

KARNATAKA ORDINANCE NO. 3 OF 2010
THE KARNATAKA PANCHAYAT RAJ (AMENDMENT) ORDINANCE, 2010.

Arrangement of Sections

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THE KARNATAKA PANCHAYAT RAJ (AMENDMENT) ORDINANCE, 2010.

(Promulgated by the Governor of Karnataka in the Sixty first year of the Republic of India and First published in the Karnataka Gazette Extra-ordinary on the Fourth day of October 2010)

An Ordinance further to amend the Karnataka Panchayat Raj Act, 1993.

Whereas both Houses of the State Legislature are not in session and the Governor of Karnataka is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993) for the purposes hereinafter appearing;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Karnataka is pleased to promulgate the following Ordinance, namely:-

1. Short title and commencement.- (1) This Ordinance may be called the Karnataka Panchayat Raj (Amendment) Ordinance, 2010.

(2) It shall come into force at once.

2. Amendment of section 2.- In the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993) (hereinafter referred to as the principal Act), in section 2, after sub-section (28), the following shall be inserted, namely:-

“(28A) ‘Panchayat Ombudsman’ means the Panchayat Ombudsman appointed by the State Government under section 296A.”

3. Amendment of section 5.- In section 5 of the principal Act, in sub-section (3), the following shall be inserted at the end, namely:-

“But the number of seats so reserved for the Backward Classes under this sub-section shall be so determined, that the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (2) and the Backward Classes under this sub-section shall not exceed fifty per cent of the total number of seats in the Grama Panchayat.”

4. Amendment of section 44.- In section 44 of the principal Act, in sub-section (2), in clause (b), the following shall be inserted at the end, namely:-

“But the number of offices of Adhyakshas and Upadhyakshas reserved for the Backward Classes under this clause shall be so determined, that the total number of offices of Adhyaksha and Upadhyaksha reserved for the Scheduled Castes and the Scheduled Tribes under clause (a) and the Backward Classes under this clause shall not exceed fifty per cent of the total number of offices of Adhyaksha and Upadhyaksha of the Grama Panchayaths in the State.”

5. Amendment of section 111.- In section 111 of the principal Act,-

(i) in the heading, for the word “Secretary” the words “Panchayat Development Officer and other officers” shall be substituted.

(ii) for sub-section (1), the following shall be substituted, namely:-

“(1) Every Grama Panchayat shall have a whole time Panchayat Development Officer and Secretary who shall be the officers of the Government and such other officials appointed by the Government, and they shall draw their salary and allowances from the Grama Panchayat fund after the same is credited to the Grama Panchayat fund by the Government.”

(iii) in sub-section (2),

(a) for the word “Secretary” the words “Panchayat Development Officer” shall be substituted;

(b) the following shall be inserted at the end, namely:-

“ The Secretary and the other officials shall assist the Panchayat Development Officer to discharge his duties.”

(iv) in sub-section (3), for the word “ Secretary” the words “Panchayat Development Officer” shall be substituted.

6. Amendment of section 123.- In section 123 of the principal Act, in sub-section (2), the following shall be inserted at the end, namely:-

“But the number of seats reserved for the Backward Classes under this sub-section shall be so determined, that the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (1) and the Backward Classes under this sub-section shall not exceed fifty per cent of the total number of seats in the Taluk Panchayat.”

7. Amendment of section 138.- In section 138 of the principal Act, in sub-section (2), in clause (b), the following shall be inserted at the end, namely:-

“But the number of offices of Adhyaksha and Upadhyaksha reserved for the Backward Classes under this clause shall be so determined that the total number of offices of Adhyaksha and Upadhyaksha reserved for the Scheduled Castes and the Scheduled Tribes under clause (a) and the Backward Classes under this clause shall not exceed fifty per cent of the total number of offices of Adhyaksha and Upadhyaksha of the Taluk Panchayaths in the State.”

8. Amendment of section 160.- In section 160 of the principal Act, for the proviso, the following shall be substituted, namely:-

“ Provided that in case of,-

- (i) Uttara Kannada and Chickmagalur district it shall be one member for every thirty thousand or part thereof of the population;
- (ii) Bangalore Urban district, it shall be one member for every twenty thousand or part thereof of the population;
- (iii) Kodagu district, it shall be one member for every eighteen thousand or part thereof of the population.

9. Amendment of section 162.- In section 162 of the principal Act, in sub-section (2), the following shall be inserted at the end, namely:-

“But the number of seats reserved for the Backward Classes under this sub-section shall be so determined, that the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (1) and the Backward Classes under this sub-section shall not exceed fifty per cent of the total number of seats in the Zilla Panchayat.”

10. Amendment of section 177.- In section 177 of the principal Act, in sub-section (2), in clause (b), the following shall be inserted at the end, namely:-

“But the number of offices of Adhyaksha and Upadhyaksha reserved for the Backward Classes under this clause shall be so determined, that the total number of offices of Adhyaksha and Upadhyaksha reserved for the Scheduled Castes and the Scheduled Tribes under clause (a) and the Backward Classes under this clause shall not exceed fifty per cent of the total number of offices of Adhyaksha and Upadhyaksha of the Zilla Panchayaths in the State.”

11. Amendment of section 246.- In section 246 of the principal Act,

(a) in sub-section (1), after the word and bracket “auditor)” the words, figures and brackets “The Comptroller and Auditor General shall provide technical guidance and supervision for audit of accounts under this section in accordance with the provisions of Comptroller and Auditor General’s (Duties, Powers and Conditions of Service) Act, 1971 (Central Act 56 of 1971) and also undertake test checks of the accounts of the Grama Panchayaths” shall be substituted.

(b) after sub-section (11), the following shall be inserted, namely:-

“(12) The Controller of State Accounts Department shall submit to the Government a consolidated Annual Report in respect of all the Grama Panchayats of the State and the State Government shall lay such report before both the houses of the State Legislature.”

12. Amendment of section 267.- In section 267 of the principal Act, in sub-section (1), for the words “The Government shall” the words “The Governor shall” shall be substituted.

13. Insertion of sections 296A, 296B, 296C, 296D, 296E, and 296F.- After section 296 of the principal Act, the following new sections shall be inserted, namely:-

“296-A. Panchayat Ombudsman.- (1) The State Government shall by notification appoint for each of the Zilla Panchayat, Taluk Panchayat, Grama Panchayat or for one or more of such Panchayats such number of officers of the State Government to be the Panchayat Ombudsman.

(2) Where more than one officer is appointed for the same panchayat area the jurisdiction of each of the Panchayat Ombudsman shall be specified in the notification issued under sub-section (1).

(3) The Panchayat Ombudsman appointed under sub-section (1), shall be the competent authority to pass verdict after hearing the grievances and complaints received against any elected members, officers and officials of the Panchayat Raj Institutions within their respective jurisdictions.

296-B.- The powers and functions of Panchayat Ombudsman.- (1) The Panchayat Ombudsman shall have power to investigate any allegation or action taken by panchayaths and the panchayat institutions and the institutions funded by Panchayat elected members, the officers and officials of the panchayat institutions which are substantially controlled or funded by the Panchayaths.

(2) The Panchayat Ombudsman shall submit a report to the Government on all the matters including allegations against elected members, officer or official of such panchayaths or institutions or functionaries on the reference made to him by the Government or the suo-moto action initiated by him.

Explanation-1.- For the purpose of this section, the panchayat institutions include autonomous societies and associations such as Village Water and Sanitation Committees, Watershed Committees, Tank User's Committees which enjoy certain degree of functional autonomy in their operations.

Explanation-2.- Institutions funded by panchayat includes Banks and financial institutions, Non-Governmental Organisations and other institutions that have been advanced funds by the Zilla Panchayat or Taluk Panchayat or Grama Panchayat for providing certain services to the specified or general category of persons.

296C. Provisions relating to complaints and investigations.- (1) Subject to the provisions of this Act, any person may make a complaint involving the action or grievance, or allegations to the Panchayat Ombudsman against elected members officer or officials of the Zilla Panchayat, Taluk Panchayat or the Grama Panchayat in respect of any matter,-

- (i) in which there is omission to do any work entrusted to him under the Act or Rules made thereunder;
- (ii) for his failure of service, including negligence, improper performance, irregular actions, nepotism, favouritism and the like actions;
- (iii) the complaint may also include the delays or failure in respect of any or all of the following, namely:-
 - (a) disposal of applications/petitions/appeals;
 - (b) payments due from the panchayats / panchayat institutions;
 - (c) convening monthly meetings of the panchayats;
 - (d) selection of beneficiaries in the panchayat / panchayat institutions
 - (e) discharge of statutory functions conferred on the panchayat bodies under the Act or rules made thereunder;
 - (f) such other functions as may be prescribed.

(2) Every complaint or allegation made under sub-section (1) shall be in the form of statement supported by Affidavit and shall be in such form and in such manner as may be prescribed.

(3) The Panchayat Ombudsman may after giving an opportunity of being heard to such elected member, officers or the official investigate in such manner as may be prescribed and send a report to the Government as the case may be which he considers appropriate in the circumstances of the case.

296D. Powers of Panchayat Ombudsman to investigate and take evidence.- (1) For the purpose of any investigation including the preliminary enquiry if any under this Act, the Panchayat Ombudsman may require any person, in his opinion, is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary inquiry), Panchayat Ombudsman shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matter, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;

- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or officer;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) such other matters as may be prescribed.

(3) Any proceeding before the Panchayat Ombudsman shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document;

- (a) as might prejudice the affairs of the State of Karnataka or the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation); and
- (b) as might involve the disclosure of proceedings of the Cabinet of the State Government or any Committee of that Cabinet,

Explanation ,- For the purpose of this sub-section, a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.

(5) For the purpose of investigation under this Act, no person shall be compelled to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a Court.

296-E. Matters not subject to investigation.- The Panchayat Ombudsman shall not investigate any matter,-

- (i) which the Lokayukta or the uplokayukta is investigating under the provisions of the Karnataka Lokayukta Act, 1984 (Karnataka Act 4 of 1985); or
- (ii) which is being investigated by a competent authority under any provisions of the Central Act or State enactments.

296-F. Reports of Panchayat Ombudsman.- (1) If, after investigation of any action or allegation involving a grievance has been made, the Panchayat Ombudsman is satisfied that such action has resulted in injustice or undue hardship to the complainant or to any other person, he may by a report in writing, recommend to the Government that such injustice or hardship shall be remedied or redressed in such manner and within such time as may be specified in the report.

(2) If, after investigation of any action involving an allegation has been made, the Panchayat Ombudsman is satisfied that such action or allegation is substantiated either wholly or partly, he shall make specific report in writing to the Government communicating his findings and recommendations along with the relevant documents, materials and other evidence in support of his findings and recommendations."

H.R.BHARDWAJ
GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka,

G.K. BOREGOWDA
Secretary to Government
Department of Parliamentary Affairs and Legislation