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PART V Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT LOCAL AUTHORITIES LAWS (AMENDMENT) BILL, 2014.

GUJARAT BILL NO. 27 OF 2014.

A BILL

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

It is hereby enacted in the Sixty-fifth Year of the Republic of India
as follows:-

1. (1) This Act may be called the Gujarat Local Authorities Laws (Amendment) Act, 2014. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 10 of
Bom. LIX of
1949.

2. In the Gujarat Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the Municipal Corporations Act"), in section 10, in sub-section (1), after clause (h), the following clause shall be inserted, namely:-

Bom. LIX of
1949.

"(hh) has no facility of water closet or privy accommodation at the place of his ordinary residence:

Provided that a sitting Councillor shall be deemed to have incurred disqualification if he does not submit to the Municipal Commissioner, within six months from the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2014, a certificate issued by the concerned Deputy Municipal Commissioner of the Corporation in whose jurisdiction his ordinary residence is situated, to the effect that he is having facility of water closet or privy accommodation at the place of his ordinary residence;".

Guj. of 2014.

Amendment of
section 15 of Bom.
LIX of 1949.

3. In the Municipal Corporations Act, in section 15, in sub-section (1), for the words "three months", the words "six months" shall be substituted.

Amendment of
section 11 of Guj.
34 of 1964.

4. In the Gujarat Municipalities Act, 1963, in section 11, in sub-section (1), after clause (f), the following clause shall be inserted, namely:-

Guj. 34 of
1964.

"(ff) has no facility of water closet or privy accommodation at the place of his ordinary residence :

Provided that a sitting Councillor shall be deemed to have incurred disqualification if he does not submit to the District Collector, within six months from the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2014, a certificate issued by the Chief Officer of the concerned Municipality in whose jurisdiction his ordinary residence is situated, to the effect that he is having facility of water closet or privy accommodation at the place of his ordinary residence.

Guj. of
2014.

Explanation.- For the purpose of this clause, "water closet or privy accommodation" shall have the same meaning as is given to the term "water closet" in Explanation to section 167A of the Act;".

Amendment of
section 7 of
Guj. 18 of 1993.

5. In the Gujarat Panchayats Act, 1993 (hereinafter referred to as "the Panchayats Act"), in section 7, in sub-section (1), for the words "fifteen thousand", the words "twenty-five thousand" shall be substituted.

Guj. 18 of
1993.

Amendment of
section 9 of
Guj. 18 of 1993.

6. In the Panchayats Act, in section 9,-

(a) in sub-section (4), for the words "one thousand", the words "three thousand" shall be substituted;

(b) to sub-section (4), the following proviso shall be added, namely:-

“Provided that the amendment made in this sub-section by the Gujarat Local Authorities Laws (Amendment) Act, 2014 shall not have effect till the expiration of duration of any village panchayat, unless sooner dissolved.”.

Guj. of 2014.

7. In the Panchayats Act, in section 30, in sub-section (1), after clause (k), the following clause shall be inserted, namely:-

Amendment of
section 30 of
Guj. 18 of 1993.

“(kk) has no facility of water closet or privy accommodation at the place of his ordinary residence:

Provided that a sitting member shall be deemed to have incurred disqualification if he does not submit to the Taluka Development Officer of the taluka, within six months from the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2014, a certificate issued by the Gram Panchayat Mantri of the panchayat in whose jurisdiction his ordinary residence is situated, to the effect that he is having facility of water closet or privy accommodation at the place of his ordinary residence.

Guj. of 2014.

Explanation.- For the purpose of this clause, “water closet or privy accommodation” shall have the same meaning as is given to the term “water closet” in Explanation to section 107 of the Act;”.

STATEMENT OF OBJECTS AND REASONS

Defecation in open by the public both in urban and rural areas and the resultant adverse effects of the same has been a subject of national debate in the recent times. Both the Central Government and the State Governments and the intelligentsia and public at large are fully concerned about this social menace. It is undisputed that various deceases like Cholera, Diarrhea etc. spread from the unclean places where such open defecation takes place. Curbing such open defecation is vital from the point of view of creating hygienic conditions and cleanliness and preventing water contamination. Particularly the female members find themselves in a shameful condition for compulsory resorting to such open defecation. Even the Prime Minister of India has emphasized the need of a toilet in the habitation itself in his speech on the Independence Day. Thus, the need of a toilet in the house itself can hardly be over emphasized. The Central, the State Governments and the local-self Governments have taken administrative measures to make the people aware about the need of the toilet in the habitation itself and have launched a drive to provide toilet facility to the families by giving incentives in the form of financial assistance for construction of the toilet at the place of their habitation. However, it is felt that such administrative measures alone are not enough and some legislative measures are required and seem inevitable to yield the desired results in a time bound manner.

In view of this, it is considered necessary to make provisions in the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 to the effect that the persons who do not have water closet or privy accommodation facility at their place of habitation cannot become Councillor of the Municipal Corporation or the Municipality or the member of the Panchayat, as the case may be. Such provisions will have a great impact on the people who wish to contest the elections and shall bring awareness not only to themselves but would also have bearing in mind of the other people to have water closet or privy accommodation facility at the place of their habitation.

It is, therefore, considered necessary to amend the relevant provisions of the aforesaid three Acts and make a provision to the effect that the person who does not have the toilet facility at the place of his ordinary residence cannot become a Councillor or a member of the municipal corporation, municipality or the panchayat, as the case may be. Provision is also made for sitting Councillors and members that they shall have to submit to the concerned authority, a certificate within a period of six months from the date of the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2014, obtained from such officer as provided in the said amending Act, 2014 to the effect that they have toilet facility at the place of their ordinary residence so as not to incur the disqualification.

Sub-section (1) of section 15 of the Gujarat Provincial Municipal Corporations Act, 1949, *inter-alia* provides for filling up of the casual vacancy in the office of a Councillor as soon as conveniently may be and in any case within three months of the date on which it is known that such vacancy has occurred. However, in so far as a Municipality is concerned, the casual vacancy therein can be filled in within a period of six months from the date on which

such vacancy has arisen. To bring the provisions of the Gujarat Provincial Municipal Corporations Act, 1949 in parity with the provisions of the Gujarat Municipalities Act, 1963 in this regard, it is proposed to amend section 15 of the Gujarat Provincial Municipal Corporations Act, 1949 to the effect that the casual vacancy can be filled within a period of six months.

Under the existing provisions of sub-section (1) of section 7 of the Gujarat Panchayats Act, 1993, the competent authority can recommend to the State Government any local area for being specified a village for the purposes of said Act, if the population of such local area does not exceed fifteen thousand. The said limit of fifteen thousand was based on the basis of figures of Census 1991. Now, the figures of Census 2011 have been published and considering the figures of the said Census, it appears that the population of the villages has grown considerably and therefore the present limit of population of fifteen thousand of any local area for being specified as a village seems necessary to be raised to twenty-five thousand.

Sub-section (4) of section 9 of the Gujarat Panchayats Act, 1993 provides for as to how the number of members of the village panchayat depending upon the population of the village shall be decided. In order to see that a village panchayat after the present limit of population of fifteen thousand of any local area for being specified as a village is raised to twenty-five thousand does not have a very large number of members and that such number is kept at appropriate level, the provision of sub-section (4) of section 9 of the said Act is proposed to be amended suitably.

This Bill seeks to amend the said Acts to achieve the aforesaid objects.

NITIN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respect:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 27th October, 2014.

NITIN PATEL.

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

C.J. GOTHI,

Gandhinagar,

Dated the 28th October, 2014.

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.