30 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) In respect of the *panchayat* to which the *Sarpanch* is elected directly under section 30A-1A, the provisions of this section shall apply with the following modifications :—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Every *panchayat* shall be presided over by a *Sarpanch.*”;

(b) sub-section (2) shall be deleted ;

(c) in sub-section (4), for the words “the members belonging to” the words “persons belonging to” shall substituted.”.

Insertion of section 30A-1A in III of 1959. **11.** After section 30, the following section shall be inserted, namely :—

Direct election of *Sarpanch.*

“30A-1A. (1) After the date of commencement of the Maharashtra Village Panchayats (Amendment and Continuance) Ordinance, 2018 in respect of the *panchayat* to which the general election is to be held, subject to provisions of sub-sections (4), (5) and (6) of section 30, every *panchayat* shall have a *Sarpanch* who shall be elected by the persons whose names are included in the list of voters for village under section 12.

Mah. Ord. II of 2018.

(2) Election of the *Sarpanch* shall be held simultaneously with the general elections of the *panchayat* and the procedure regarding holding of elections to the *panchayat* shall, *mutatis mutandis*, apply to such election.

(3) If at an election, no *Sarpanch* is elected, a fresh election shall be held to elect a *Sarpanch*, and if there is a failure to elect a *Sarpanch* at the fresh election, such vacancy may, notwithstanding anything contained in this Act, be filled by election by the elected members from amongst themselves and the term of *Sarpanch* elected under this sub-section shall be co-terminus with the term of members of the *panchayat*.

(4) Any person elected under sub-section (3) shall be deemed to be duly elected at an election under this section.

(5) If, in the election of the *Sarpanch*, there is an equality of votes, the result of the election shall be decided by lots to be drawn by the State Election Commissioner or the officer appointed by him for the purpose.

(6) In case of dispute regarding election of the *Sarpanch*, the provisions of section 15 shall, *mutatis mutandis*, apply.”

12. In section 30A of the principal Act,—

Amendment
of section
30A of III of
1959.

(a) after sub-section (1), the following sub-section shall be inserted namely :—

“(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected, the election of the *Upa-Sarpanch* shall be held in the first meeting held after every general election.” ;

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

“(2A) In respect of the *panchayat* to which the *Sarpanch* is directly elected, the provisions of sub-section (3) of section 30 shall, *mutatis mutandis*, apply in the case of *Upa-Sarpanch*.

13. In section 33 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely :—

Amendment
of section 33
of III of 1959.

“(6) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the following modifications :—

(a) in sub-section (1), for the words “election of *Sarpanch* and *Upa-Sarpanch*” at both the places where they occurs, the words “election of *Upa-Sarpanch*” shall be substituted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) The election of the *Sarpanch* shall be held in accordance with the provisions of section 30A-1A of this Act.” ;

(c) in sub-section (2), after the words “presided over by” the words “the *Sarpanch* and if the post of *Sarpanch* is vacant by” shall be inserted ;

(d) in sub-section (3), the words “*Sarpanch* and” shall be deleted ;

(e) for sub-section (4), the following sub-section shall be substituted,—

“(4) If, in the election of *Upa-Sarpanch* there is an equality of votes, the *Sarpanch* shall have the right to exercise casting vote, and if the post of *Sarpanch* is vacant, the result of elections shall be decided by lot drawn in the presence of the officer presiding in such manner as he may determine.” ;

(f) in sub-section (5),—

(i) the words “*Sarpanch* or” shall be deleted ;

(ii) after the word, brackets and figure “ sub-section (1) ” the words “*Sarpanch* or” shall be inserted.”.

14. In section 35 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

Amendment
of section 35
of III of 1959.

“(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the following modifications:—

(a) in sub-section (1), for the words “one-third” the words “two-third” shall be substituted ;

(b) in sub-section (3), for the portion beginning with the words “If the motion” and ending with the words “against the *Sarpanch*,” the following portion shall be substituted, namely :—

“ If the motion of no-confidence is carried by a majority of not less than three-fourth of the total number of the members who are for the time being entitled to sit and vote at any meeting of the *panchayat*, the *Sarpanch* or the *Upa-Sarpanch*, as the case may be, and ratified before the special *Gram Sabha* by the secret ballot in the presence and under the Chairmanship of the Officer appointed for the purpose by the Collector, shall forthwith stop, exercising all the powers and, performing all the functions and duties of the office and thereupon such powers, functions and duties shall vest in the *Upa-Sarpanch*, in case the motion is carried out against the *Sarpanch* ;”;

(c) for the fourth proviso, the following provisos shall be substituted, namely :—

“Provided also that, no such motion of no-confidence shall be brought within a period of two years from the date of election of *Sarpanch* or *Upa-Sarpanch* and before the six months preceding the date on which the term of *panchayat* expires :

Provided also that, if the no-confidence motion fails, then no motion shall be brought before the passage of time of next two years .”.

Amendment
of section 38
of III of 1959.

15. In section 38 of the principal Act, in sub-section (2), after clause (i) the following clause shall be inserted, namely :—

(i-a) in respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the *Sarpanch* shall also exercise the following powers, functions and duties,—

(a) finalise the agenda of *panchayat* meetings :

Provided that, if three or more members demands regarding inclusion of any item on agenda for immediate next meeting, the *Sarpanch* shall include the same in next meeting :

Provided further that, no *ad-hoc* financial business shall be transacted unless it forms a part of the circulated agenda :

Provided also that, if the *panchayat* resolves on any subject that is detrimental to the well-being of the village at large in the opinion of *Sarpanch*, the *Sarpanch* shall cause the resolution to be kept for final decision immediately in the next following *Gram-Sabha*, and the decision of the said *Gram Sabha* shall be final ;

(b) prepare the annual budget of *panchayat* ;

(c) exercise all other powers to implement the schemes in consultation with *panchayat* ; ”.

Amendment
of section 39
of III of 1959.

16. In section 39 of the principal Act, in sub-section (2), for the words “five years” the words “six years” shall be substituted.

Amendment
of section 43
of III of 1959.

17. In section 43 of the principal Act, in sub-section (1), after the existing proviso, the following proviso shall be added, namely :—

“Provided further that, the post of the directly elected *Sarpanch* fallen vacant under this sub-section shall be filled in by election in the manner laid down in section 30A-1A, within six months from the date of such vacancy.”.

18. In section 49 of the principal Act, in sub-section (4), in proviso,— Amendment of section 49 of III of 1959.
 (i) before clause (a), the following clause shall be inserted, namely :—

“(a1) the *Sarpanch* shall be the *ex officio* Chairman ; ” ;

(ii) after clause (f), the following clause shall be inserted, namely :—

“(g) *Gramsevak* shall be *ex officio* Member- Secretary . ” .

19. In section 62 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :— Amendment of section 62 of III of 1959.

“(1AA) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the following modifications :—

(a) for sub-sections (1) and (1A), the following sub-sections shall be substituted, namely,—

“(1) The *Sarpanch* shall determine annually on or before 5th January of every year in such form as may be prescribed, a statement of,—

(a) the opening balance in the fund and estimated income of the *panchayat* for the following financial year ;

(b) the expenditure proposed on establishment and discharge of its duties under section 45 ;

(c) the amount to be contributed to the District Village Development Fund established under section 133 ;

(d) the statement made under clause (a), (b) or (c), as the case may be, shall be placed by the *Sarpanch*, before the *panchayat* ;

(e) the *panchayat* shall in respect of the said statement, finalise its recommendations on or before the 31st of January ;

(f) the statement along with the recommendation of the *panchayat* under clause (e), shall be placed before the *Gram Sabha*, which may ratify it on or before 28th of February ;

(g) after the decision of the *Gram Sabha* under clause (f), the said statement shall be submitted to the *Panchayat Samiti*.

(1-A) If, on or before the date specified in sub-section (1),—

(a) the *Sarpanch* fails to submit the statement ; or

(b) the *panchayat* fails to make recommendation in respect of the statement ; or

(c) the *Gram Sabha* fails to take decision in respect of ratification of the recommendations,

the Secretary shall prepare the statement, regarding the mandatory and office expenditure to be carried out and submit it to the *Panchayat Samiti* in the form prescribed under the said sub-section.”;

(b) in sub-section (2), for the portion beginning with words “ The *Panchayat Samiti* ” and ending with words “ increased or decreased: ” the portion “ The *Panchayat Samiti* shall, either approve the statement or direct that the proposed expenditure on any of the duties falling under section 45 shall be increased or

decreased on or before 31st March of the every year. Expenditure shall be carried out as per this statement till the date budgetary process outlined in sub-section (1) of this section is completed:" shall be substituted ;

(c) in second proviso of sub-section (2), after the words " be increased or decreased" the words and figure " on or before 31st March of every year and in case of revised and supplementary statement " shall be inserted. "

Amendment of section 62A of III of 1959. **20.** Section 62A of the principal Act, shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-section shall be added, namely :—

"(2) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, a *Sarpanch* may at anytime during the financial year for which any such statement has been approved as aforesaid cause a revised or supplementary statement to be prepared. Every such revised or supplementary statement shall be considered and approved by the *Panchayat Samiti* in the same manner as if it were an original statement, and the provisions of section 62 shall apply in relation to such revised or supplementary statement. "

Amendment of section 145 of III of 1959. **21.** In section 145 of the principal Act, sub-section (1 A) shall be deleted.

Power to remove difficulty. **22.** (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Village Panchayats Act, as amended by this Ordinance, the State Government may, by an order published in the *Official Gazette*, as the occasion arises, make such provisions not inconsistent with provisions of the said Act, as amended by this Ordinance, as may appear it to be necessary or expedient for purpose of removing the difficulty.

III of 1959.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal by withdrawal of Mah. Ord. XVIII of 2017 and saving. **23.** (1) The Maharashtra Village Panchayats (Amendment and Continuance) Ordinance, 2017, is hereby withdrawn.

Mah. Ord. XVIII of 2017.

(2) Notwithstanding such withdrawal, 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 said Act, as amended by this Ordinance.

STATEMENT

As per the then existing provisions of the Maharashtra Village Panchayats Act (III of 1959), the *Sarpanch* was being elected from amongst the elected members of the *panchayat* for which the candidate contesting the election for the post of *Sarpanch* would require the majority votes amongst them. The then existing provisions of the said Act provided that the motion of no confidence may be moved by not less than one-third of the total number of members. Consequently, the members were moving such no confidence motion frequently, which was affecting the efficiency of the *Sarpanch* and causing the disturbances in smooth functioning of *panchayat*.

2. Therefore, after due deliberation, it was considered necessary to adopt a system of direct election for the post of *Sarpanch* of a *panchayat* from the public which will give stability in the functioning of the *panchayat*. It was, therefore, considered expedient further to amend the provisions of the Maharashtra Village Panchayats Act (III of 1959) suitably, so as to strengthen the post of *Sarpanch* for effective functioning and development of the *panchayat* and, therefore, the Governor of Maharashtra has promulgated the Maharashtra Village Panchayats (Amendment) Ordinance, 2017 (Mah. Ord. XVI of 2017), on the 19th July 2017.

3. In the Monsoon Session of the State Legislature, the Maharashtra Village Panchayats (Amendment) Bill, 2017 (L. A. Bill No. LVI of 2017), for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly on the 10th August 2017. However, the said Bill could not be passed as the session of the Maharashtra Legislative Assembly was prorogued on the 11th August 2017.

4. As, it was expedient to continue the operation of the provisions of the said Ordinance, and, therefore, the Maharashtra Village Panchayats (Amendment and Continuance) Ordinance, 2017 (Mah. Ord. XVIII of 2017) was promulgated by the Governor of Maharashtra on the 1st September 2017.

5. In the Winter Session of the State Legislature held at Nagpur, the said Bill was passed with amendment in Maharashtra Legislative Assembly on the 19th December 2017 and transmitted to Maharashtra Legislative Council. The said Bill was passed with further amendments by Maharashtra Legislative Council on the 22nd December 2017 and transmitted to Maharashtra Legislative Assembly. However, as, before the amendments to the said Bill made by the Maharashtra Legislative Council could be considered by the Legislative Assembly the session of the Maharashtra Legislative Assembly was prorogued on the 22nd December 2017, therefore, the said Bill could not be passed by the Maharashtra Legislative Assembly.

6. As provided by article 213 (2)(a) of the Constitution of India, the said Continuance Ordinance shall cease to operate after the 21st January 2018 and it is considered expedient to continue the operation of the provisions of the said Continuance Ordinance.

7. 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. XVIII of 2017 with certain modifications, this Ordinance is promulgated.

Mumbai,

Dated the 20th January 2018.

CH. VIDYASAGAR RAO,

Governor of Maharashtra.

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

ASEEM GUPTA,

Secretary to Government.