

Extra No. 32

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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

PANCHAYATS, RURAL HOUSING AND RURAL DEVELOPMENT DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 3rd October, 2015.

GUJARAT ORDINANCE NO. 3 OF 2015.

AN ORDINANCE

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

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

Bom. LIX of 1949.
Guj. 34 of 1964.
Guj. 18 of 1993.

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993;

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

1. *Short title and commencement.*- (1) This Ordinance may be called the Gujarat Local Authorities Laws (Second Amendment) Ordinance, 2015.

(2) It shall come into force at once.

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2. **Bom. LIX of 1949, Guj. 34 of 1964 and Guj. 18 of 1993 to be temporarily amended.**- During the period of operation of this Ordinance, the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 shall have effect subject to the amendments specified in sections 3 to 5.

Bom. LIX of
1949.
Guj. 34 of
1964.
Guj. 18 of
1993.

3. **Amendment of section 7A of Bom. LIX of 1949.** - In the Gujarat Provincial Municipal Corporations Act, 1949, in section 7A, for sub-section (1), the following sub-section shall be substituted, namely:-

Bom. LIX of
1949.

“(1) Where it is not possible to hold the election to constitute a Corporation on account of unforeseen circumstances such as natural calamity, riots, disturbances or on account of an apprehension that voters will not be allowed to vote frankly and freely, then, notwithstanding anything contained in this Act, the State Government may, by an order published in the *Official Gazette*, appoint an officer as an Administrator to manage the affairs of the Corporation during the period from the date specified in the order upto the date immediately preceding the date of the first meeting after the general election.”.

4. **Substitution of section 8A of Guj. 34 of 1964.**- In the Gujarat Municipalities Act, 1963, for section 8A, the following section shall be substituted, namely :-

Guj. 34 of
1964.

Appointment of
Administrator to
exercise the
powers of the
municipality in
certain
circumstances.

“8A. (1) Where it is not possible to hold the election to constitute a municipality on account of unforeseen circumstances such as natural calamity, riots, disturbances or on account of an apprehension that voters will not be allowed to vote frankly and freely, then, notwithstanding anything contained in this Act, the State Government may, by an order published in the *Official Gazette*, appoint an officer as an Administrator to manage the affairs of the municipality.

(2) All powers and duties of the municipality shall be exercised and performed by the Administrator appointed under sub-section (1) during the period from the date specified in the order upto the date immediately preceding the date of the first meeting after the general election.”.

5. **Substitution of section 257 of Guj. 18 of 1993.**- In the Gujarat Panchayats Act, 1993, for section 257, the following section shall be substituted, namely:-

Guj. 18 of
1993.

Appointment of
Administrator to
exercise the
powers of the
panchayat in
certain
circumstances.

“257. (1) Where it is not possible to hold the election to constitute a panchayat on account of unforeseen circumstances such as natural calamity, riots, disturbances or on account of an apprehension that voters will not be allowed to vote frankly and freely, then, notwithstanding anything contained in this Act, the State Government may, by an order published in the *Official Gazette*, appoint an officer as an Administrator to manage the affairs of the panchayat.

(2) All powers and duties of the panchayat shall be exercised and performed by the Administrator appointed under sub-section (1) during the period from the date specified in the order upto the date immediately preceding the date of the first meeting after the general election.”.

STATEMENT

The existing provisions of the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993, in so far as the reasons for not holding the election to constitute a Corporation, a municipality or a panchayat before the expiry of its duration and consequent appointment of an Administrator thereof are concerned, are not similar. It is, therefore, considered necessary to have similar provisions relating to unforeseen circumstances such as natural calamity, riots, disturbances for not holding the election before the expiry of the duration of any of the local bodies in all the aforesaid three Acts.

Further, free and fair election is the pillar and integral part of democracy. If a voter is restrained from casting his vote freely and to elect a candidate of his choice, then, it is not a free and fair election. An election which is not free and fair subverts democracy. As such it is considered necessary that an apprehension that voters will not be allowed to vote frankly and freely should also be a ground for not holding the election to constitute any of the local bodies before expiry of its duration.

It is, therefore, considered necessary to amend the relevant provisions of the aforesaid three Acts so as to bring uniformity in the matter relating to not holding the election in the circumstances as stated above.

As the Legislative Assembly of the State of Gujarat is not in session, this Ordinance is promulgated to amend the Gujarat Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 to achieve the aforesaid object.

Gandhinagr,

Dated the 3rd October, 2015.

O. P. KOHLI,

Governor of Gujarat.

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

B. B. SWAIN,

Principal Secretary to Government.