

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

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*further to amend the Himachal Pradesh Municipal Act, 1994
(13 of 1994).*

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

Short title.

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

Amendment
of section
10.

2. In section 10 of the Himachal Pradesh Municipal Act, 1994, (hereinafter referred to as the "principal Act"),—

(a) in sub-section (1), after the words and sign "consist of," the words and signs "President, Vice-President and" shall be inserted; and

(b) in sub-section (2), after the words "in that municipality", the words and sign "including the President and the Vice-President" shall be inserted; and after sub-clause (ii) of clause (a) of this sub-section, the following proviso shall be inserted, namely :—

"Provided that the President and Vice-President shall be elected in accordance with provisions of section 22."

Amendment
of section
11.

3. In section 11 of the principal Act,—

(a) in sub-section (1), after the words "by direct election", the words "excluding the seat for President and Vice-

President" shall be inserted, and thereafter, the following proviso shall be inserted, namely :—

"Provided that reservation for seat of President and Vice-President shall be made in accordance with the provisions of section 12.".

4. In section 13 of the principal Act, for the word "members" wherever it occur, the words and signs "President, Vice-President and members" shall be substituted. Amendment of section 13.

5. In section 17 of the principal Act, after the words "who is chosen as a", the words and signs "President or Vice-President or a" shall be inserted. Amendment of section 17.

6. In section 18 of the principal Act,— Amendment of section 18.

- (a) in sub-section (1), after the words and sign "by notification, remove", the words and signs "President or Vice-President or" shall be inserted; and
- (b) In proviso, after the words "no removal of a", the words and signs "President or Vice-President or" shall be inserted.

In section 18 of the principal Act, in sub-section (1), after clause (g), the following clause shall be inserted, namely:—

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

7. In sections 19 and 21 of the principal Act, for the word "member" wherever it occur, the words "office bearer" shall be substituted. Amendment of sections 19 and 21.

8. For section 22 of the principal Act, the following section shall be substituted, namely:— Substitution of section 22.

“22. Election of President and Vice-President.—There shall be direct elections for the President and Vice-President by an electoral college consisting of all eligible voters of all the wards of Municipal Council or Nagar Panchayat, as the case may be :

Provided that the office of President and Vice-President in Municipal Councils and Nagar Panchayats shall be reserved for Scheduled Castes, Scheduled Tribes and woman in accordance with the provisions of section12:

Provided further that if the office of the President or Vice-President is vacated during his tenure on account of death, resignation or removal, a fresh election for the remainder of the period shall be held from the same category.”.

Amendment of section 23. **9.** In section 23 of the principal Act, in sub-section (1), the words “as a member” shall be deleted.

Amendment of section 24. **10.** In section 24 of the principal Act,—

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

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

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

Omission of section 25. **11.** Section 25 of the principal Act shall be omitted.

12. In section 27 of the principal Act,—

Amendment
of section 25.

- (a) in sub-section (1), for the words “and no member”, the words “and no office bearers” shall be substituted.; and
- (b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Every election of a office bearer shall be published in the Official Gazette by the State Election Commission within 30 days from the date of declaration of such election.”.

13. After section-51 of the principal Act, the following new sections shall be inserted, namely :—

Insertion of
new sec-
tions 51-A
to 51-J.

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

51-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 Member at a public place after public notice alongwith agenda.

(2) The officer, to be nominated by the Executive Officer or Secretary, as the case may be, 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 Executive Officer or Secretary, as the case may be.

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

(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 Member 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 municipality.

(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 municipality.

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

51-D. Meetings of Ward Committee.—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.

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

51-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 officer of the municipality 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.

51-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.

51-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 municipality for its integration with annual plan of the municipality;
- (b) to ensure proper implementation of various developmental schemes approved by the municipality 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 municipality;
- (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 municipality Authorities for timely collection of taxes/fees and other arrears due to the municipality;
- (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 municipality.

51-I. Right to seek information.—(1) The President and the members of the Ward Committee shall have the right to seek information from the Executive Officer or Secretary, as the case may be, on any matter relating to the ward.

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

51-J. Functions of the Executive Officer and Secretary.—The Executive Officer or Secretary, as the case may be, shall bring to the notice of the municipality 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 Executive Officer or Secretary, as the case may be, shall bring such omission or violation to the notice of the State Government.”.

14. In section 272 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment
of
section
272.

“(4) In the event of both the President and the Vice-President of a municipality being suspended under sub-section (1) or sub-section (2), the State Government shall nominate one of the elected members of the municipality who is senior most in age, to hold the office of President or Vice-President, as the case may be, and such person shall perform all the duties and exercise all the powers of President or Vice-President, as the case may be, during the period for which suspension continues.”.

STATEMENT OF OBJECTS AND REASONS

Presently section 22 of the Himachal Pradesh Municipal Act, 1994 (Act No. 13 of 1994) provides for indirect election of President and Vice-President from amongst the elected members of the municipality. In the changed circumstances, it is imperative to make provision for direct election of President and Vice-President by the voters of all the municipal wards instead of indirect election. Thus, in order to achieve the objective, it is considered essential to make provisions for the direct election of the President and Vice-President of the Municipalities. Further, in order to ensure public participation in formulation of development schemes and plans of the municipalities 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 Municipality. This has necessitated amendments in the Act-*ibid*.

This Bill seeks to achieve the aforesaid objectives.

MAHENDER SINGH,
Minister-in-Charge.

Shimla :

The March, 2010.

FINANCIAL MEMORANDUM

—NIL—

MEMORANDUM REGARDING DELEGATED LEGISLATION

—NIL—