

**THE HIMACHAL PRADESH MUNICIPAL CORPORATION (AMENDMENT)
BILL, 2010**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Municipal Corporation Act, 1994 (Act No. 12 of 1994).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-first Year of the Republic of India as follows :—

1. This Act may be called the Himachal Pradesh Municipal Corporation (Amendment) Act, 2010. Short title.

2. In sections 7, 8, 13, 16, 20, 31, 33, 55, 60, 63, 64, 404, 422 and 426 of the Himachal Pradesh Municipal Corporation Act, 1994 (hereinafter referred to as the ‘principal Act’), for the word “Councillor” wherever it occurs, the words and sign “Mayor, Deputy Mayor and Councillor” shall be substituted. Amendment of section 7, 8, 13, 16, 20, 31, 33, 55, 60, 63, 64, 404, 422 and 426.

3. In section 14 of the principal Act, in sub-section (1), for the words “Councillor shall be called in question except by an election petition presented to the Revenue Commissioner”, the words and sign “Mayor, Deputy Mayor and Councillor shall be called in question except by any election petition presented to the Divisional Commissioner” shall be substituted. Amendment of section 14.

4. In section 34 of the principal Act, in sub-section (1), after clause (e), the following clause shall be inserted, namely:— Amendment of section 34.

“(f) he has without reasonable cause in the opinion of the State Government fails to convene more than three consecutive meetings of the Ward Committee.”.

5. After section 34 of the principal Act, the following new section shall be inserted, namely:— Insertion of new section 34-A.

“34-A. Removal of Mayor and Deputy Mayor.- The Government may, by notification published in the Official Gazette, remove the Mayor and Deputy Mayor, if in its opinion—

- (i) he becomes subject to any of the disqualifications mentioned in section 8; or
- (ii) he has flagrantly abused his position as a Mayor or Deputy Mayor or has through negligence or misconduct or responsible for the loss or mis-appropriation of any money or property of the Corporation; or
- (iii) he has become physically or mentally incapacitated for performing his duties as a Mayor or Deputy Mayor; or
- (iv) he absents himself during three successive months from the meetings of the Corporation :

Provided that before making an order under this section, reasonable opportunity shall be given to the Mayor, Deputy Mayor, as the case may be, to be heard and to show cause against such an order.”.

Amendment
of section
36.

6. In section 36 of the principal Act,—

- (a) for sub-section (1), the following sub-section shall be substituted, namely :—
 - “(1) The Mayor and the Deputy Mayor shall be elected directly by an electoral college consisting of all eligible electorates of all the wards of Municipal Corporation.”;
 - (b) in the existing first proviso, for the words “the office of the Mayor”, the words “during the duration of the Corporation the office of the Mayor and Deputy Mayor” shall be substituted. ; and
 - (c) for sub-section (2) and existing first proviso, the following sub-section and proviso shall be substituted, namely :—
 - “(2) The term of the office of Mayor and Deputy Mayor of the Corporation shall be five year from the date of his election,

and he shall cease to hold his office on the expiry of his term of office:

Provided that if the office of the Mayor or Deputy Mayor is vacated or falls vacant during the tenure on account of death or resignation, a fresh election within a period of six months of the vacancy shall be held from the same category, for the remainder period: ”.

7. Section 37 of the principal Act shall be omitted.

Omission of section 37.

8. In section 39 of the principal Act,—

Amendment of section 39.

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

“Provided that if the office of the Deputy Mayor is vacant, then the Mayor may submit his resignation to the Deputy Commissioner of the District.”;

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

“Provided that if the office of the Mayor is vacant, then the Deputy Mayor may submit his resignation to the Deputy Commissioner of the District.”; and

(c) in sub-section (3), after the words “or Deputy Mayor,” the words “or the Deputy Commissioner” shall be inserted.

9. After section-44 of the principal Act, the following new sections shall be inserted, namely :—

Insertion of new sections 44-A to 44-J.

“44-A. Ward Sabha .—All persons comprised in the electoral roll of a ward shall constitute the Ward Sabha for the purposes of this Act.

44-B. Meetings of Ward Sabha .—(1) There shall be two meetings of the Ward Sabha in a year. The meeting shall be convened by the elected ward Councillor at a public place after public notice alongwith agenda.

(2) The officer, to be nominated by the Commissioner, shall be the Secretary of the Ward Sabha. The minutes of the proceedings of the meetings of the Ward Sabha shall be recorded by the Secretary and a copy of minutes of the proceedings of each meeting shall be forwarded by him to the Commissioner.

44-C. Ward Committee .—(1) There shall be a Ward Committee for each ward in the Corporation to be constituted within six months of the constitution of Corporation.

(2) Each Ward Committee shall consist of a President and not exceeding nine eminent members, to be nominated by the Ward Sabha.

(3) The elected Ward Councillor representing that ward shall be the President of the Ward Committee :

Provided that at least fifty per cent seats of members of the Ward Committee shall be reserved for women.

Explanation.—For the purposes of this section, “eminent member” of Ward Sabha means any person or a representative of a non-government organization or an association or a community based organization working for or representing any section of civil society in fields such as environment, social welfare, rural development, health, culture, business, trade etc.

(4) A person shall be disqualified for being nominated as a member of the Ward Committee under sub-section (2) or to continue as such if, under the provisions of this Act or any other law for the time being in force, he is disqualified for being elected as a member of the Corporation.

(5) The Secretary of the ward Sabha shall also be the Secretary of the Ward Committee. The minutes of the proceedings of the meetings of the Ward Committee shall be recorded by the Secretary and a copy of minutes of the proceedings of each meeting shall be forwarded by him to the Corporation.

(6) The term of office of the member of the Ward Committee shall be two and half years from the date of nomination and he shall be eligible for re-nomination.

44-D. Meetings of Ward Committees . - It shall be the duty of the President to conduct meetings of the ward Committee at least once in two months for discussing the developmental issues and plans of the ward concerned.

44-E. Agenda . - It shall be the duty of the President to set agenda for the meetings of the Ward Committee .

44-F. Procedure for conduct of Ward Committee meetings.—
Following procedure shall be followed while conducting meetings of the Ward Committee, namely:-

- (i) reasonable notice of the Ward Committee meetings shall be given at least one week in advance and placed on the notice board in the office of Corporation and in the ward concerned;
- (ii) minutes of the Ward Committee meetings shall be maintained by the Secretary and the same shall be made available to the general public for perusal at the office of the Ward Committee; and
- (iii) the minutes shall be presented at the next meeting of the Ward Committee for confirmation.

44-G. Disqualifications .— If a Member fails to attend three consecutive meetings of the Ward Committee, then the President may bring a resolution before the Ward Sabha, for removal of such member, for its approval. On approval of such resolution, such member shall stand removed from the Ward Committee and in his place, the Ward Sabha may nominate another person.

44-H. Duties and functions of the Ward Committee.— The Ward Committee shall discharge and perform the following duties and functions, namely:—

- (a) to prepare annual ward plan and forward the same to the Corporation for its integration with annual plan of the Corporation;

- (b) to ensure proper implementation of various developmental schemes approved by the Corporation for the concerned ward;
- (c) to provide assistance in solid waste management in the ward;
- (d) to supervise sanitation work in the ward;
- (e) to provide assistance for the preparation and encouragement of the developmental scheme(s) for the ward;
- (f) to encourage harmony and unity among various groups of people in the ward;
- (g) to provide assistance in the implementation of developmental schemes relating to the ward;
- (h) to provide assistance for identification of beneficiaries for the implementation of development and welfare schemes;
- (i) to encourage art and cultural activities and sports activities and games;
- (j) to ensure people's participation in the voluntary activities necessary for successful implementation of the developmental activities of the Corporation;
- (k) to suggest community water taps, public wells, public sanitation units, and such other public amenity schemes within the ward concerned ;
- (l) to identify the deficiencies in the water supply and street lighting arrangements in the ward and suggest remedial measures;
- (m) to render necessary assistance to the Corporation Authorities for timely collection of taxes, fees and other arrears due to the Corporation;
- (n) to generate proposals/plans and determine the priority of scheme and developmental programmes to be implemented in the Ward;

- (o) to improve / promote the overall environment situation by integrating environmental considerations more systematically within the Ward Sabha: and
- (p) to perform such other functions as may be assigned to it by the Corporation .

44-I. Right to seek information .- (1) The President and the members of the Ward Committee shall have the right to seek information from the Commissioner, on any matter relating to the ward ;

(2) The Ward Committee shall submit periodical reports to the Corporation in respect of the matters specified theirin.

44-J. Function of the Commissioner.— The Commissioner shall bring to the notice of the Corporation any act or resolution of the Ward Committee which is done or passed in contravention of any of the Government instructions or the provisions of this Act ; provided that if such act or omission is not rectified within 15 days, the Commissioner shall bring such omission or violation to the notice of the State Government.”.

10. In section 54 of the principal Act—

- (a) for sub-section (1), the following sub-section shall be substituted, namely:— “(1) The first meeting of the Corporation, after general election, shall be held as early as possible but not later than 30 days after the publication of the results of elections of Corporation under section 13.” ; and
- (b) sub-sections (2) and (3) shall be omitted.

Amendment of section 54.

11. In sections 56 and 58 of the principal Act, after the word “Councillors” wherever it occur, the words “including Mayor and Deputy Mayor” shall be inserted.

Amendment of section 56 and 58.

12. In section 413 of the principal Act,—

- (a) for the heading “Liability of Councillors”, the heading “Liability of Mayor, Deputy Mayor and Councillors” shall be substituted.; and
- (b) in sub-section (1), for the word “Councillor” wherever it occur, the words and sign “Mayor, Deputy Mayor and Councillor” shall be substituted.

Amendment of section 413.

13. In section 414 of the principal Act, for the words “Every Councillors”, the words and sign “Mayor, Deputy Mayor and Councillor” shall be substituted.

Amendment of section 414.

STATEMENT OF OBJECTS AND REASONS

Presently there is no provision of direct election of Mayor and Deputy Mayor of the Municipal Corporation in the Himachal Pradesh Municipal Corporation Act, 1994. In the changed circumstances, it is felt necessary to make provision for direct elections of Mayor and Deputy Mayor by the voters of all the wards of the Corporation instead of present system of indirect elections from amongst the elected Councillors of the Corporation. Thus, in order to achieve the objective, it has been decided to amend the Act ibid suitably and to make provision for direct election of Mayor and Deputy Mayor by the voters of all the wards of the Corporation. Further, in order to ensure public participation in formulation of development schemes and plans of the Corporation and their proper implementation, it has been proposed to make a provision for establishment of ward Sabha and Ward Committee for each Ward in the Corporation. This has necessitated amendment in the Act-ibid.

This Bill seeks to achieve the aforesaid objectives.

MAHENDER SINGH,
Minister-in-charge.

Shimla

The 2010

FINANCIAL MEMORANDUM

—Nil—

MEMORANDUM REGARDING DELEGATED LEGISLATION

—Nil—