

**THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT,
1949**

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CHAPTER I PRELIMINARY

1. Short title, extent and commencement : (1) This Act may be called the Bombay Provincial Municipal Corporations Act, 1949.

(2) It extends to the areas of Municipal Corporations constituted or deemed to be constituted under the Act.

2. Definitions : In this Act, unless there be something repugnant in the subject or context,

(1) "Appendix" means an Appendix to this Act.

(2A) "approved co-operative bank" means such co-operative Bank registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, as may be approved by the State Government by general or special order;

(2B) "Assembly Constituency" means a constituency provided by law for the purpose of elections to the Maharashtra Legislative Assembly, or any part thereof which is for the time being comprised in the City;

(2C) "Assembly roll" means the electoral roll prepared for any Assembly constituency in accordance with the provisions of the Representation of the People Act, 1950;

(3) "bakery or bake-house" means any place in which bread, biscuits or confectionery are baked, cooked or prepared in any manner whatsoever for the purposes of sale or profit;

(3A) "Backward Class of citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes;

(4) "budget grant" means the total sum entered on the expenditure side of a budget estimate under a major head as prescribed by rules and adopted by the Corporation, and includes any sum by which such budget grant may be increased or reduced by a transfer from or to other heads in accordance with the provisions of this Act and rules;

(5) "building" includes a house, out-house, stable, shed, but and other enclosure or structure whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or otherwise, and also includes verandahs, fixed platforms, plinths, doorsteps, walls including compound walls and fencing and the like;

(5A) "business" includes,-

(a) any trade, commerce, profession, consumption or manufacture or any adventure or concern in the nature of trade, commerce, profession, consumption or manufacture whether or not such trade, commerce, profession, consumption, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, profession, consumption, manufacture, adventure or concern and whether or not there is any volume, frequency, continuity or regularity in such trade, commerce, profession, consumption, manufacture, adventure or concern;

(b) any transaction in connection with, or incidental or ancillary to, such trade, commerce, profession, consumption, manufacture, adventure or concern, whether or not such transaction is in respect of capital assets and whether or not it is effected with motive to make gain or profit and whether or not any gain or profit accrues from such transaction, and whether or not, there is any volume, frequency, continuity or regularity in such transaction;

(c) any occasional transaction in the nature of such trade, commerce, profession, consumption, manufacture, adventure or concern involving import, purchase or sale of goods in the City, whether or not there is any volume, frequency, continuity or regularity to such transaction and whether or not such transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction;

(d) any transaction in connection with, or incidental or ancillary to, the commencement or closure of such trade, commerce, profession, consumption, manufacture, adventure or concern, whether or not such transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction.

Explanation.- For the purposes of this clause, the activities of raising of man-made forests or rearing of seedlings or plants shall be deemed to be a business;"

(6) "by-law" means a by-law made under section 458;

(6A) "cess" means a cess on the entry of goods into the limits of the City for consumption, use or sale therein levied in accordance with the provisions of Chapter XI-A, but does not include octroi as defined in clause (42).

(7) "cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

(8) "City" means the larger urban area specified in a notification issued in respect thereof under clause (2) of Article 243-Q of the Constitution of India or under sub-section (2) of section 3 of the Act, forming a City;

(9) "the Commissioner" means the Municipal Commissioner for the City appointed under section 36 and includes an acting Commissioner appointed under section 39;

(10) "Corporation" means the Municipal Corporation constituted or deemed to have been constituted for a larger urban area known as a City;

(11) "Councillor" means a person duly elected as a member of the Corporation; and includes a nominated Councillor who shall not have the right-

(i) to vote at any meeting of the Corporation and Committees of the Corporations; and

(ii) to get elected as a Mayor of the Corporation or a Chairperson of any of the Committees of the corporation.

(12) "cubical contents" when used with reference to the measurement of a building means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest storey or where the building consists of one storey only, the upper surface of its floor;

(13) "dairy" includes any farm, cattle-shed, milk store, milk shop, or other place from where milk is supplied for sale or in which milk is kept for the purposes of sale or manufactured into butter, ghee, cheese, curds or dried or condensed milk for sale and, in the case of a dairyman who does not occupy any place for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk but does not include a shop or other place in which milk is sold for consumption on the premises only;

(14) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or intended to be offered for sale for human consumption, and any purveyor of milk and any occupier of a dairy;

(15) "dairy produce" includes milk, butter, ghee, curd, butter milk, cream, cheese and every product of milk;

(16) "dangerous disease" means cholera, plague, smallpox or any other epidemic or infectious disease by which the life of human beings is endangered and which the Corporation may from time to time by public notice declare to be a dangerous disease;

(16A) "dealer" means any person who whether for commission, remuneration or otherwise imports, buys or sells any goods in the City for the purpose of his business or in connection with or incidental to his business, and includes,

- (a) a factor, broker, commission agent, del credere agent or any other mercantile agent, by whatever name called, and whether or not of the same description as hereinbefore specified who buys, sells, supplies, distributes or imports any goods in the City, belonging to any principal or principals whether disclosed or not;
- (b) an auctioneer, who sells or auctions goods in the City, belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;
- (c) the Central Government or any State Government which (whether or not while carrying on business) buys, sells, supplies, distributes or imports goods directly or otherwise, for commission, remuneration or otherwise;
- (d) a society, club or other association of persons (whether incorporated or not) which, whether while carrying on business or not, imports, buys, sells, supplies or distributes goods whether for or on behalf of its members or not, for cash or for deferred payment or, for commission, remuneration or otherwise.

Explanation.- For the purposes of this clause,-

(A) a manager or agent of a non-resident dealer residing in the City who imports, buys, sells, supplies or distributes goods in the City or acts on behalf of such dealer as-

- (a) a mercantile agent as defined in the Sale of Goods Act, 1930, or
- (b) an agent for handling of goods or documents of title relating to goods, or
- (c) an agent for the collection or the payment for the sale price of goods shall be deemed to be a dealer or as a guarantor for such collection or payment;

(B) each of the following persons and bodies who disposes of any goods including goods as unclaimed or confiscated or an unserviceable or as scrap, surplus, old, obsolete or discarded material or water products whether by auction or otherwise directly or through an agent for cash, or for deferred payment, or for any other valuable consideration, shall, notwithstanding anything contained in clause (5A) of any other provisions of this Act, be deemed to be a dealer, namely:-

- (a) Port Trusts;
- (b) Municipal Corporations, Municipal Councils, Zilla Parishads and other local authorities;

- (c) Railway administration as defined under the Indian Railways Act, 1890;
- (d) Shipping, Transport and Construction Companies;
- (e) Air Transport Companies and Airlines;
- (f) Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1988 which are used or adapted to be used for hire or reward;
- (g) Maharashtra State Road Transport Corporation constituted under the Road Transport Corporations Act, 1950;
- (h) Customs Department of the Government of India administering the Customs Act, 1962;
- (i) Insurance and Financial Corporations or Companies, and Banking Companies;
- (j) Advertising agencies;
- (k) any other Corporations, Company, Body or Authority owned or set-up by, or subject to administrative control of, the Central Government or any State Government.

Exception.- (i) Any individual who imports goods for his exclusive consumption or use and a department of State or Central Government not engaged in business shall not be a dealer;

(ii) An agriculturist who sells exclusively agricultural produce grown on the land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause.

(17) “drain” includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush-tank, septic tank or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waster water, rain water, or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting expelling or removing sewage or offensive matter from any place;

(18) “eating house” means any premises to which the public or any sections of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;

(19) “essential services” means any services in which any Municipal Officer, servant or other person is employed by or on behalf of the Corporation and which are specified in the rules;

(20) “factory” means a factory as defined in the Factories Act, 1948;

(21) “filth” includes sewage, night soil and all offensive matter;

(21A) “Finance Commission” means the Finance Commission constituted in accordance with the provisions of Article 243-I of the Constitution of India;

(22) “food” includes every article used for food or drink by man other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food and also includes confectionery, flavouring and colouring matters and speices and condiments;

(23) “form” means a form appended to the rules;

(24) “frame building” means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;

(25) “goods” includes animals;

(26) “house-drain” means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating there from with a municipal drain;

(27) “house gully” or “service passage” means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom;

(28) “hut” means any buildings which is constructed principally of wood, mud, leaves, grass, cloth or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the Corporation may declare to be a hut for the purposes of this Act;

(28A) “importer” means a person who brings or causes to be brought any goods into the limits of the City from any place outside the area of the City for use, consumption or sale therein;

(29) “the Judge” means in the City of Pune the Judge of the Court of Small Causes, and in any other City the Civil Judge (Senior Division) having jurisdiction in the City;

(30) “land” includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(30A) “larger urban area” means an area specified as a larger urban area in a notification issued under clause (2) of Article 243-Q of the Constitution of India or under the Act;

(31) “licensed plumber” “licensed surveyor” “licensed architect” “licensed engineer”, “licensed structural designer”, and “licensed clerk of works”, respectively, means a person licensed by the Corporation as a

plumber, surveyor, architect engineer, structural designer or a clerk of works under this Act;

(32) “lodging house” means a building or a part of a building where lodging with or without board or other service is provided for a monetary consideration;

(33) “market” means any place where persons assemble for the sale of, or for the purpose of exposing for sale, live-stock or food for live-stock or meat, fish, fruit, vegetables, animals intended for human food or any other articles of human food whatever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business or the persons frequenting the market by the owner of the place or any other person;

(34) “masonry building” means any building other than a frame building or a hut and includes any structure, a substantial part of which is made of masonry or of steel, iron or other metal;

(35) “municipal drain” means a drain vested in the Corporation;

(36) “municipal market” means a market vested in or managed by the Corporation;

(37) “municipal slaughter house” means a slaughter house vested in or managed by the Corporation;

(38) “municipal tax” means any impost levied under the provisions of this Act;

(39) “municipal water-works” means water-works belonging to or vesting in the Corporation;

(40) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injuries to health or property;

(41) “occupier” includes,-

- (a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,
- (b) an owner living in or otherwise using his land or building,
- (c) a rent-free tenant,
- (d) a licensee in occupation of any land or building, and
- (e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(42) “octroi” means a cess on the entry of goods into the limits of a city for consumption, use or sale therein; but does not include a cess as defined in clause (6A)

(43) “offensive matter” includes animal carasses, dung dirt and putrid or putrifying substances other than sewage.

(44) “official year” means the year commencing on the first day of April;

(45) “owner” means,-

(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let and includes,-

(i) an agent or trustee who receives such rent on account of the owner

(ii) an agent or trustee who receives the rent of, or is entrusted with or concerned for, any premises devoted to religious or charitable purposes.

(iii) a Receiver, Sequestrator or Manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises; and

(iv) mortgage-in-possession, and

(b) when used with reference to any animal, vehicle or boat includes the person for the time being in charge of the animal, vehicle or boat;

(46) “premises” includes messuages, buildings and lands of any tenure whether open or enclosed, whether built on or not and whether public or private;

(46A) “prescribed” means prescribed by rules

(47) “private street” means a street which is not a public street;

(48) “privy” means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;

(49) “property tax” means a tax on buildings and lands in the City;

(50) “public place” includes any public park or garden or any ground to which the public have or are permitted to have access;

(51) “public securities” means,-

(a) securities of the Central Government or any State Government,

- (b) securities, stocks, debentures or share the interest whereon has been guaranteed by the Central or the State Government,
 - (c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by any enactment for the time being in force in any part of the territory of India,
 - (d) securities expressly authorized by any order which the State Government makes in this behalf;
- (52) “public street” means any street,-
- (a) heretofore levelled, paved, metalled, channelled, sewerred or repaired out of municipal or other public fund, or
 - (b) which under the provisions of section 224 is declared to be, or under any other provision of this Act becomes, a public street.
- (53) “rack rent” means the amount of the annual rent for which the premises with reference to which the term is used might reasonably be expected to let from year to year as ascertained for the purpose of fixing the rateable value of such premises.
- (54) “rateable value” means the value of any building or land fixed in accordance with the provisions of this Act and the rules for the purpose of assessment to property taxes;
- (54A) “registered dealer” means a dealer registered under section 152F;
- (55) “regulation” means a regulation made under section 465;
- (56)(a) a person is deemed to “reside” in any dwelling which, or some portion of which he sometimes uses, whether interruptedly or not as a sleeping apartment, and
- (b) a person is not deemed to cease to “reside” in any such dwelling merely because he is absent from it or has elsewhere another dwelling in which he resides if there is the liberty of returning to it at any time and no abandonment of the intention of returning to it;
- (57) “rubbish” includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse of any kind which is not offensive matter or sewage;
- (58) “rules” include rules in the Schedule D and rules made under sections 454 and 456;
- (59) “Schedule” means Schedule appended to this Act.
- (59A) “scheduled bank” means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(59B) “Scheduled Castes” means such castes, races or parts of, or groups within, such castes, races or tribes as are deemed to be the Scheduled Castes in relation to the State of Maharashtra under Article 341 of the Constitution of India;

(59C) “Scheduled Tribes” means such tribes or tribal communities or parts of, of groups within, such tribe or tribes or tribal communities as are deemed to be the Scheduled tribe in relation to the State of Maharashtra under Article 342 of the Constitution of India;

(60) “sewage” means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted ware from sinks, bathrooms, stables, cattle-sheds and other like places, and includes trade effluent and discharges from manufacturers of all kinds;

(61) “special fund” means a fund constituted under section 91;

(62) “standing order” means an order made under section 466;

(62A) “State Election Commission” means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of Article 243-K of the Constitution of India;”

(63) “street” includes any highway, and any cause way, bridge, viaduct, arch, road, lane, footway, sub-way, court, alleay or riding parth or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years, and, when there is a footway as well as a carriage way in any street, the said term includes both;

(64) “sweetmeat shop” means any premises or part of any premises used for the manufacture, treatment or storage for sale, or for the sale, wholesale or retail of any icecream, confections or sweetmeats whatsoever, for whomsoever intended, and by whatsoever name the same may be known, and whether the same may be for consumption on or outside the premises;

(65) “theatre tax” means a tax on amusements or entertainments;

(66) “trade effluent” means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage;

(67) “trade premises” means any premises used or intended to be used for carrying on any trade or industry;

(68) “trade refuse” means and includes the refuse of any trade, manufacture or business;

(69) “Transport Manager” means the Transport Manager of the Transport Undertaking appointed under section 40 and includes an acting Transport Manager appointed under section 41;

(70) “Transport Undertaking” means all undertakings acquired, organized, constructed, maintained, extended, managed or conducted by the Corporation for the purpose of providing mechanically propelled transport facilities for the conveyance of the public and includes all movable and immovable property and rights vested or vesting in the Corporation for the purposes of every such undertaking;

(70A) “Turnover of purchases” means the aggregate of the amount of purchase price paid and payable by a dealer or a person in respect of any purchase of goods made by him during a given period, after deducting the amount of purchase price, if any, refunded to the dealer or the person by the seller in respect of any goods purchased from the seller and returned to him within a period of six months;

(70B) “turnover of sales” means the aggregate of the amount of sale price received and receivable by a dealer or a person in respect of any sale of goods made during a given period after deducting the amount of sale price, if any refunded by him to a purchaser, in respect of any goods purchased any returned by the purchaser to him within a period a six months and where the registration certificate is cancelled the amount, in respect of sales made before the date on which the cancellation became effective, received or receivable after such date;

(71) “vehicle” includes a carriage, a cart, van, dray, truck, hand-cart, bicycle, tricycle, motor car, and every wheeled conveyance which is used or is capable of being used on a street;

(71A) “Wards Committee” means a Wards Committee constituted under section 29A of this Act.

(72) “water-closet” means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism by automatic action;

(73) “water-connection” includes –

- (a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with water-main or pipe belonging to the Corporation; and
- (b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water – main or pipe.

(74) “water-course” includes any river, stream, or channel whether natural or artificial;

(75) “water for domestic purposes” shall not include water for cattle, or for horses, or for washing vehicles, when the cattle, horses or vehicles are kept for sale or hire, or by a common carrier, and shall not include water for any trade, manufacture or business, or for building purposes, or for watering gardens, or for fountains or for any ornamental or mechanical purposes;

(76) ‘water-work’ includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, mainpipe, culvert, engine, water-truck, hydrant, stand-pipe, conduit, and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply.

3. Specification of larger urban areas and constitution of Corporation. (1) The Corporation for every City constituted under this Act existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994, specified as a larger urban area in the notification issued in respect thereof under clause (2) of Article 243-Q of the Constitution of India, shall be deemed to be duly constituted Municipal Corporation for the larger urban area so specified forming a City, known by the name “The Municipal Corporation of the City of

(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of Article 243-Q of the Constitution of India, specify by notification in the *Official Gazette*, and urban area with a population of not less than three lakhs as a larger urban area.

(3)(a) subject to the provisions of sub-section (2), the State Government may also from time to time after consultation with the Corporation by notification in the *Official Gazette*, alter the limits specified for any larger urban area under sub-section (1) or sub-section (2) so as to include therein, or to exclude therefrom, such area as is specified in the notification.

(b) Where any area is included within the limits of the larger urban area under clause (a) any appointment, notifications, notices, taxes, orders, schemes, licences, permissions, rules, by-laws or forms made, issued, imposed or granted under this Act or any other law, which are for the time being in force in the larger urban area, shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise provided in section 129A or any other provision of this Act, apply to and be in force in the additional area also from the date that area is included in the larger urban area.

(4) The power to issue a notification under this section shall be subject to the condition of previous publication.

CHAPTER II
CONSTITUTION
Municipal Authorities

4. Municipal Authorities charged with execution of the Act : (1) The Municipal Authorities charged with carrying out the provisions of this Act are for each City --

- (A) a Corporation;
- (B) a Standing Committees; and
- (C) a Municipal Commissioner;

and, in the event of the Corporation establishing or acquiring a Transport Undertaking,

- (D) a Transport Committee;
- (E) a Transport Manager.

(2) The duties imposed on the Corporation in respect of primary education shall be performed in accordance with the provisions of the Bombay Primary Education Act, 1947, and for the purposes of the said Act the Corporation shall be deemed to be an authorised municipality within the meaning of the said Act with power to control all approved schools within the City, and to appoint an Administrative Officer.

5. Constitution of Corporation : (1) Every Corporation shall, by the name of "The Municipal Corporation of the City of, " be a body corporate and have perpetual succession and a common seal and by such name may sue and be sued.

- (2) Each Corporation shall consist of, -
 - (a) such number of Councillors, elected directly at ward elections, as is specified in the table below:-

TABLE

Population	Number of Councillors
(i) Above 3 lakhs and upto 6 lakhs	The minimum number of elected Councillors shall be 65. For every additional population of 15,000 above

3 lakhs, one additional Councillor shall be provided, so however that the maximum number of elected Councillors shall not exceed 85.

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| (ii) | Above 6 lakhs and upto 12 lakhs | The minimum number of elected Councillors shall be 85.
For every additional population of 20,000 above 6 lakhs, one additional Councillor shall be provided, so however that the maximum number of elected councillors shall not exceed 115. |
| (iii) | Above 12 lakhs and upto 24 lakhs. | The minimum number of elected Councillors shall be 115.
For every additional population of 40,000 above 12 lakhs, one additional Councillor shall be provided, so however that the maximum number of elected Councillors shall not exceed 145. |
| (iv) | Above 24 lakhs | The minimum number of Councillors shall be 145.
For every additional population of 1 lakh, one additional Councillor shall be provided, so that, the maximum number of elected Councillors shall be 221; |
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(b) such number of nominated Councillors not exceeding five, having special knowledge or experience in Municipal Administration, to be nominated by the Corporation in such manner as may be prescribed;

(3) The State Election Commissioner shall, from time to time, by notification in the Official Gazette, specify for each City the number and boundaries of the wards into which such City shall be divided for the purpose of the ward election of Councillors, so that, as far as practicable, all wards shall be compact areas and the number of persons in each ward according to the latest census figures shall approximately be the same. Each of the wards shall elect only one Councillor:

Provided that no notification issued under sub-section (3) whether before or after the commencement of the Maharashtra Municipal Corporation, Municipal Councils, Nagar Panchayats and Industrial Townships (Third Amendment) Act, 1995, shall have effect except for the general election held next after the date thereof and for subsequent elections.

Provided also that, before any notification is issued under sub-section (3), a draft thereof shall be published in the Official Gazette, and in such other manner as in the opinion of the State Election Commissioner is best calculated to bring the information to the notice of all persons likely to be affected thereby, together, with a notice specifying the date on or before which any objections or suggestions will be received, and the date after which the draft will be taken into consideration.

Explanation II.- In this sub-section and sub-section (4), "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal

communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under Article 342 of the Constitution of India.

5A. Reservation of seats.: (1)(a) In the seats to be filled in by election in a Corporation, there shall be seats reserved for persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women, as may be determined by the State Election Commissioner, in the prescribed manner;

(b) the seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in a Corporation shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in that Corporation area bears to the total population of that area and such seats shall be allotted by rotation to different electoral wards in a Corporation :

Provided that one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes :

Provided further that, where only one seat is reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes then no seat shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes and where only two seats are reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes.

(c) the number of seats to be reserved for persons belonging to the category of Backward Class of citizens shall be twenty-seven per cent of the total number of seats to be filled in by election in a Corporation and such seats shall be allotted by rotation to different electoral wards in a Corporation :

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

(d) one-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the category of Backward Class of citizens) of the total number of seats to be filled in by direct election in a Corporation shall be reserved for women and such seats shall be allotted by rotation to different electoral wards in a Corporation.

(2) The reservation of seats, (other than the reservation for women) under clause (b) of sub-section (1) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.

6. Duration of Corporation : (1) Every Corporation, unless sooner dissolved, shall continue for a period of five years from the date appointed for its first meeting and no longer.

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

6A. Term of office of Councillors : The term of office of the Councillors shall be co-terminus with the duration of the Corporation.

6B. Election to constitute a Corporation : An election to constitute a Corporation shall be completed, -

- (a) before the expiration of its duration specified in sub-section (1) of section 6; or
- (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.

7. Resignation of office by Councillor : Any Councillor may resign his office at any time by notice in writing to the Commissioner and, on such notice being given, his office shall become vacant as from the date of the notice.

Municipal Election Roll

7A. Preparation of municipal election roll : The Assembly roll for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to the different wards in the City; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorised by him, shall be the ward roll for each ward.

7B. Enrolment in municipal election roll :- Every person whose name is included in any ward roll shall be deemed to be enrolled in the municipal election roll.

Qualifications and disqualifications of Voters and Councillors

8. Persons qualified to vote : Every person whose name is in a ward roll, shall be deemed to be entitled to vote at the ward election, and every person whose name is not in the said roll shall be deemed to be not entitled so to vote.

9. Qualification for election as Councillor : (1) Subject to the provisions of this Act, a person who is not less than twenty-one years of age on the last date fixed for making nominations for any general election or by-election and is enrolled in the municipal election roll as a voter for a ward shall be qualified to be a Councillor and to be elected either from such ward or from any other ward.

(2) Any person who ceases to be a Councillor shall, if qualified under sub-section (1), be eligible for re-election as such.

10. Disqualification for being a Councillor : (1) Subject to the provisions of sections 13 and 404, a person shall be disqualified for being elected and for being a Councillor, if such person --

(ai) has, at any time after the commencement of section 5 of the Maharashtra Municipal Corporations (Amendment) Act, 1970, been convicted of an offence punishable under section 153A or sub-section (2) or (3) of section 505 of the Indian Penal Code, 1860 :

Provided that, such disqualification shall be for a period of six years from the date of such conviction;

(a ii) has been so disqualified by or under any law;

(i) for the time being in force for the purpose of elections to the Legislature of the State :

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(ii) made by the Legislature of the State of Maharashtra; or

(a) has been convicted by a Court in India of any offence involving moral turpitude, unless a period of six years has elapsed since the date of such conviction; or

Provided that, on the expiry of such sentence, the disqualification incurred under this clause shall cease :

Provided further that the expiry of such sentence shall not entitle the person to continue as a councillor or to stand for election for election at any bye-election held during the remainder of the current term of office of the councillors;

- (b) is undischarged insolvent;
- (c) holds the office of Commissioner or any other office or place of profit under the Corporation;
- (d) is a licensed surveyor, architect or engineer, structural designer, clerk of works or plumber or a member of a firm of which any such licensed person is a member
- (e) holds any judicial office with jurisdiction within the limits of the City;
- (f) subject to the provisions of sub-section (2), has directly or indirectly by himself or his partner any share or interest in any contract or employment with, by or on behalf of the Corporation;
- (g) having been elected a Councillor is retained or employed in any professional capacity either personally or in the name of a firm in which he is a partner or with whom he is engaged in a professional capacity in connection with any cause or proceeding in which the Corporation or the Commissioner or the Transport Manager is interested or concerned; or
- (h) fails to pay arrears of any kind due to the Corporation by him otherwise than as a trustee, within three months after a special notice in this behalf has been served on him by the Commissioner.
- (i) has more than two children :

Provided that, a person having more than two children on the date of commencement of the Maharashtra Municipal Corporations and Municipal Councils, Nagar Panchayats and Industrial Townships (Second Amendment) Act, 1995 (hereinafter in this clause (referred to as "the date of which commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase :

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause.

Explanation : For the purposes of this clause, -

- (i) where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity;
- (ii) "child" does not include an adopted child or children.

(1A) A person shall be disqualified for being a Councillor, if such person has, at any time during the term of his office, become disqualified under the Maharashtra Local Authority Member's Disqualification Act, 1986 for being a Councillor.

(2) A person shall not be deemed to have incurred disqualification under clause (f) of sub-section (1) by reason only of his, -

- (a) receiving a municipal pension;
- (aa) any relation being employed with, by or on behalf of the Corporation, as an officer or servant thereof;
- (b) having any share or interest in
 - (i) any lease, sale, exchange or purchase of land or any agreement for the same;
 - (ii) any agreement for the loan of money or any security for the payment of money only;
 - (iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted;
 - (iv) any Joint Stock Company or any society, registered or deemed to be registered under the Bombay Cooperative Societies Act, 1925, which shall contract with or be employed by the Commissioner or the Transport Manager on behalf of the Corporation;
 - (v) the occasional sale to the Commissioner or Transport Manager on behalf of the Corporation of any article in which he regularly trades to a value not exceeding in the aggregate in any one official year two thousand rupees; or
 - (vi) the occasional letting out on hire to the Corporation or in the hiring from the Corporation of any article for an amount not exceeding in the aggregate in any one official year five hundred rupees;
- (c) occupying as a tenant for the purpose of residence any premises belonging to the Corporation; or
- (d) receiving conveyance charges as a member of the Transport Committee.

11. Disabilities from continuing as Councillor : A Councillor shall cease to hold office as such if at any time during this term of office he, -

- (a) becomes disqualified for being a Councillor by reason of the provisions of section 10;
- (b) absents himself during three successive months from the meetings of the corporation, except from temporary illness or other cause to be approved by the Corporation;
- (c) absents himself from, or is unable to attend the meetings of the Corporation during six successive months from any cause whatever, whether approved by the Corporation or not; or
- (d) acts as a Councillor or as a member of any Committee of the Corporation by voting on, or taking part in the discussion of, or asking any question concerning any matter in which he has directly or indirectly by himself or his partner any such share or interest as is described in clause (b) or sub-section (20) of section 10 or in which he is professionally interested on behalf of a client, principal or other person.

12. Questions as to disqualification to be determined by the Judge : (1) If any doubt or dispute arises whether a Councillor has ceased to hold office as such under section 11, such Councillor or any other Councillor may, and at the request of the Corporation, the Commissioner shall, refer the question to the Judge.

(2) On a reference being made to the Judge under sub-section (1) such Councillor shall not be deemed to be disqualified until the Judge after holding an inquiry in the manner provided by or under this Act determines that he has ceased to hold office.

13. Liability of Councillors to removal :- (1) The State Government may, on the recommendation of the Corporation supported by the vote of not less than three-fourths of the whole number of Councillors, remove from office with effect from such date as may be specified in the order of removal of any Councillor elected under this Act, if it is satisfied that such Councillor has been guilty of misconduct in the discharge of his duty or of any disgraceful conduct or has become incapable of performing his duties as Councillor :

Provided that, no recommendation shall be made by the Corporation under this section unless the Councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

(2) A person who has been removed from office under sub-section (1) shall be disqualified for being elected and for being a Councillor for a period of five years from the date of his removal, unless the State Government relieves him of the disqualification by an order which it is hereby empowered to make.

Election of Councillors

14. State Election Commission : (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Corporation shall vest in the State Election Commissioner.

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any officer of the State Election Commission or any officer of the State Government not below the rank of Deputy Collector or to any officer of the Corporation not below the rank of the Assistant Municipal Commissioner.

(3) All officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of the Corporation under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders or directions which may not be inconsistent with the provisions of this Act and the rules for fair and free elections.

14A. Power of State Election Commissioner to issue directions to prevent impersonation : The State Election Commissioner may, with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit to the Presiding Officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the People Act, 1951.

15. Casual vacancies how to be filled :- (1) In the event of non-acceptance of office by a person elected to be a Councillor, or of the death, resignation, disqualification or removal of a Councillor during his term of office, there shall be deemed to be a casual vacancy in the office, and such vacancy shall be filled as soon as conveniently may be, by the election of a person thereto, who shall hold office so long only as the Councillor in whose place he is elected would have been entitled to hold it if the vacancy had not occurred:

Provided that, no election shall be held for the filling of a casual vacancy if general elections are due to be held within six months of the occurrence of the vacancy.

(2) The provisions of section 18 shall apply to an election held for the filling of a casual vacancy.

16. Election petitions : (1) If the qualification of any persons declared to be elected a Councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the State Election Commissioner of a nomination, or of the improper reception or refusal of a vote, or by reason of a material irregularity in the election proceedings corrupt practice, or any other thing materially affecting the result of the election, any person enrolled in the municipal election roll may at any time within ten days after the result of the election has been declared, submit an application to the Judge for the determination of the dispute or question.

(2) The State Election Commissioner may, if it has reason to believe that an election has not been a free election by reason of the large number of cases in which undue influence or bribery has been exercised or committed by order in writing, authorise any officer of the Commission to make an application to the Judge at any time within one month after the result of the election has been declared for a declaration that the election of the returned candidate or candidates is void.

(2A) No election to any Corporation shall be called in question except by an election petition presented to the Judge referred to in sub-section (1) and no Judge other than the Judge referred to in sub-section (1) shall entertain any dispute in respect of such election.

(3) The Judge shall decide the applications made under sub-section (1) or (2) after holding an inquiry in the manner provided by or under this Act.

Explanations.- For the purposes of this section –

(1) “Corrupt practice” means one of the following practices, namely: -

(a) any gift, offer or promise by a candidate or his agent or by any person with the connivance of a candidate or his agent of any gratification, pecuniary or otherwise, to any person whomsoever, with the object, directly or indirectly of inducing a person to stand or not to stand as, or to withdraw from being a candidate at an election or a voter to vote or refrain from voting at an election or as a reward to a person for having so stood or

not stood or for having withdrawn his candidature or a voter for having voted or refrained from voting;

- (b) any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent with the free exercise of any electoral right, including the use of threats of injury of any kind or the creation or attempt to create fear of divine displeasure or spiritual censure, but not including a declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with a legal right;
- (c) the procuring or abetting or attempting to procure by a candidate or his agent or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person whether living or dead or in a fictitious name or by a person for a voting paper in his own name when, by reason of the fact that he has already voted in the same or some other ward, he is not entitled to vote;
- (d) the removal of a voting paper from the polling station during polling hours by any person with the connivance of a candidate or his agent;
- (e) the publication by a candidate or his agent or by any other person with the connivance of the candidate or his 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, being a statement reasonably calculated to prejudice the prospects of that candidate's election;
- (f) any acts specified in paragraphs (a), (b), (d) and (e) when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent;
- (g) the application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name when, by reason of the fact that he has already voted in the same or another ward, he is not entitled to vote; or
- (h) the receipt of, or agreement to receive, any gratification of the kind described in paragraph (a) as a motive or reward for doing or refraining from doing any of the acts therein specified;

(2) a corrupt practice shall not be deemed to have been committed in the interests of a returned candidate if the Judge is satisfied that it was of a trivial and limited character which did not affect the result of the election, that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, that it was committed without the sanction or connivance or contrary to the orders of the candidate or his agents, and that the candidate and his agents took all reasonable means for preventing the commission of corrupt practices at the election.

17. [Disqualification of voters for corrupt practice.] Deleted by Mah. 34 of 1965, s.7.

18. Procedure if election fails or is set aside :- (1) If at any general elections or an election held to fill a casual vacancy, no Councillor is elected or an insufficient number of Councillors are elected or the election of any or all of the Councillors is set aside under this Act and there is no other candidate or candidates who can be deemed to be elected in his or their place, the State Election Commissioner shall appoint another day for holding a fresh election and a fresh election shall be held accordingly.

(2) A Councillor elected under this section shall be deemed to have been elected to fill a casual vacancy under section 15.

19. Mayor and Deputy Mayor.- (1) The Corporation shall subject to the provisions of sub-section (1A), at its first meeting after the general elections elect – from amongst the Councillors one of its number to be the Mayor and another to be the Deputy Mayor. The tenure of the Mayor and the Deputy Mayor shall be of two and a half years :

Provided that, the term of the Mayors and the Deputy Mayors in office on the date of coming into force of the Maharashtra Municipal Corporations (Amendment) Act, 2000, shall be regulated as unders,-

- (a) in case of the Corporations which have completed the first year of their term but have not yet completed two years since their first meeting after the general elections, the term of the Mayors and Deputy Mayors of such Corporations shall be two years each;
- (b) in all other cases, the term of the Mayors and Deputy Mayors who are in office on the said date shall be extended to be and, comterinous with the term of office of the elected Councillors;

Provided further that the roster relating to the reservation of the office of the Mayor shall be deemed to have been amended to provide for the extended tenure of the Mayor.

(1A) There shall be reservation for the office of the Mayor in the Corporation, by rotation, for the Scheduled Castes, the Scheduled Tribes, women and the Backward Class of citizens, in the prescribed manner.

(2) The Mayor and the Deputy Mayor shall hold office until a new Mayor and a new Deputy Mayor have been elected under subsection (1) and, in a year in which general elections have been held, shall do so notwithstanding that they have not been returned as Councillors on the results of the elections.

(3) A retiring Mayor or Deputy Mayor shall be eligible for re-election to either office.

(4) The Deputy Mayor may resign his office at any time by notice in writing to the Mayor and the Mayor may resign his office at any time by notice in writing to the Corporation.

(5) If any casual vacancy occurs in the office of Mayor or Deputy Mayor, the Corporation shall, as soon as convenient after the occurrence of the vacancy choose one of its number to fill the vacancy and every Mayor or Deputy Mayor so elected shall hold office so long only as the person in whose place he is appointed would have been entitled to hold it if the vacancy had not occurred.

The term of the office of the Mayor and Deputy Mayor of the Corporation has been extended from one year to two and half years, to enable the Mayor and Dy. Mayor to undertake and implement the important projects and also to enable them to take effective measures in the interests to better working of the Corporations – Statement of objects and Reasons, Mah. 25 of 2000.

CHAPTER IX

THE MUNICIPAL FUND AND OTHER FUNDS

The Municipal Fund

88. Purposes for which Municipal Fund is to be applied :

The moneys from time to time, credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act or of any other law for the time being in force inclusive of the expenses of every ward election.