

EXTRACT FROM HARYANA MUNICIPAL CORPORATION ACT, 1994

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THE HARYANA MUNICIPAL CORPORATION ACT, 1994
Haryana Act No.16
AN ACT

To provide for the establishment of Municipal Corporations for certain municipal areas in the State of Haryana.

BE is enacted by the Legislature of the State of Haryana in the Forty fifth year of the Republic of India, as follows:-

PRELIMINARY

1. Short title extent and commencement.- (1) This Act may be called the Haryana Municipal Corporation Act, 1994.

(2) It extends to the whole of the State of Haryana including the cantonment areas therein.

(3) It shall be deemed to have come into force with effect from 31st May, 1994.

2. Definition.- In this Act, unless the context otherwise requires,--

(1) xxxxxx

(3) "by-law" means a bye-law made under this Act, by notification in the official Gazette ;

(4) "commissioner" means the Commissioner of the Corporation appointed by the State Government.

(5) "Corporation" means the Municipal Corporation declared and constituted under

Section 3 and 4 of this Act ;

- (6) "Corrupt practice" means any of the practices specified in section 22 ;
- (7) "Casual Vacancy" means a vacancy occurring otherwise than by efflux of time in the office of a member or in any other elective office ;
- (8) xxxxxx
- (11) "Divisional Commissioner" means the Commissioner of the Division in which the Corporation is situated and includes any other officer appointed by the Government to perform all or any of the functions of the Divisional Commissioner under this Act ;
- (12) xxxxxx
- (19) "Government" means the Government of the State of Haryana ;
- (20) xxxxxx
- (24) "members" means a member of the Corporation "and includes the Mayor";
(words "and includes the Mayor" added vide Notification No. Leg.28/2019 dated 18th July, 2019)
- (25) xxxxx
- (30) "Municipal Area" means the territorial area of the Corporation declared under section 3 of this Act ;
- (31) "Municipality" means an institution of self-government constituted under section 2A of the Haryana Municipal Act, 1973, which may be a Municipal Committee or a Municipal Council or a Municipal Corporation ;
- (32) xxxxxx
- (45) "Population" means any population as ascertained at the last preceding census of which the relevant figures have been published ;
- (46) xxxxxx
- (48) "regulation" means a regulation made by the Corporation under this Act, by notification in the official Gazette ;
- (49) xxxxxx
- (51) "rural area" means the part of the Municipal area which immediately before their inclusion within the limits of the Municipal area were situated within the local limits of a Gram Panchayat but shall not include such portion thereof as may, by virtue of a notification under section 413 ceases to be included in the rural areas as herein defined ;

- (52) xxxxxx
- (53) xxxxxx
- (56) "State Election Commission" means the State Election Commission constituted by the State Government under articles 243K and 243ZA of the Constitution of India ;
- (57) xxxxxx
- (61) "ward" means a municipal ward of the Corporation made under sub-section (2) of section 4 for the purpose of election of a member ;
- (62) xxxxxx
- (67) "year" means a year commencing on the 1st day of April.

3. Declaration of Municipal area as Corporation.—(1) From the 31st day of May 1994, the Municipal Corporation of Faridabad shall be deemed to have been declared as such for the Municipal Area specified in the first schedule appended to this Act.

(2) The Government may, from time to time, by notification in the Official Gazette, declare any municipality including area comprising rural area or a part thereof, if any, to be a Corporation known as "the Municipal Corporation of _____ (name of Corporation)":

Provided that no municipality including area, comprising rural area or a part thereof, if any, shall be so declared to be a Corporation unless the **existing** population thereof exceeds three lacs.

(word existing inserted vide Notification No. Leg. 6/2019 dated 23rd January, 2019)

'Explanation.- "existing population" means the population projected for the year in which the constitution of the Corporation is being considered as per the following formula, namely:-

$EP = P \times (1 + AGR/100)^n$; where-

- (i) EP- refers to existing population;
- (ii) P - refers to the population defined in clause (45) of section 2;
- (iii) AGR - refers to the annual growth rate in percent obtained from the last decennial census;
- (iv) n - refers to the number of years from the last decennial census year to the year in which the constitution of the Corporation is being considered.'

(Explanation part inserted vide Notification No. Leg. 6/2019 dated 23rd January, 2019)

(3) The Government may, from time to time after consultation with the Corporation, by notification in the official Gazette, alter the limits of the Municipal area of the Corporation declared under sub-sections (1) and (2) so as to include therein or exclude there from such areas as may be specified in the notification.

(4) When the limits of the Municipal areas are altered, so as to include therein any area, except as the Government may otherwise by notification, direct, all rules, regulation, notifications, bye-laws, order, directions and powers issued or conferred and all taxes imposed under this Act ; and inforce in the Municipal area shall apply to such area.

(5) When a local area is excluded from the Corporation under sub-section (3) ---

(a) this Act, and all notifications, rules, bye-laws, orders, directions and powers issued, made or conferred under this Act, shall cease to apply thereto; and

(b) the Government shall after consulting the Corporation, frame a scheme determining what portion of the balance of the Corporation fund and other property vesting in the municipal Corporation shall vest in the Government and in what manner the liabilities of the Corporation shall be apportioned between the Corporation and the Government, and, on the scheme, being notified, the property and liabilities shall vest and be apportioned accordingly.

“3A. Power to abolish Corporation.- (1) The Government may, by notification in the Official Gazette, abolish any Corporation declared under section 3.

(2) When a notification is issued under sub-section (1) in respect of any Corporation, this Act and all notifications, rules, bye-laws, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the said Corporation. The balance of the municipal fund and all other property at the time of the issue of the notification vested in the Corporation shall vest in the Government and the liabilities of the Corporation shall be transferred to the Government.

(3) Where any Corporation is abolished under sub-section (1) and subsequently the area comprising the Corporation so abolished is declared to be a Municipal Council or Municipal Committee, the assets and liabilities referred to in sub-section (2) shall vest in the Municipal Council or Municipal Committee from the date of its notification.”.

(Section 3A inserted vide Notification No. Leg. 6/2019 dated 23rd January, 2019)

CONSTITUTION OF CORPORATION

4. Incorporation and constitution of Corporation.—(1) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by the said name sue and be sued.

(2) Save as provided in sub-section (3) **Mayor and** all seats in the Corporation shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose the Municipal area shall by a notification issued in this behalf be divided into territorial constituencies to be known as wards.

(substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(3) In addition to the persons chosen by direct election from the territorial

constituencies, the Government may, by notification, nominate the following categories of persons as members of the Municipal Corporation:-

- (i) not more than three persons having special knowledge or experience in municipal administration;
- (ii) members of the House of the People and the members of the Legislative Assembly representing constituencies which comprise wholly or partly the Municipal Area ;
- (iii) members of the Council of State registered as electors within the Municipal Area ;

Provided that the persons referred to in clause (i) above shall not have the right to vote in the meetings of the Corporation;

Provided further that the persons referred to in clause (ii) and (iii) shall neither have right to contest for the election Senior Deputy Mayor or Deputy Mayor nor right to vote in the meeting for the election or removal of the Senior Deputy Mayor or Deputy Mayor of the Corporation;

(words "mayor, " deleted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(4) As soon as may be after the commencement of this Act a Corporation comprising of the members as provided under sub-sections (2) and (3) of this section shall be constituted :

Provided that the first election to the Corporation constituted after the commencement of this Act may be held within a period of **five years and six months** of its being notified as a Corporation.

(Words substituted vide Notification No. Leg. 29/2020 dated 19th September, 2020)

(5) Notwithstanding anything contained in sub-section (4), after the commencement of this Act, all powers and duties conferred and imposed upon the Corporation by or under this Act, or any other law, shall be exercised and performed by this Commissioner till a Corporation is constituted under the aforesaid sub-section.

5. Duration of Corporation.—(1) The Corporation, unless sooner dissolved under the provisions of section 400 of this Act, shall continue for five years from the date appointed for its first meeting :

Provided that the Corporation shall be given a reasonable opportunity of being heard before its dissolution.

(2) An election to constitute the Corporation shall be completed :-

- (a) before the expiry of its duration specified in sub-section (1) ;
- (b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Corporation for such period.

(3) A Corporation constituted upon its dissolution before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Corporation would have continued under sub-section (1) had it not been so dissolved.

(4) If a corporation is not constituted before the expiration of its duration laid down in sub-section (1), it shall be deemed to have been dissolved on the expiry of said duration and, thereupon, provisions of sub-section (2) of Section 400 shall be applicable.

6. Fixation of seats of Corporation.— After every official census, the total number of seats shall be fixed by the Government on the basis of latest census figures. In case certain area is included, or excluded from the limits of a Corporation, the population shall be ascertained on the spot in respect of such area and shall be added to, or excluded from the latest census figures of that Corporation for the purpose of re-fixation of seats.

{(2) For the purpose of election of members, the Municipal area shall be divided into wards in such manner, as may be prescribed.}

(3) Wards shall, as far as practicable, be geographically compact areas, and having regard to physical features, existing boundaries of administrative units, if any, facilities of communication and public convenience.

(4) The population of each ward, as far as practicable, should be the same throughout the Corporation with a variation upto 10 percent above or below the average population per ward.

(5) Wards reserved for the members of Scheduled Castes and Backward Classes shall, as far as practicable, be located in those areas where the proportion of their population to the total population of the Corporation is the largest.

(6) Explanation – Here “population” means the population as ascertained locally by the staff, deputed by the Commissioner, after going from door to door in the Corporation.

6A. Bar to Interference by Courts.—Notwithstanding anything contained in this Act, the validity of any law relating to the delimitation of constituencies and the allotment of seats to such constituencies, made or purporting to be made under this Act or the rules framed there under, shall not be called in question in any court.

6B. Time limit for delimitation and reservation of wards. – The work relating to the delimitation and reservation of wards of the Corporation shall be completed six months before the completion of the tenure of the Corporation, failing which the State Election Commission shall go ahead with the process of preparation of electoral rolls and conduct of elections on the basis of existing delimitation and reservation of wards.

(inserted wide No. Leg. 21/2018 dated 19th April, 2018)

7. Qualifications for Mayor and members.—A person shall not be qualified to be chosen as a Mayor and member unless.—

(a) he has attained twenty-one years of age; and

(b) his name is registered as an elector in the electoral roll of a ward in the Municipal

area.-

(section 7 substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

8. Disqualifications of Mayor and members.—(1) A person shall be disqualified for being chosen as and for being a **Mayor or** member of the Corporation—

(heading substituted and words "mayor or" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State ;
- (b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) A person shall also be disqualified for being chosen as, and for being a **Mayor or** member—

(words "mayor or" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (a) if he is of unsound mind and stands so declared by a competent court ;
- (b) if he is an undischarged insolvent ;
- (c) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State ;
- (d) if he has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of –
 - (i) any corrupt practice under section 22 of this Act ;
 - (ii) any offence punishable under section 171-E or 171-F of the Indian Penal Code, 1860, or any offence punishable under section 30 or clause (a) of sub-section (2) of section 31 of the Act ;

unless a period of five years has elapsed since the date of the finding ;

- (e) if he has been sentenced or convicted by a criminal court to imprisonment for an offence involving moral turpitude;
- (f) if he holds any office of profits under the Corporation ;
- (g) if he is a licensed architect, draftsman, engineer, plumber, surveyor or town planner or is a partner of a firm of which any such licensed person is also a partner ;
- (h) if he holds any office of profit under the Government ;
- (i) if he interested in any subsisting contract made with, or any work being done for the Corporation except as a share holder (other than a director) in an

incorporated company or as a member of a co-operative society ;

- (j) if he is retained or employed in any professional capacity either personally or in the name of a firm of which he is a partner or with which he is engaged in a professional capacity, in connection with any cause or proceedings in which the Corporation or any of municipal authorities is interested or concerned ;
- (k) if he, having held any office under the Government the Corporation or any other local authority, any Government company or any corporate body owned or controlled by the Government has been dismissed from service ;
- (l) if he fails to pay any arrears of any kind due to him, otherwise, than as an agent, receiver, trustee or an executor, to the Corporation within three months after a notice in this behalf has been served upon him ;
- (m) if he furnishes a false caste certificate at the time of filing nomination and he shall be so disqualified for a period of six years from contesting the election of the Corporation;
- (n) if he is convicted or has been convicted of an offence punishable under section 29, 30 and 31 of the principal Act, the Prevention of Corruption Act, 1988 (49 of 1988) or the Prevention of Terrorism Act, 2002(15 of 2002);
- (o) if he has been convicted, or charges have been framed against him by a court in a criminal case for an offence, punishable with imprisonment for not less than ten years; or
- (p) if he fails to pay an arrear of any kind due to him to any Primary Agriculture Cooperative Society, District Central Co-operative Bank and District Primary Cooperative Agriculture Rural Development Bank; or
- (q) if he fails to pay arrears of electricity bills; or
- (r) if he has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to scheduled Caste, the minimum qualification shall be middle pass

Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification **for members excluding Mayor** shall be 5th pass; or

(proviso substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (s) if he fails to submit a self declaration to the effect that he has a functional toilet at his place of residence, or
- (t) if he makes expenditure beyond the prescribed limit on his election or fails to submit his election expenditure statement.

- (3) Notwithstanding anything contained in sub-section (1) and (2) above.---
- (a) a disqualification under clause (e) of sub-section (2) shall not take effect until three months have elapsed since the date of such disqualification or if within these three months an appeal or petition for revision is brought in respect of the conviction or sentence until that appeal or petition is disposed of ;
 - (b) a person shall not be deemed to have incurred any disqualification under clause (f), or clause (g) of sub-section (2) by reason only of his receiving—
 - (i) any pension; or
 - (ii) any allowance or facility for serving as a Mayor or Deputy Mayor or as a member ; or
 - (iii) any fee for attendance at a meeting of any committee of the Corporation ;
 - (c) a person shall not be deemed to have any interest in a contract or work such as is referred to in clause (i) of sub-section (2) by reason only of his having a share or interest in.—
 - (i) any lease, sale, exchange or purchase of immovable property or any agreement for the same ; or
 - (ii) any agreement for the loan of money or any security for the payment of money only ; or
 - (iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or
 - (iv) the sale to the Corporation or to any other municipal authority or any officer or other employee of the Corporation on behalf of the Corporation of any article in which he regularly trades or purchases from the Corporation or from any such authority, officer or other employee on behalf of the Corporation of any article of a value in either case not exceeding five thousand rupees in the aggregate in any year during the period of the contract or work ; or
 - (v) the letting out on hire to the Corporation or the expiry from the Corporation of any article of a value not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work ;
 - (vi) any agreement or contract with the Corporation or any other municipal authority for taking water or any other thing which the Corporation

may generally supply.

(4) If a person sits or votes as a **Mayor or** member of the Corporation where he is not qualified or that he is disqualified for the post of **Mayor or** membership he shall be liable in respect of each day on which he so sits or votes to penalty of five hundred rupees to be recovered as an arrear of tax under this Act.

(substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(5) If any question arises as to whether a **Mayor or** member of the Corporation has become subject to any of the disqualifications mentioned In sub-sections (1) and (2) the question shall be referred for decision of such authority and in such manner as the Government may by notification provide.

(words "mayor or" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

The State Election Commission to be the authority, for the purpose of sub-section (1) and (2) of the this section, to whom the case shall be referred to for decision through the Deputy Commissioner, Faridabad, whose decision shall be final.

8A. Restriction on simultaneous or double membership.—(1) No person shall be a **Mayor or** member of the Corporation, member of Legislative Assembly of the State or member of Parliament simultaneously.

(2) In case a **Mayor or** member of the Corporation is elected to the Legislative Assembly or Parliament, as the case may be, he shall cease to continue as a **Mayor or** member of the Corporation from the date he is elected as elected to the Legislative Assembly or Parliament, as the case may be.

(Section 8 substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

8B. Disqualified for failure to keep account of election expenses and maximum thereof.— (1) Every candidate at an election shall, either himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent from the date of filing nomination papers to the date of declaration of the result thereof, both dates inclusive.

(2) The account shall contain such particulars, as may be notified by the State Election Commission in this behalf.

(3) The total of the said expenditure shall not exceed such amount as may be notified by the State Election Commission from time to time.

8C. Making of false declaration.—If any person makes in connection with-

- (a) the preparation, revision or correction of an electoral roll; or
- (b) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing, which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

8D. Application of certain sections of Central Act 43 of 1951 to Haryana Act 16 of 1994.-The provisions of sections 20B, 28A, 33A, 33B, 125A, 134A, 134B, 135B and 135C of the Representation of the People Act, 1951 (Central Act 43 of 1951), shall mutatis mutandis apply to the provisions of this Act.

8E. Disqualification for failure to lodge account of election expenses- If the State Election Commission is satisfied that a person has failed to lodge an account of election expenses within the time and manner, as prescribed by the State Election Commission and has no reason or justification thereof, the State Election Commission shall, by order published in the Official Gazette, declare him to be disqualified for contesting an election for a period of five years from the date of the order under this Act.

8F. Removal or reduction of period of disqualification - The State Election Commission may, for reasons to be recorded in writing, remove or reduce the period of disqualification under Section 8E.

8G. Lodging of account with the Deputy Commissioner - Every contesting candidate or his election agent shall, lodge account of election expenditure within thirty days from the date of declaration of election result with the Deputy Commissioner or an officer authorized by the State Election Commission.

The deputy Commissioner or such officer shall, send a list of those candidates who contested but fail to lodge the account of election expenditure or made expenditure beyond the limit prescribed by the State Election Commission immediately after the completion of a period of thirty days from the declaration of election result. The State Election Commission shall accordingly pass an order of their disqualification under section 8E.

(inserted vide No. Leg. 21/2018 dated 19th April, 2018)

9. Election to the Corporation.—(1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Corporation, shall be vested in the State Election Commission consisting of a Election Commissioner to be appointed by the Governor.

(1A) The functions of the State Election Commission under the Constitution, this Act or the rules made there under may, subject to such general or special directions, if any, issued by the State Election Commissioner in this behalf, be performed by an officer authorized by the State Election Commissioner.

(2) The State Election Commission shall consult the Government before announcing the date of election so that the Government as well as the Corporation may, if so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission under Article 243K and 243ZA of the Constitution of India and this Act.

(3) In case of reconstitution of the Corporation on account of the expiry of its duration of five years, such date shall not be earlier than 120 days before the expiry of duration.

(4) In case of reconstitution of the Corporation on account of dissolution of the Corporation, where the remainder of the period for which the dissolved Corporation would have continued is six months or more than six months, such date shall not be later than two

months after the date of dissolution of the Corporation.

(5) In case of filling up of casual vacancy, as specified in section 13, where the remainder of the period for which the casual vacancy to be filled up is six months or more than six months, such date shall not be later than two months after the date of occurrence of such vacancy.

(6) Such election shall be conducted in the manner as may be prescribed.

10. Constitution and composition of wards Committees etc.—(1) The Government shall constitute wards committee consisting of one or more wards within the territorial area of the Corporation in the manner as may be prescribed.

(2) A member of the Corporation representing a Ward within the territorial area of the wards Committee shall be a member of the Wards Committee.

(3) Where a Wards Committee consists of ---

(a) one ward, the member representing that ward in the corporation ; or

(b) two or more wards, one of the member, representing such wards in the Corporation elected by the members of wards Committee, Shall be the Chairperson of that Ward, Committee.

(4) The Wards Committee constituted under this section shall be entrusted with such powers and functions as may be prescribed.

11. Reservation of seats.—(1) Seats shall be reserved for the Scheduled Castes in the Corporation and the number of seats so reserved shall bear, as nearly as may be, same proportion of the total number of seats to be filled by direct election in the Corporation, as the population of the Scheduled Castes in the Municipal area bears, to the total population of that area and such seats may be allotted by rotation to such wards having maximum population of persons belonging to Scheduled Castes.

(2) Not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes and such seats may be allotted by rotation and by lots amongst the wards reserved under sub-section (1).

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes) of the total number of seats to be filled by direct election in the Corporation, shall be reserved for women and such seat may be allotted by rotation and by lots to different wards in the Corporation except those falling under sub-sections (1), (2) and (4).

(4) Two seats in the corporation shall be reserved for the persons belonging to Backward Classes which shall be allotted in such wards as having maximum population of persons belonging to Backward Classes.

(5) The office of mayor shall be filled up from amongst the members belonging to the

general category, scheduled Castes, Backward Classes and women by rotation and by lots in the manner as may be prescribed.

(6) The reservation of seat under sub-section (1) and (2) and the filling up the offices of Mayor from the Scheduled Castes under subsection (5) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.

(7) The reservation of seats under sub-sections (1), (2), (4) and (5) shall be reviewed after every decennial census.

(8) The reservations as enumerated in this section shall be given effect to, through notification issued at the time of each election.

12. Right to vote.--- Every person whose name is, for the time being entered in the electoral roll for a ward shall be entitled to vote at an election of a number from that ward.

13. Filling of casual vacancies.—(1) Whenever a vacancy occurring by death, resignation or removal, or by vacation of a seat for any other reason, the vacancy shall be filled within six months of the occurrence of such vacancy :

Provided that no election shall be held to fill a casual vacancy occurring within six months prior to the holding of a general election:

“Provided further that the provisions of this section shall not apply in the case of vacancy occurred in the office of the Mayor.”.

(Proviso inserted vide Notification No. Leg.42/2020 dated 11th Dec., 2020)

(2) Every person elected or nominated to fill a casual vacancy shall be elected or nominated to serve for the remainder of his predecessor’s term of office.

(3) If the vacancy be a vacancy reserved for any category, the vacancy will be filled from the same category.

14. Publication of results of elections.--- (1) After the declaration of general election results, the names of **Mayor or** members shall be published in the Official Gazette by the State Election Commission not earlier than one week before the expiry of the duration of the existing Corporation:

(words “mayor or” added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

Provided that notification regarding by-election results shall be published in the Official Gazette by the State Election Commission forthwith.

(2) The names of persons nominated as members shall be published by the Government as specified under sub-section (3) of section 4 of this Act.

15. Election Petitions .-- (1) No election of a **Mayor or** member shall be called in question except by an election petition presented to the authority as may be prescribed within thirty days from the date of the publication of the result of the election under section

14.

(words "mayor or" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(2) An election petition calling in question any such election, may be presented on one or more of the grounds specified in section 18, 19, 20, 21 and 22 by any candidate at such election or by any elector of the ward concerned.

(3) A petitioner shall join as respondents to his petition all the candidates at the election.

(4) An election petition.---

(a) shall, contain a concise statement of the material facts on which the petitioner relies ;

(b) shall, with sufficient particulars, setforth 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.

16. Relief that may be claimed by the petitioner.—(1) A petitioner may claim –

(a) a declaration that the election of all or any of the returning candidates is void ; and

(b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.

(2) The expression 'returned candidate' means a candidate whose name has been published in the Official Gazette under section 14.

17. Grounds for declaring election to be void. --- (1) Subject to the provisions of sub-section (2), if the authority as may be prescribed, is of the opinion.—

(a) that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as a **Mayor or** member ; or

(words "mayor or" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(b) that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agent ; or

(c) that any nomination paper has been improperly rejected ; or

(d) that the result of the election in so far as it concerns a returned candidate has been materially affected:-

(i) by the improper acceptance of any nomination ; or

- (ii) by any corrupt practice committed in the interest of the returned candidate by a person other than the candidate or his agent or a person acting with the consent of such candidate or agent ; or
- (iii) by the improper acceptance or refusal of any vote or reception of any vote which is void ; or
- (iv) by the non-compliance with the provision of this Act, or any rules or orders made there under.

Such authority shall declare the election of the returned candidate to be void.

(2) If in the opinion of the prescribed authority, a returned candidate or his agent has been alleged to be guilty of any corrupt practice but the prescribed authority is satisfied---

- (a) that no such corrupt practice is committed at the election by the candidate, or such corrupt practice was committed contrary to the orders, and without the consent of the candidate ;
- (b) that the candidate took all reasonable means for preventing the commission of corrupt practices at the election ; and
- (c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents.

Such authority may decide that the election of the returned candidate is not void.

18. Procedure to be followed by the prescribed authority.--- The Procedure provided in the Code of Civil Procedure, 1908 in regard to suits, shall be followed by the prescribed authority, in the trial and disposal of an election petition under this Act.

19. Decision of prescribed authority.--- (1) At the conclusion of the trial of an election petition the prescribed authority shall make an order.---

- (a) dismissing the election petition ; or
- (b) declaring the election of all or any of the returned candidates to be void ; or
- (c) declaring the election of all or any of the returned candidates to be void and the petitioner and any other candidate to have been duly elected.

(2) If any person, who has filed an election petition, has in addition to calling in question the election of the returned candidate claimed declaration that he himself or any other candidate has been duly elected and the prescribed authority is of the opinion.—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes ;
or

- (b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes.

Such authority shall after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

20. Procedure in case of equality of votes.--- If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then the prescribed authority shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

21. Finality of decision.—(1) Save as otherwise provided an order of the prescribed authority on an election petition shall be final.

- (2) An election of a **Mayor or** member not called in question in accordance with the forgoing provisions shall be deemed to be a good and valid election.

(words "mayor or" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (3) Any person aggrieved by the order of the prescribed authority may file an appeal to the District Judge within a period of thirty days from the date of the order.

22. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes to this Act.---

- (1) Bribery as defined in sub-section (1) of section 123 of the Representation of the People Act, 1951.

- (2) Undue influence as defined in sub-section (2) of the said section.

- (3) An appeal by a candidate or his agent or by any other person with the consent of the candidate or his election agent to vote or refrain from voting on grounds of caste, race, community or religion or the use of or appeal to, religious symbols or, the use of or appeal to national symbols such as the national flag or the national emblem for the furtherance of the prospects of that candidate's election.

- (4) The publication by a candidate or his agent or by any other person with the consent of the candidate or his election agent of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

- (5) The hiring or procuring whether on payment or otherwise of any vehicle or vessel by a candidate or his agent or by any other person with the consent of the candidate or his election agent for conveyance of any elector (other than the candidate himself, and the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act :

Provided that the hiring of a vehicle for vessel by and elector or by several electors at

their joint costs for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

Provided further that the use of any public transport vehicle or vessel or any railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this sub-section the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

- (6) The holding of any meeting in which intoxicating liquors are served.
- (7) The issuing of any circular placard or poster having a reference to the election which does not bear the name and address of the printer and publisher thereof.
- (8) Any other practice which the Government may by rules specify to be corrupt practice.

23. Maintenance of secrecy of voting. -- (1) Every Officer or Clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election, shall maintain and laid in maintaining the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

- (2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.

23A. Voting machines at elections.—Notwithstanding anything contained in this Act or the rules made there under, the casting and recording of votes by voting machines in the Corporation may be adopted in such manner as the State Election Commission may, having regard to the circumstances of each case, specify.

Explanation.—For the purpose of this section "voting machine" means any machine or apparatus whether operated electronically or otherwise and used for casting or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made there under shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.

24. Officers etc. at elections not to act for candidates or to influence voting-

(1) No person who is a returning officer, or an assistant returning officer or a presiding officer or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election or a member of a police force, shall in the conduct or management of the election do any act (other than the giving of votes) for the furtherance of the prospects of the election of a candidate.

- (2) No such person as aforesaid shall endeavour-
 - (a) to persuade any person to give his vote at an election; or

- (b) to dissuade any person for giving his vote at an election; or
- (c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section(I) or sub-section(2) shall be punishable with imprisonment for a term which may extended to six months or with fine, or with both.

25. Prohibition of canvassing in or near polling station and of public meeting on election day.-(1) No person shall, on the date or dates on which the poll is to take at any polling station' commit any of the following acts within the polling station, or in any public or private place within a distance of hundred metres of the polling station, namely:-

- (a) canvassing for votes; or
- (b) soliciting the votes of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign(other than an official notice relating to the election.

(2) No person shall convene, hold or attend any public meeting within any ward on the date or dates on or at any time within twenty four hours preceding the start of the poll for an election in that ward.

(3) Any person who contravenes the provisions of sub-section(I) shall be punishable with fine which may extend to two hundred and fifty rupees.

(4) An offence committed under sub-section (I) shall be cognizable.

26. Penalty for disorderly conduct in or near polling station. --(1) No person shall, on the date or dates on which a poll is taken at any polling station-

- (a) use or operate within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker; or
- (b) shout or otherwise acts in a disorderly manner, within or at the entrance of the polling station, or in any pubic or private place in the neighbourhood thereof; so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officer and other persons on duty at the polling station.

(2) Any person who contravenes or wilfully aids or abets the contravention of the provisions of sub-section (1) shall be punishable with imprisonment for a term which may

extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force as may be reasonable necessary for preventing any contravention of the provisions of sub-section(I), any may seize any apparatus used for such contravention.

27. Penalty for mis-conduct at the polling station.---- (1) Any person who during the hours fixed for the poll at any polling station, misconducts himself or fails to obey the lawful directions of the presiding officer, may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section(I) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station, re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.

(4) An offence punishable under sub-section(3) shall be cognizable.

28. Breaches of official duty in connection with election. --- (1) if any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees. An offence punishable under this section shall be cognizable.

(2) No suit or other legal proceeding shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are returning officers assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election; and the expression Official duty shall for the purposes of this section be construed accordingly.

28A. Breach of official duty in connection with preparation of electoral rolls.- (1) If any person performs any official duty in connection with the preparation, revision or correction of the electoral roll or inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission for breach of such official duty, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) No suit or other legal proceedings shall lie against any such officer or other person for damages in respect of any actor omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the State Election Commission or the Deputy Commissioner of the district concerned.

29. Removal of ballot papers from polling station to be an offence. --- (I) Any person who at an election fraudulently takes or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section(1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for a safe custody to a police officer by the presiding officer or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An Offence punishable under sub-section(I) shall be cognizable.

30. Offence of booth capturing.--- Whoever commits an offence of booth capturing, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend two three years and with fine.

Explanation- For the purposes of this section, "booth capturing" includes, among other things, all or any of the following activities, namely:-

- (a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which effects the orderly conduct of election;
- (b) taking possession of polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;
- (c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll, to cast his vote.
- (d) Scizure of place for counting of votes by any person or person making the counting authorities surrender the ballot papers or voting machines and the doing of anything which effect the orderly counting of votes;

- (e) Doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at any such activity in the furtherance of the prospects of the election of a candidate.

31. Other offence and penalties. (1) A person shall be guilty of an electoral offence, if at any election he-

- (a) fraudulently defaces, destroys any nomination paper; or
- (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of the Returning Officer ; or
- (c) fraudulently defaces or destroys any ballot paper of the official mark on any ballot-paper or any declaration or identity or official envelopes used in connection with voting by postal ballot; or
- (d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper ; or
- (e) fraudulently puts into any ballot-box anything other than the ballot paper which he is authorised by law to put in ; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot paper then in the use for the purpose of the election ; or
- (g) fraudulently or without due authority, as the case may LatestLaws.com be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall-

- (a) If he is returning officer or an assistant returning officer or a presiding officer or a polling officer or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both;
- (b) If he is any other person, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of any election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election.

(4) An offence punishable under sub-section (2) shall be cognizable.

(5) No court shall take cognizance of any offence under section 25, under section 29, or

under clause (a) of sub-section (2) of this section unless there is a complaint made by order of, or under authority from the State Election Commissioner

32. Power to make rules regulating the election of mayor and members. (1) The Government may, in consultation with State Election Commission, make rules to provide for or regulate all or any of the following matters for the purpose of holding election of **mayor and** members under this Act, namely:-

(heading substituted and words "mayor and" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (a) qualifications of elector and the preparation, publication, correction and revision of electoral rolls;
- (b) the appointment of returning officer, assistant returning officers, presiding officers and polling officers for the conduct of elections;
- (c) the nomination of candidates, form of nomination papers, objections to nominations and scrutiny of nominations;
- (d) the deposits to be made by candidates, time and manner of making such deposits and the circumstances under which such deposits may be refunded to candidates or forfeited to the Corporation;
- (e) the withdrawal of candidature;
- (f) the appointment of agents of candidates;
- (g) the procedure in contested and uncontested elections;
- (h) the date, time and place for poll and other matters LatestLaws.com relating to the conduct of elections including –
 - (i) the appointment of polling stations for each ward;
 - (ii) the hours during which the polling station shall be kept open for the casting of votes; (iii) the printing and issue of ballot papers;
 - (iv) the checking of voters by reference to electoral poll;
 - (v) the marking with indelible ink of the left forefinger or any other finger or limb of the voter and prohibition of the delivery of the ballot paper to any person if at the time such person applies for such paper he has already such mark, so as to prevent personation of voters;
 - (vi) the manner in which votes are to be given and in particular in the case of illiterate voters or of voters under physical or other disability;
 - (vii) the procedure to be followed in respect of challenged votes and tendered votes;
 - (viii) the scrutiny of votes, counting of votes, the declaration of the results

and the procedure in case of equality of votes or in the event of a member being elected to represent more than one ward;

- (ix) the custody and disposal of papers relating to elections;
 - (x) the suspension of polls in case of any interruption by riot, violence or any other sufficient cause and the holding of a fresh poll;
 - (xi) the holding of a fresh poll in the case of destruction of or tampering with the ballot boxes before counting;
 - (xii) the countermanding of the poll in the case of the death of a candidate before the poll;
- (i) the requisitioning of premises, vehicles, vessels or animals, payment of compensation in connection with such requisitioning, eviction from requisitioned premises and release of premises from requisition;
 - (j) the fee to be paid on an election petition;
 - (k) any other matter relating to elections or election disputes which is to be prescribed or in respect of which the Government deems it necessary to make rules under this section or in respect of which this Act, makes no provisions or makes insufficient provision and provision is, in the opinion of the Government, necessary.

(2) Any person who contravenes the provisions of any rule framed under this section shall be punishable with fine which may extend to one thousand rupees.

33. Oath of affirmation by Mayor or member.--- (1) Every elected **Mayor or** member shall, before taking his seat, make and subscribe at a meeting of the Corporation an oath or affirmation according to the following form, namely :-

"I _____ having been elected as a **Mayor or** member of the Municipal Corporation of _____ do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.'.

(2) If a person sits or votes as a **Mayor or** member before he complied with the requirements of sub-section (1), he shall be liable in respect of each day on which he so sits or voted to a penalty of five hundred rupees to be recovered as an arrear of tax under this Act, and his vote will be considered invalid.

(Section 33 substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

34. Removal of and resignation by Mayor or member.--- (1) The Government may, by notification remove any **Mayor or** member, if in its opinion ---

- (a) he becomes subject to any of the disqualifications mentioned in section 8; or
- (b) he has flagrantly abused his position as a **Mayor or** member or has through

negligence or misconduct been responsible for the loss or misapplication of any money or property of the Corporation ; or

- (c) he has become physically or mentally incapacitated for performing his duties as a **Mayor or** member ; or
- (d) he absents himself during three successive months from the meetings of the Corporation ; or
- (e) he acts in contravention of the provisions of section 60; or
- (f) he has, since his election or nomination, become subject to any disqualification which, if it had existed at the time of his election or nomination, would have rendered him ineligible under any law for the time being in force regulating the qualifications of candidates for election or nomination.*

(Words after * omitted vide No. Leg. 20/2018 dated 19th April, 2018)

Provided that before making an order under this section, reasonable opportunity shall be given to the member to be heard and to show cause against such an order.

(2) If a **Mayor or** member resigns his seat by writing under his hand addressed to the Commissioner, he shall cease to be a **Mayor or** member on the date of acceptance of his resignation and his office shall thereupon fall vacant.

(Section 34 substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

[“34-A. Suspension of Mayor or Member. –(1) The Commissioner of the Division may, suspend **Mayor or** any member of a Corporation where-

(heading substituted and words “mayor or” added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (a) a case against him in respect of any criminal offence is under investigation, enquiry or trial, if in the opinion of the Commissioner of Division the charge made or proceedings taken against him, are likely to embarrass him in the discharge of his duties or involves moral turpitude or defect of a character;
- (b) during the course of an enquiry for any of the reasons for which he can be removed under section 34, after giving him a reasonable opportunity of being heard.

(2) A **Mayor or any** member suspended under sub-section (1) shall not take part in any act or proceedings of the Corporation during the period of suspension and shall hand over the records, money or any other property of the Corporation in his possession or under his control –

(words “a mayor or any member” added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

- (i) to Mayor, Senior Deputy Mayor or Deputy Mayor, as the case may be;
- (ii) in case the Mayor, Senior Deputy Mayor or Deputy Mayor are suspended, to such person as the Commissioner of the Division may appoint in this behalf.

“Provided that the suspension period of a mayor or member shall not exceed six months from the date of issuance of suspension order except in criminal cases involving normal turpitude:

Provided that if the mayor is suspended or removed or resigned from the post under the act, the officiating charge of the seat of mayor shall be given to the elected member of the same category having maximum number of members in his favour until the predecessor of mayor is elected or the existing mayor is reinstated:

Provided that if there is only one member from the category for which seat of mayor is reserved no question of maximum number of members in his favour shall be arise:

Provided that when the Mayor is absent from duty on account of illness or other cause, the senior Deputy Mayor, and in his absence Deputy Mayor shall act as Mayor.”.

(Provisos added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(3) Any person aggrieved by an order passed under sub-section (1) may, within a period of thirty days from the communication of the order, prefer an appeal to the Government.]

34B. Removal of Mayor or member having any disqualification at time of election.

– The State Election Commission may, after such enquiry, as it may deem fit or after giving an opportunity of being heard, by order, remove a **Mayor or** member, if he was having any disqualification mentioned in section 8 at the time of his election. The office of the **Mayor or** member so disqualified shall become vacant immediately.

(inserted vide No. Leg. 20/2018 dated 19th April, 2018 and substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

34-C. Removal of an elected Mayor or member who fails to lodge election expenditure statement. – If an elected **Mayor or** member fails to follow the provisions of sections 8E or G, he shall be removed by the State Election Commission after giving him an opportunity of being heard. The office of the member so disqualified shall become vacant immediately.

(inserted vide No. Leg. 20/2018 dated 19th April, 2018 and substituted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

34-D. Review. - A **mayor or** member so disqualified under section 34-B or 34-C may file an application for review of order before the State Election Commission within a period of forty-five days from the receipt of the order. The order passed by the State Election Commission under this section shall be final and no civil court shall have jurisdiction to

entertain a petition against such order.

(substituted inserted vide No. Leg. 20/2018 dated 19th April, 2018 and words " A mayor or member" added vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

35. Payment of allowances to members.-- The members shall be entitled to receive allowances for attendance at meetings of the Corporation and of its committees at such rate as may be notified by the Government in the Official Gazette.

36. Election of Senior Deputy Mayor, Deputy Mayor and their term of office.-

(1) **(Omitted)**

(2) The corporation shall also elect in the manner prescribed, two of its elected members to be the Senior Deputy Mayor and Deputy Mayor. The term of office of the Senior Deputy Mayor and Deputy Mayor shall be for a period of five years or for the residue period of their offices as a member, whichever is less:

Provided that if the office of the Senior Deputy Mayor or Deputy Mayor is vacated during his tenure on account of death, resignation or no confidence motion, a fresh election for remainder period shall be held within one month of the vacancy.

(3) **(Omitted)**

(4) **(omitted)**

(heading substituted and Sub-section (1), (3) & (4) Omitted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

37. Removal of Senior Deputy Mayor and Deputy Mayor.--- A member holding office as Senior Deputy mayor of Deputy Mayor may be removed from his office by a resolution of the Corporation passed by a majority of not less than two-thirds of the elected members of the Corporation, in the manner as may be prescribed.

(words " Mayor and Mayor or" deleted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

37A. Suspension of Senior Deputy Mayor and Deputy Mayor.— The Commissioner of the Division may suspend Senior Deputy Mayor and Deputy Mayor of a Corporation where –

(word " Mayor" deleted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(a) a case against him in respect of any criminal offence is under investigation enquiry or trail, if in the opinion of the Commissioner of the Division, the charge made or proceedings taken against him, are likely to embarrass him in the discharge of his duties or involves moral turpitude or defect of a character ;

(b) during the course of an enquiry for any of the reason for which he can be removed under section 37, after giving him a reasonable opportunity of being heard.

(2) A Senior Deputy Mayor or Deputy Mayor, as the case may be, suspended under sub-section (1), shall not take part in any act or proceedings of Corporation during the period of

suspension and shall hand over the records, money or any other property of the Corporation in his possession or under his control—

- (i) omitted;
- (ii) to Mayor if he is Senior Deputy Mayor and Deputy Mayor; and
- (iii) in case the Senior Deputy Mayor and Deputy Mayor are suspended to such person as Commissioner of Division may appoint in this behalf:

Provided that the suspension period of Senior Mayor and Deputy Mayor, as the case may be, shall not exceed six months from the date of issuance of suspension order except in criminal cases, involving moral turpitude.

(words "Mayor" where occurring and clause (i) deleted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(3) Any person aggrieved by an order passed under sub-section (1) may, within a period of thirty days from the communication of the order, prefer an appeal to the Government.

"37B. Motion of no-confidence against Mayor elected directly.— (1) A motion of no-confidence against the Mayor who has been elected directly in terms of sub-section (2) of section 4 shall be in writing and signed by not less than one-half of the total number of elected members along with a copy of the motion, which shall be delivered by any two of the members signing the notice to the concerned Divisional Commissioner:

Provided that for the purposes of calculating the number of the elected members, the Mayor shall be considered as an elected member.

(2) The Divisional Commissioner shall then convene a meeting of the elected members for the consideration of the motion to be held on the date and time appointed by him, by giving a clear notice in writing of not less than fourteen days:

Provided that members nominated under sub-section (3) of section 4 shall not be entitled to be present or vote in the meeting.

(3) As soon as the meeting convened under sub-section (2) has commenced, the Divisional Commissioner shall read to the elected members, the motion for the consideration and declare it to be open for discussion and he shall not speak on the merits of the motion or vote thereon.

(4) The motion shall be carried only when it has been passed by a majority of three-fourth of the total number of elected members and if such a motion is passed, the Mayor shall be deemed to have vacated his office.

(5) A copy of the minutes of the meeting along with a copy of the motion and the result of the voting thereon shall be forwarded forthwith by the Divisional Commissioner to the Government. The Government on receipt of the same, if no-confidence motion is passed, shall forward it to the State Election Commission for de-notification and to conduct fresh

elections for the post of the Mayor.

(6) In case motion is not passed, as referred to in sub-section (4) or if the meeting could not be held for want of quorum, no notice of any subsequent motion of no-confidence against the same Mayor shall be entertained, unless a period of six months from the date of such voting or the date of such meeting, as the case may be, has expired.

(7) If no-confidence motion is passed against the Mayor, the Senior Deputy Mayor or the Deputy Mayor, as the case may be, shall exercise the powers and discharge the functions of the Mayor till the new Mayor enters his office.

(Section 37B inserted vide Notification No. Leg. 42/2020 dated 11th Dec., 2020)

“37C. Discharge of functions of Mayor in case of vacancy.– (1) When the office of the Mayor is vacant by reason of illness, death, resignation or otherwise, the Senior Deputy Mayor and in his absence, the Deputy Mayor shall act as the Mayor until the Mayor enters the office.

(2) If due to any exigency, the Mayor or the Senior Deputy Mayor or the Deputy Mayor is unable to exercise the powers and discharge the functions of the Mayor as provided in sub-section (1), the Divisional Commissioner shall exercise the powers and discharge the functions of the Mayor till the Mayor, Senior Deputy Mayor or Deputy Mayor, as the case may be, enters the office.”.

(Section 37C inserted vide Notification No. Leg. 42/2020 dated 11th Dec., 2020)

38. Omitted

(Section 38 omitted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

39. Resignation of Deputy Mayors. -- (1) Omitted

(word “Mayor” from heading and sub sec. (1) deleted vide Notification No. Leg. 33/2018 dated 4th Oct., 2018)

(2) The Senior Deputy Mayor or the Deputy Mayor may, by writing under his hand addressed to the Mayor, resign his office.

(3) A resignation under sub-section (1) or sub-section (2) shall take effect from the date of its acceptance.

52. Meetings.-(1) The Corporation shall ordinarily hold at least one meeting in every month for the transaction of its business:

Provided that in addition to the aforesaid meeting, every Corporation shall hold atleast one meeting in every six months of a duration of not less than three days.

(Proviso inserted vide Notification No. Leg. 35/2019 dated 4th Sept., 2019)

(2) The Mayor or in his absence the Senior Deputy Mayor, and in the absence of both, the Deputy Mayor may, LatestLaws.com whenever he thinks fit, and shall upon a requisition in

writing by not less than one-fourth of the total number of members, convene a special meeting of the Corporation.

(3) Any meeting may be adjourned until the next or any subsequent date, and an adjourned meeting may be further adjourned in like manner.

164. Disposal of Property.-- With respect to the disposal of property belonging to the Corporation, the following provisions shall have effect, namely:-

(a) the Commissioner may, -

i) dispose of by sale or otherwise, any movable property belonging to the Corporation the value of which does not exceed twenty thousand rupees;

ii) grant a lease not exceeding a period of 10 years, of any immovable property belonging to the Corporation; or

iii) sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value of which does not exceed twenty thousand rupees or the annual rent of which does not exceed ten thousand rupees;

(b) in cases not covered by clause (a) the Commissioner may, with the sanction of the Government on recommendation of the Corporation, lease, sell, let out on hire or otherwise transfer any property movable or immovable belonging to the Corporation;

(c) the consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition;

Provided that in case of transfer of immovable property to Government Department by way of sale or lease or otherwise, the property may be transferred at "collector rate or any other concessional rate, as may be determined by the Government", subject to prior approval from the Government:

(Proviso inserted vide Notification No. Leg. 21/2018 dated 19th April, 2018 and words " " substituted vide Notification No. Leg. 42/2020 dated 11th Dec., 2020)

Provided further that in case of transfer of shop and house to individual, who is in possession of such property for the last twenty years, by way of rent or lease or otherwise, the property may be transferred at collector rate by way of sale, subject to prior approval of such authority, as may be prescribed:

(Proviso inserted vide Notification No. Leg. 21/2018 dated 19th April, 2018)

"Provided further that ownership rights in respect of shops and houses which

are on lease or rent or license fee or tehbazari or otherwise for the last twenty years or more, may be transferred by way of sale, on such terms and conditions, including the rate at which such ownership rights shall be transferred, as specified in the policy framed in this behalf by the Government, from time to time.”.

(Inserted vide Notification No. Leg. 42/2020 dated 11th Dec., 2020)

(ca) the consideration for which any immovable property may be sold, leased or otherwise transferred to social, religious or charitable institution, trust or social entities shall be as given below:-

Serial number	Nature of facility	Area	Tentative rate of sale
1	2	3	4
1.	Religious sites – the land of Municipal Corporation for the purpose of worship (Mandir, Gurudwara, Masjid, Church, etc.) and for Community Dharamshalas, Janjghar, Baratghar or community centres, etc.	upto 3000 square meters	(i) upto 2000 square meters, 50% of the Collector rate, proportionate cost of development of the area and other incidental charges thereto. (ii) for 2001-3000 square meters, 100% of the Collector rate, proportionate cost of development charges of the area and other incidental charges thereto.
2.	Nandi Shala, Gaushalas or stray cattle yard.	upto 5 acres	50% of the Collector rate, proportionate cost of development charges of the area and other incidental charges thereto:

Provided that the property shall be transferred by way of sale, lease or otherwise subject to prior approval of such authority, as may be notified by the Government.”.

(clause (ca) Inserted vide Notification No. Leg. 29/2020 dated 19th Sept., 2020)

(d) the sanction of the Government under the aforesaid clauses may be given either generally for any class of cases or specially for any particular case;

(e) subject to any condition or limitation that may be specified by or under, or for any purposes of this Act;

(f) every case of disposal of property under clause (a) shall be reported by the Commissioner without delay to the Corporation.

***346. Declaration of controlled area.--**(1) Notwithstanding anything to the contrary contained in the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Punjab Act 41 of 1963) and the Punjab New Capital (Periphery) Control Act, 1952 (Punjab Act 1 of 1953), the Director may, with the prior approval of the Government, by notification in the Official Gazette, declare any area within the Municipal area to be Controlled area in case any area within the Municipal area has already been declared as controlled area under the above said Acts, then it shall deemed to be controlled area for the purpose of this Act and if any plan has already been notified for such controlled area under the aforesaid Acts then it shall deemed to be the plan for the purposes of this Act.

Provided that the limits of local area exempted under section 15 of the Punjab New Capital (Periphery) Control Act, 1952 (Punjab Act 1 of 1953) from the purview of the said Act, which were earlier notified as controlled area and development plan was prepared shall deemed to be controlled area and plan for the purposes of this Act”.

(*substituted vide notification no. Leg.33/2018 dated 4th October, 2018)

(2) The Commissioner shall not later than six months from the date of declaration under sub-section (1), or within such further period as the Government may allow, prepare plans showing the controlled area and signifying therein the nature of restrictions and conditions proposed to be made applicable to the controlled area and submit the plans to the Government.

(3) Without prejudice to the generality of the powers specified in subsection (2) above, the plans may provide for any one or more of the following matters, namely:—

- (a) the division of any site into plots for the erection or re erection of any building and the manner in which such plots may be transferred to intending purchasers or lessees;
- (b) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, market and other public purposes;
- (c) the development of any site into a colony and the and conditions subject to which such development

- (d) the erection or re-erection of buildings on any Site and the restrictions and conditions in regard to the open to sky height character of buildings;
- (e) the alignment of buildings on any site;
- (f) the architectural features of the elevation or frontage of
- (g) the amenities to be provided in relation to any site or building on such site whether before or after the erection or erection of buildings on such site and the person or authority by whom such amenities are to be provided;
- (h) the prohibition or restriction regarding erection or re-erection of shops, workshops, warehouses or factories or buildings of a specified architectural feature or buildings designed for particular purposes in any locality;
- (i) the maintenance of walls, fences, hedges, or any other structural or architectural construction and the height at which they shall be maintained;
- (j) the restrictions regarding the use of any site for purposes other than the erection or re-erection of buildings;
- (k) any other matter which is necessary for the proper planning of any controlled area and for preventing buildings being erected or re-erected haphazardly in such area.

(4) The Government may either approve the plans without modifications or with such modifications as it may consider necessary or reject the plans with directions to the Commissioner to prepare fresh plans according to such directions.

(5) The Commissioner shall cause to be published by notification the plans approved by Government under sub-section (4) for the purpose of inviting objections thereon.

(6) Any person within thirty days from the date of publication of the notification under sub-section (5) send to the Commissioner, his objections and suggestions in writing, if any, in respect of such plans and the Commissioner shall consider the same and forward them with his recommendations to the Government within a period of sixty days from the aforesaid date.

(7) After considering the objections, suggestions and representations, if any, and the

recommendations of the Commissioner thereon, the Government shall decide as to the final plans showing the controlled area and signifying therein the nature of restrictions and conditions applicable to the controlled area and publish the same in the Official Gazette and in such other manner as may be prescribed.

(8) Provision may be made by rules made in this behalf with respect to the form and content of the plans and with respect to the procedure to be followed, and any other matter in connection with the preparation, submission and approval of the plans.

(9) Subject to the foregoing provisions of this section, the Government may direct the Commissioner to furnish such information as the Government may require for the purpose of approving the plans submitted to it under this section.

***350D Effect of other laws --.** The acts already done under the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Punjab Act 41 of 1963) and the Punjab new capital (Periphery) controlled act 1952 (Punjab Act 1 of 1953), within the Municipal area shall be deemed to have been validly done under this Act.

(*inserted vide notification no. Leg.33/2018 dated 4th October, 2018)

421. Repeal and saving. (1) As from the commencement of this Act the Faridabad Complex (Regulation and Development) Act, 1971, shall stand repealed.

(2) Notwithstanding any thing contained in sub-section (1)-

(a) any appointment, notification, order, scheme, rule, form, notice, or bye-law made or issued, and any licence or permission granted under the Faridabad Complex (Regulation and Development) Act, 1971 and in force immediately before the commencement of this Act shall, in so far as it is not inconsistent with the provisions of this Act continue to be in force and deemed to have been made, issued or granted under the provisions of this Act, unless and until it is superseded by any appointment notification, order, scheme, rule, form, notice or bye-law made or issued or any licence or permission granted under the said provisions;

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by with or for the administration of LatestLaws.com the Faridabad Complex, before such commencement, shall be deemed to have been incurred, entered onto or engaged to be done by with

or for the Corporation;

(c) all budget estimates, assessments, valuations, measurements or divisions made by the administration of the Faridabad Complex shall, in so far they are not inconsistent with the provisions of this Act continue in force and to be deemed to have been made under the provisions of this Act unless and until they are superseded by any budget estimate, assessment, valuation, measurement or division made by the Corporation under the said provisions;

(d) all properties, movable and immovable and all interests of whatsoever nature and kind therein, vested in the administration of the Faridabad Complex immediately before such commencement, shall with all rights of whatever description used, enjoyed or possessed by the administration of Faridabad Complex, vest in the Corporation;

(e) all rates, taxes, fees, rents and other sums of money due to the administration of the Faridabad Complex immediately before such commencement, shall be deemed to be due to the Corporation;

(f) all rates, taxes, fees, rents, fares and other charges shall, until and unless they are varied by the Corporation continue to be levied at the same rate at which they were being levied by the aforesaid administration of the Faridabad Complex immediately before such commencement;

(g) all suits, prosecutions, land acquisition proceedings instituted or which might have been instituted by or against the administration of the Faridabad Complex may be continued or instituted by or against Corporation; and

(h) all proceedings and appeals pending before any authority of the Faridabad Complex before such commencement, shall be deemed to have been instituted before the Commissioner and shall be continued by him or transferred to another authority under the provisions of this Act.

(3) Notwithstanding anything contained in the Haryana Municipal Corporation (Second Amendment) Act, 2018, appointment, removal or suspension of person elected as Mayor of Municipal Corporation before coming into force of the Haryana Municipal Corporation (Second Amendment) Act, 2018 or filling up of any post/office vacated by such person shall continue to be governed by the respective provisions of the Haryana Municipal Corporation Act, 1994 that existed immediately prior to the coming of the Haryana Municipal Corporation (Second Amendment) Act, 2018 into force.

All the acts done/proceedings instituted or which might have been instituted or shall be instituted against any of the person elected as Mayor of Municipal

Corporation prior to coming into force of the Haryana Municipal Corporation (Second Amendment) Act, 2018 shall continue to be governed by the respective provisions of the Haryana Municipal Corporation Act, 1994 that existed immediately prior to the coming of the Haryana Municipal Corporation (Second Amendment) Act, 2018 into force.”.

(*sub section (3) inserted vide notification no. Leg.29/2020 dated 19th Sept., 2020)

