

The

As introduced in the Assembly

Dt. 6 JUL 2012



सत्यमेव जयते

Kolkata Gazette

Extraordinary
Published by Authority

ASADHA 12]

TUESDAY, JULY 3, 2012

[SAKA 1934]

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 944-L.—3rd July, 2012.—The Governor having been pleased to order, under rule 66 of the

Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 26 of 2012

**THE WEST BENGAL PANCHAYAT ELECTIONS
(AMENDMENT) BILL, 2012.**

**A
BILL**

to amend the West Bengal Panchayat Elections Act, 2003.

WHEREAS it is expedient to amend the West Bengal Panchayat Elections Act, 2003, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XXI of 2003.

It is hereby enacted in the Sixty-third Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal Panchayat Elections (Amendment) Act, 2012.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different sections.

*The West Bengal Panchayat Elections
(Amendment) Bill, 2012.*

(Claus 2, 3.)

Amendment of
section 17 of West
Beng. Act XXI of
2003.

2. In section 17 of the West Bengal *Panchayat Elections Act, 2003* (hereinafter referred to as the principal Act),—

(1) in the marginal note, after the words “Scheduled Tribes”, the words “, Backward Classes” shall be inserted;

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

“(2A) Seats shall be reserved for the Backward Classes in every *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or the *Siliguri Mahakuma Parishad* in such manner as may be prescribed and the number of seats so reserved shall bear as nearly as may be, the same proportion with the total number of seats to be filled by direct election to the *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or the *Siliguri Mahakuma Parishad*, as the case may be, as the population of the Backward Classes in the area of the *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or the *Siliguri Mahakuma Parishad*, as the case may be, bears with the total population of that area, and such seats may be allotted by rotation to different constituencies of that *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or the *Siliguri Mahakuma Parishad* in such manner as may be prescribed.”;

(3) for sub-section (3), the following sub-section shall be substituted:—

“(3) As nearly as practicable one-half but not exceeding one-half of the total number of seats reserved under sub-section (1), sub-section (2) and sub-section (2A), shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, in such manner as may be prescribed.”;

(4) for sub-section (4), the following sub-section shall be substituted:—

“(4) As nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes under sub-section (3), to be filled by direct election to a *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or the *Siliguri Mahakuma Parishad* shall be reserved for the women, and such seats may be allotted by rotation to different constituencies of the *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or the *Siliguri Mahakuma Parishad*, as the case may be, in such manner as may be prescribed.

Explanation.—A member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes or Women shall not be disqualified to hold a seat not reserved for members of the Scheduled Castes or the Scheduled Tribes or the Backward Classes or Women if such member is otherwise qualified to hold such seat under this Act.”.

Substitution of
new section for
section 18.

3. For section 18 of the principal Act, the following section shall be substituted:—

“Reservation of
seats for office-
bearers of *Gram
Panchayat* and
Panchayat Samiti.

18. (1) Offices of the *Pradhan and Upa-Pradhan* in the *Gram Panchayats* in a district shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes by rotation in such manner as may be prescribed and the number of the offices so reserved shall bear, as nearly as may be, the same proportion with the total number of the offices of the *Pradhan* or the *Upa-Pradhan*, as the case may be, in the district as the population of the Scheduled Castes or the Scheduled Tribes, or the Backward Classes as the case may be, in all the Blocks within the district bears with the total population in the same area.

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(Amendment) Bill, 2012.*

(Clause 3.)

(2) As nearly as practicable one-half but not exceeding one-half of the total number of offices reserved under sub-section (1) shall be reserved by rotation in such manner as may be prescribed, for the women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be.

(3) As nearly as practicable one-half but not exceeding one-half of the total number of offices, including the offices reserved for Women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes under sub-section (2) shall be reserved for the women by rotation in such manner, as may be prescribed.

(4) For the purpose of reservation under sub-sections (1), (2) and (3) in a particular term of election, preference shall be given for reservation to the offices of the *Pradhan* and if the office of the *Pradhan* is so reserved, office of the *Upa-Pradhan* shall not be reserved in the same *Gram Panchayat*, in the same term of General Elections.

(5) Notwithstanding anything contained elsewhere in this section, if in a district, for any term of election, the number of offices of the *Upa-Pradhan*, available for reservation after exclusion of the *Grams* where offices of the *Pradhan* have been reserved for that term of election, is less than the number of offices determined under sub-section (1) or sub-section (2) or sub-section (3), such number of offices of the *Upa-Pradhan* as are available for reservation shall be reserved for that term of election, and the number of offices determined under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, shall be deemed to be redetermined accordingly.

(6) Offices of the *Sabhapati* and the *Sahakari Sabhapati* in the *Panchayat Samitis* in a district shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes by rotation in such manner, as may be prescribed, and the number of the offices so reserved shall bear, as nearly as may be, the same proportion with the total number of the offices of the *Sabhapati* and the *Sahakari Sabhapati*, as the case may be, in the district as the population of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, in all the Blocks within the districts bears with the total population in the same area.

(7) As nearly as practicable one-half but not exceeding one-half of the total number of offices, reserved under sub-section (6), shall be reserved by rotation in such manner as may be prescribed, for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be.

(8) As nearly as practicable one-half but not exceeding one-half of the total number of offices including the offices reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes under sub-section (7) shall be reserved for women by rotation in such manner as may be prescribed.

(9) For the purpose of reservation under sub-sections (6), (7) and (8) preference shall be given to reservation of the offices of the *Sabhapati* and after such reservation, offices of the *Sahakari Sabhapati* shall not be reserved in the same *Panchayat Samiti*, in the same term of General Elections.

(10) Notwithstanding anything contained in this section, if in a district for any term of election, the number of offices of *Sahakari Sabhapati*, available for reservation after exclusion of the *Panchayat Samitis* where offices of the *Sabhapati* have been reserved for that term of election, is less than the number of offices determined under sub-section (6) or sub-section (7) or sub-section (8), such number of offices of the *Sahakari Sabhapati* as are available for reservation shall be reserved for that term of election, and the number of offices determined under sub-section (6) or sub-section (7) or sub-section (8), as the case may be, shall be deemed to be redetermined accordingly.

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(Amendment) Bill, 2012.*

(Clauses 4, 5.)

Explanation.—A member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes or Women shall not be disqualified to hold an office of the *Pradhan, Upa-Pradhan, Sabhapati* or *Sahakari Sabhapati* not reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes or Women, as the case may be, if such member is otherwise qualified to hold such office under this Act.

Substitution of
new section for
section 19.

4. For section 19 of the principal Act, the following section shall be substituted:—

"Reservation of
office bearers of
Zilla Parishad or
*Siliguri
Mahakuma
Parishad.*

19. (1) Offices of the *Sabhadhipati* and *Sahakari Sabhadhipati* of the *Zilla Parishads* or the *Siliguri Mahakuma Parishad* shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes by rotation in such manner, as may be prescribed, and the number of offices so reserved shall bear, as nearly as may be, the same proportion with the total number of the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in the State as the population of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, in the Blocks under the jurisdiction of all *Zilla Parishads* and the *Siliguri Mahakuma Parishad* within the State bears with total population in the same area.

(2) As nearly as practicable one-half but not exceeding one-half of the total number of offices, reserved under sub-section (1), shall be reserved by rotation in such manner as may be prescribed, for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be.

(3) As nearly as practicable one-half but not exceeding one-half of the total number of offices including the offices reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes under sub-section (2) shall be reserved for Women by rotation in such manner, as may be prescribed.

(4) For the purpose of reservation under sub-sections (1), (2) and (3) preference shall be given to reservation of the offices of the *Sabhadhipati* and after such reservation, offices of the *Sahakari Sabhadhipati* shall not be reserved in the same *Zilla Parishad* or the *Siliguri Mahakuma Parishad*, as the case may be, in the same term of General Elections.

(5) Notwithstanding anything contained in this section, if in a district, for any term of election, the number of offices of the *Sahakari Sabhadhipati*, available for reservation after exclusion of the *Zilla Parishads* or the *Siliguri Mahakuma Parishad*, as the case may be, where offices of the *Sabhadhipati* have been reserved for that term of election, is less than the number of offices determined under sub-section (1) or sub-section (2) or sub-section (3), such number of offices of the *Sahakari Sabhadhipati* as are available shall be reserved for that term of election, and the number of offices determined under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, shall be deemed to be redetermined accordingly.

Explanation.—A member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes or Women shall not be disqualified to hold an office of the *Sabhadhipati* or *Sahakari Sabhadhipati* not reserved for the Scheduled Castes, Scheduled Tribes, Backward Classes or Women, as the case may be, if such member is otherwise qualified to hold such office under this Act.”.

Amendment of
section 46.

5. For sub-section (3) of section 46 of the principal Act, the following sub-section shall be substituted:—

"(3) The nomination paper for any seat, reserved for a candidate of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, shall be accompanied by a copy of certificate of the Scheduled Castes or the Scheduled Tribes or the Backward

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(*Clauses 6, 7.*)

Classes, granted by a competent authority and that the original copy of such certificate shall be produced at the time of making delivery of such nomination paper to the *Panchayat Returning Officer*.

Explanation.—The expression “competent authority” shall mean the authority competent to issue certificate under any specific provision of any Act or Rule or any order or notification issued by the State Government from time to time and is in force for the time being.”.

6. In section 47 of the principal Act,—

- (1) in clause (a), after the words “or Scheduled Tribes”, the words “or Backward Classes” shall be inserted;
- (2) in clause (b), after the words “or Scheduled Tribes”, the words “or Backward Classes” shall be inserted;
- (3) in clause (c), after the words “or Scheduled Tribes”, the words “or Backward Classes” shall be inserted.

7. For sub-section (1) of section 135 of the principal Act, the following sub-section shall be substituted:—

“(1) The State Government in consultation with the Commission, may, after previous publication in the *Official Gazette*, make rules, by notification, for carrying out the purposes of the Act.”.

STATEMENT OF OBJECTS AND REASONS.

The matter of more empowerment of women, decentralization involving weaker sections of the society and making the governance of *Panchayats* more responsible, transparent and accountable have been under active consideration of the State Government.

2. In keeping up the above objectives, the West Bengal *Panchayat* (Amendment) Act, 2012, (West Ben. Act IX of 2012), has been enacted to increase the representation and reservation of women and also other weaker sections of the society in the three tiers of *Panchayats*.

3. In view of the amendments made in the West Bengal *Panchayat* Act, 1973 (West Ben. Act XLI of 1973), it is considered necessary to make consequential amendment in certain provisions of the West Bengal *Panchayat* Elections Act, 2003 (West Ben. Act XXI of 2003), as mentioned in this Bill.

4. The Bill has been framed with the above objects in view.

5. No expenditure is envisaged in giving effect to the provisions of the Bill.

SUBRATA MUKHERJEE,
Member-in-charge.

KOLKATA,
The 3rd July, 2012.

By order of the Governor,

MALAY MARUT BANERJEE,
*Secy. to the Govt. of West Bengal,
Law Department.*