

**THE ODISHA MUNICIPAL LAWS (AMENDMENT) BILL, 2022**

A

BILL

FURTHER TO AMEND THE ODISHA MUNICIPAL CORPORATION  
ACT, 2003 AND THE ODISHA MUNICIPL ACT, 1950.

BE it enacted by the Legislature of the State of Odisha in the Seventy-  
third year of the Republic of India, as follows :-

CHAPTER – I

Preliminary

Short title and  
commencement.

1. (1) This Act may be called the Odisha Municipal Laws (Amendment)  
Act, 2022.

(2) It shall be deemed to have come into force on the 30<sup>th</sup>  
December, 2021.

CHAPTER – II

Amendment to the Odisha Municipal Corporation Act, 2003.

Amendment of  
section 2.

2. In the Odisha Municipal Corporation Act, 2003 (hereinafter  
referred to as the Corporation Act), in section 2, clause (5) shall be  
omitted.

Odisha Act 11  
of 2003.

## CHAPTER-III

## Amendment to the Odisha Municipal Act, 1950.

Amendment  
section 11.

6. In the Odisha Municipal Act, 1950 (hereinafter referred to as the Municipal Act) in section 11,—

Odisha Act 23  
of 1950.

(a) for the marginal heading , the following marginal heading shall be substituted, namely:—

“Reservation of seats for Scheduled Caste, Scheduled Tribes and women”;

(b) sub-sections (3) and (3-A) shall be omitted;

(c) in sub-section (4), for the words “the Scheduled Tribes and the backward class of citizens”, the words “and the Scheduled Tribes” shall be substituted;

(d) in sub-section (5), the words and comma “or the backward class of citizens,” shall be omitted; and

(e) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) The procedure regarding reservation of seats for the purpose of sub-sections (1), (2) and (4).”.

Amendment of  
section 47.

7. In the Municipal Act, in section 47,—

(a) in sub-section (3) ,—

(i) in clause (c), for the comma and words “,the Scheduled Tribes and the backward class of citizens”, the words “and the Scheduled Tribes” shall be substituted;

(ii) the clauses (d) and (e) shall be omitted;

(b) in sub-section (4), in the proviso thereto, for the comma and words “, backward class of citizens” shall be omitted; and

(c) in sub-section (5), the words “ and backward class of citizens” shall be omitted.

Amendment of  
section 7.

3. In the Corporation Act, in section 7,—

- (a) sub-sections “(3) and (4)” shall be omitted ;
- (b) in sub-section (5), the words “and the backward class of citizens” shall be omitted;
- (c) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) The procedure regarding reservation of seats for the purposes of sub-sections (1), (2) and (5) and allotment of seats by rotation to different wards at every general election, in such manner as may be prescribed”;

- (d) in sub-section (7), the words “or the backward class of citizens” and the words “or backward class” shall, respectively, be omitted.

Amendment of  
section 14.

4. In the Corporation Act, in section 14,—

- (a) in sub-section (3),—
  - (i) in clause (c), for the words and comma “,the Scheduled Tribes and the backward class of citizens”, the words “and the Scheduled Tribes” shall be substituted;
  - (ii) the clauses (d) and (e) shall be omitted;

- (b) in sub-section (4), in the proviso thereto, for the comma and words “,Scheduled Tribes and backward class of citizens” , the words “and Scheduled Tribes” shall be substituted; and
- (c) in the sub-section (5), “and the backward class of citizens” shall be omitted.

Amendment of  
section 60.

5. In the Corporation Act, in section 60, in sub-section (1), in clause (b), for the comma and words “,women and other backward class of citizens”, the words “and women” shall be substituted.

Repeal and  
Savings.

8. (1) The Odisha Municipal Laws (Amendment) Ordinance, 2021 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Odisha Municipal Corporation Act, 2003 and the Odisha Municipal Act, 1950 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts as amended by this Act.

Odisha Ordinance  
No. 3 of 2021

Odisha Act 11  
of 2003

Odisha Act 23  
of 1950

## STATEMENT OF OBJECTS AND REASONS

Article 243T (3) of the Constitution of India provides that seats shall be reserved for the Scheduled castes and Scheduled tribes in every Municipality. But the Constitution left it to the wisdom of State Legislature to decide the manner of reservations of seats or offices of Chairpersons in the municipalities in favour of Backward class of citizen.

In accordance with the above prescription of Constitution, some provisions were there in the Odisha Municipal Act, 1950 and Odisha Municipal Corporation Act, 2003 reserving seats for BCC candidates in election up to a maximum extent of 27 percent of the total seats.

In the mean time Hon'ble Supreme Court has directed the Learned Solicitor General of India to impress upon the concerned authorities to issue a communication to the respective State Election Commissions to strictly adhere to the enunciation of the Hon'ble Court, which is declaration of law, by three Judge Bench in Vikas Kishanrao Gawali case (Supra) to first comply with the triple test being a precondition before notifying reservation of seats for BCC in the local bodies under their jurisdiction.

In view of the above observations of the Hon'ble Apex Court, it was felt expedient to amend the provisions pertaining to reservation of seats and office of the Chairperson/Mayor in favour of BCC in the Odisha Municipal Act, 1950 and Odisha Municipal Corporation Act, 2003.

Therefore, it is considered expedient and accordingly proposed to amend suitably both Odisha Municipal Act, 1950 and the Odisha Municipal Corporation Act, 2003.

The Bill seeks to achieve the above objectives.

[ PRATAP JENA ]  
Member-in Charge

STATEMENT EXPLAINING THE CIRCUMSTANCES  
WHICH NECESSITATED FOR PROMULGATION OF AN ORDINANCE

Article 243T of the Constitution provides for the reservation of seats in Municipalities. As per the above provision, the State Government have the discretion of reserving seats for BCC to such extent as may be decided by the State Legislature. Accordingly, the Odisha Municipal Act, 1950 and the Odisha Municipal Corporation Act, 2003 provide for reservation of seats for election to the extent of 27% in favour of the BCC and in favour of SC and ST categories in proportion to their population in the respective Urban Local Bodies of our State in line with the provisions of the Constitution of India.

In *Rahul Ramesh Wagh vs State of Maharashtra* (Supra), the Supreme Court of India after taking note of the mandatory directions contained in the judgements of Supreme Court in *Dr. K. Krishnamurthy vs Union of India*(2010), and *Vikash Krishnrao Gawali vs State of Maharashtra*, (2021), held that election program in the State of Maharashtra for election to Local Bodies would have to abide by decision issued in the aforementioned decisions which make it mandatory for a 'Triple Test' to be fulfilled prior to making reservations for other backward classes.

In view of the above observations of the Hon'ble Apex Court, it was felt expedient to amend the provisions pertaining to reservation of seats and office of the Chairperson/Mayor in favour of BCC in the Odisha Municipal Act, 1950 and Odisha Municipal Corporation Act, 2003.

Since the matter was urgent and the Odisha Legislative Assembly was not in session then, an Ordinance was promulgated amending the Odisha Municipal Laws for its application in the ULBs of Odisha.

[ PRATAP JENA ]  
Member-in-Charge

## Annexure

## Chapter- II

**Extract Taken from the Odisha Municipal Corporation Act, 2003  
( O.A- II of 2003)**

	1.	x	x	x	x
		x	x	x	x
Definition	2.	x	x	x	x
		x	x	x	x

(5) "backward class of citizens" means the backward class of citizens as specified by the Government from time to time in the lists as mentioned in the Odisha State Commission for Backward Classes Act, 1993;

x	x	x	x
x	x	x	x

7.

"(3) Seats shall be reserved in favour of Backward Class of citizens as referred to clause (6) article 243T of the Constitution in every Corporation to such extent not exceeding twenty seven percentum subject to ceiling limit of fifty percentum of total number of seats of such Corporation including seats so reserved for Scheduled Castes, Scheduled Tribes under subsection (1) and backward class of citizens taken together."

(4) As nearly as may be, but not less than, one half of the total number of seats reserved under sub-section (3) shall be reserved for women belonging to the backward class of citizens :

(5) As nearly as may be, but not less than one-half (including the number of seats reserved for women belonging to Scheduled Castes and Scheduled Tribes and the backward class of citizens) of the total number of seats to be filled by direct election in the Corporation shall be reserved for women.

"(6) Reservation of seats under sub-sections (1) to (5), both inclusive, shall be made by rotation to different wards, after every two terms of general election, in such manner as may be prescribed."

(7). " building" means a house and includes out-house garage, stable, latrine, godown, shed, hut, wall, fencing platform, verandahs, balcony, cornice or projection or part of the building or anything affixed thereto or any wall (other than the boundary wall less than three metres in height) enclosing or intended to enclose any land, signs or outdoor display structures but does not include a tent, samiana or tarpaulin shelter ;

x	x	x	x	x	x
x	x	x	x	x	x
x	x	x	x	x	x

14. (3)

(c) as nearly as may be but not less than, one half (including the number but not less than one half of offices reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward class of citizens) of the total number of offices or Mayor in the Corporations shall be reserved for women; and

"(d) the offices of Mayor of the Corporations shall also be reserved in favour of Backward Class of citizens as referred to in clause (6) of article 243T of the Constitution to such extent not exceeding twenty seven percentum subject to ceiling limit of fifty percentum of total number of offices of Mayor of such Corporations including the offices so reserved for Scheduled Castes and Scheduled Tribes under clause (a) and backward class of citizens taken together."

(e) as nearly as may be but not less than , one half of the total number but not less than one halt of seats reserved under clause (d) shall be reserved for women belonging to the backward class of citizens



(4) Reservation of offices of Mayor under sub-section (3) shall be made by the Government by rotation among different Corporations in the prescribed manner and shall be published in the Gazette:

Provided that the procedure provided in sub-section (6) of section 7 relating to reservation of seats in the Corporations for the Scheduled Castes, Scheduled Tribes, backward class of citizens and women shall , as far as may be, be applicable for the purpose of reservation of offices of Mayors to be made by the Government under this sub-section.

(5) The reservation of offices of Mayors (other than the: reservation for women and backward class of citizens) under subsection (3) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.

x	x	x	x	x	x
x	x	x	x	x	x
x	x	x	x	x	x

Division of the city into wards

60. (1)

(a) x                      x                      x                      x                      x                      x

(b) Determine, subject to other provisions of this Act the wards in which the seats reserved for the Corporators belonging to the Scheduled Castes, the Scheduled Tribes, Women and other backward class of citizens under section 7 shall be set assigned :

## CHAPTER- III

## [Amendment to the Odisha Municipal Act, 1950 (O.A-23 of 1950)]

I.	X					
II.		X		X		X
Reservation of seats for Scheduled Castes, Scheduled Tribes, Women and backward class of citizens	1.	X	X	X	X	X
	2.	X	X	X	X	X

"(3) Seats shall be reserved in favour of Backward Class of Citizens as referred to in clause (6) article 243T of the Constitution in every Municipality, by the District Magistrate, to such extent not exceeding twenty seven percentum subject to ceiling limit of fifty percentum of total number of seats of such Municipality including seats so reserved for Scheduled Castes, Scheduled Tribes under sub-section (1) and backward class of citizens taken together and such seats shall be allotted by rotation to different wards in a Municipal area at every general election."

(3-A) As nearly as may be, but not less than one half of the total number of seats reserved under sub-section (3) shall be reserved for women belonging to the backward class of citizens :

(4) As nearly as may be, but not less than, one-half (including the number of seats reserved for women belonging to the Scheduled Castes 2th Scheduled Tribes and the backward class of citizens) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats shall be allotted by rotation to different wards in a Municipal area out every general Election.

(5) Where a particular ward is reserved for the Scheduled Castes or the Scheduled Tribes or the backward class of citizens, or for women whether or not belonging to the Scheduled Castes or the Scheduled Tribes, and no eligible candidate is available OT comes forward to contest the election in relation to that ward, the State Government shall nominate a person who is otherwise eligible to contest such election, as the Councillor for the ward.

(6) The procedure regarding reservation of seats for the purposes of sub-sections (1), (2), (3) and (4) shall be such as may be prescribed.

X		X		X		X
X		X		X		X
X		X		X		X
47.	(1)	X	X	X	X	X
	(2)	X	X	X	X	X
	(3) a)	X	X	X	X	X
	b)	X	X	X	X	X

Election of chairperson and Vice Chair person

(c) as nearly as may be one-third (including the number of offices reserved for women belonging to the Scheduled Castes, 1the [Scheduled Tribes and the Backward Class of citizens] of the total number of offices of Chairperson in the Municipalities shall be reserved for women; and

"(d) the offices of Chairperson of Municipalities shall also be reserved in favour of Backward Class Citizens as referred to in clause (6) of article 243T of the Constitution, to such extent not exceeding twenty seven percentum subject to ceiling limit of fifty percentum of total number of offices of Chairperson of such Municipalities including the offices so reserved for Scheduled Castes, Scheduled Tribes under clause (a) and Backward Class Citizens taken together."

(e) as nearly as may be but not less than one half of the total number of seats reserved under clause (d) shall be reserved for women belonging to the backward class of citizens."]

(4) Reservation of offices of Chairperson under sub-section (3) shall be made by the State Government by rotation among different Municipalities in the prescribed manner and shall be published in the Gazette:

4 [Provided that the procedure provided in sub-section (3-A) of section 12 relating to reservation of seats in the Municipalities for the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women shall, as far as may be, be applicable for the purpose of reservation of offices of Chairpersons to be made by the State Government under this sub-section; and

(5) The reservation of offices of Chairpersons (other than the reservation or women and backward class of citizens) under sub-section (3) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.