

The



Kolkata Gazette

सत्यमेव जयते

Extraordinary
Published by Authority

BHADRA 28]

WEDNESDAY, SEPTEMBER 19, 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. 1443-L.—19th September, 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. 33 of 2012

THE WEST BENGAL PANCHAYAT (SECOND AMENDMENT) BILL, 2012.

**A
BILL**

to amend the West Bengal Panchayat Act, 1973.

WHEREAS it is expedient to amend the West Bengal *Panchayat Act, 1973*, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XLI of 1973.

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 (Second Amendment) Act, 2012*.
- (2) It shall be deemed to have come into force on the 4th day of September, 2012.

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

(Clauses 2, 3.)

Amendment of
section 4 of West
Beng. Act XLI of
1973.

2. In sub-section (2) of section 4 of the West Bengal *Panchayat* Act, 1973 (hereinafter referred to as the principal Act),—

(1) after the first proviso, the following provisos shall be inserted:—

“Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of seats in the *Gram Panchayat* as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit of fifty per cent of the total seats in a *Gram Panchayat* and then the balance number of seats within the ceiling limit of fifty per cent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said *Gram*:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso severally or jointly exceeds fifty per cent of the total number of seats in a *Gram Panchayat*, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of seats in that *Gram Panchayat*, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that *Gram*:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of seats in that *Gram Panchayat*, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Classes population in that *Gram*;”;

(2) in the second proviso, for the words “Provided further that as nearly as practicable”, the words “Provided also that as nearly as practicable” shall be substituted.

Amendment of
section 9.

3. In sub-section (1) of section 9 of the principal Act, after the third proviso, the following provisos shall be inserted:—

“Provided also that the total number of offices of the *Pradhan* or the *Upa-Pradhan* in any district reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of offices of the *Pradhan* or the *Upa-Pradhan* within the district as determined in terms of the third proviso:

Provided also that reservation of offices of the *Pradhan* or the *Upa-Pradhan* in any district in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the third proviso subject to the ceiling limit of fifty per cent of the total offices of the *Pradhan* or the *Upa-Pradhan* in the district and then the balance number of offices of the *Pradhan* or the *Upa-Pradhan* in the district within the ceiling limit of fifty per cent of the total offices of the *Pradhan* or the *Upa-Pradhan* in the district shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said district:

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

(Clause 4.)

Provided also that if and when the number of offices of the *Pradhan* or the *Upa-Pradhan* in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso severally or jointly exceeds fifty per cent of the total number of offices of the *Pradhan* or the *Upa-Pradhan* in the district, such reserved offices in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of offices of the *Pradhan* or the *Upa-Pradhan* in the district, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that district:

Provided also that when the number of offices of the *Pradhan* or the *Upa-Pradhan* in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso or the sixth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of offices of the *Pradhan* or the *Upa-Pradhan* in the district, there shall be no reservation of offices of the *Pradhan* or the *Upa-Pradhan* in that district in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that district:".

Amendment of
section 94.

4. In clause (ii) of sub-section (2) of section 94 of the principal Act,—

(1) after the first proviso, the following provisos shall be inserted:—

“Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of seats in the *Panchayat Samiti* as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit of fifty per cent of the total seats in the *Panchayat Samiti* and then the balance number of seats within the ceiling limit of fifty per cent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said Block:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso severally or jointly exceeds fifty per cent of the total number of seats in a *Panchayat Samiti*, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of seats in the *Panchayat Samiti*, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes with the total population in that Block:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of seats in that *Panchayat Samiti*, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of Backward Class population in that Block:”;

(2) in the second proviso, for the words “Provided further that as nearly as practicable”, the words “Provided also that as nearly as practicable” shall be substituted.

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

(Clauses 5, 6.)

Amendment of
section 98.

5. In sub-section (1) of section 98 of the principal Act, after the third proviso, the following provisos shall be inserted:—

“Provided also that the total number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in any district reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of offices of the *Sabhapati* or the *Sahakari Sabhapati* within the district as determined in terms of the third proviso:

Provided also that reservation of offices of the *Sabhapati* or the *Sahakari Sabhapati* in any district in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the third proviso subject to the ceiling limit of fifty per cent of the total offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district and then the balance number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district within the ceiling limit of fifty per cent of the total offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said district:

Provided also that if and when the number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso severally or jointly exceeds fifty per cent of the total number of the offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district, such reserved offices in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that district:

Provided also that when total number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso or the sixth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district, there shall be no reservation of offices of the *Sabhapati* or the *Sahakari Sabhapati* in the district in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that district.”.

Amendment of
section 140.

6. In clause (ii) of sub-section (2) of section 140 of the principal Act,—

(1) after the first proviso, the following provisos shall be inserted:—

“Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of seats in the *Zilla Parishad* as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit of fifty per cent of the total seats in the *Zilla Parishad* and then the balance number of seats within the ceiling limit of fifty per cent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said district:

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

(Clause 7.)

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso severally or jointly exceeds fifty per cent of the total number of seats in a *Zilla Parishad*, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of seats in that *Zilla Parishad*, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that district:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of seats in that *Zilla Parishad*, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of Backward Class population in that district:”;

(2) in the second proviso, for the words “Provided further that as nearly as practicable”, the words “Provided also that as nearly as practicable” shall be substituted.

7. In sub-section (1) of section 143 of the principal Act, after the third proviso, the following provisos shall be inserted:—

“Provided also that the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal as determined in terms of the third proviso:

Provided also that reservation of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in any district of West Bengal in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the third proviso subject to the ceiling limit of fifty per cent of the total offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the West Bengal and then the balance number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* within the ceiling limit of fifty per cent of the total offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in West Bengal:

Provided also that if and when the number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso severally or jointly exceeds fifty per cent of the total number of offices in West Bengal, such reserved offices in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in West Bengal:

Provided also that when the number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso or the sixth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal, there shall be no reservation of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in West Bengal in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in West Bengal:”.

Amendment of
section 143.

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

(Clauses 8, 9.)

Amendment of
section 185B.

8. In clause (ii) of sub-section (3) of section 185B of the principal Act,—

(1) after the first proviso, the following provisos shall be inserted:—

“Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty per cent of the total number of seats in the Siliguri *Mahakuma Parishad* as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit of fifty per cent of the total seats in the *Mahakuma Parishad* and then balance number of seats within the ceiling limit of fifty per cent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in that *Mahakuma Parishad* area:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso, severally or jointly, exceeds fifty per cent of the total number of seats in the *Mahakuma Parishad*, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty per cent of the total number of seats in the *Mahakuma Parishad*, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that *Mahakuma Parishad* area:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty per cent of the total number of seats in the *Mahakuma Parishad*, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that *Mahakuma Parishad* area:”;

(2) in the second proviso, for the words “Provided further that as nearly as practicable”, the words “Provided also that as nearly as practicable” shall be substituted.

Repeal and
saving.

9. (1) The West Bengal Panchayat (Amendment) Ordinance, 2012, is hereby repealed.

West Ben. Ord.
II of 2012.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been validly done or taken under the principal Act as amended by this 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.

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

2. After increasing the representation and reservation of women and also of other weaker sections of the society in three tier of *Panchayat*, it has been considered necessary and expedient to amend the West Bengal *Panchayat* Act, 1973 (West Ben. Act XLI of 1973), to ensure that such reservation conforms to Constitutional provisions regarding reservation and does not exceed more than fifty per cent in any case, as pronounced by the Hon'ble Supreme Court of India.

3. As the West Bengal Legislative Assembly was not in session and as it was considered necessary to take immediate action in the matter, an Ordinance, namely, the West Bengal *Panchayat* (Amendment) Ordinance, 2012 (West Ben. Ord. II of 2012), was promulgated.

4. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

5. There is no financial implication involved in the Bill.

KOLKATA,
The 17th September, 2012.

SUBRATA MUKHERJEE,
Member-in-charge.

By order of the Governor,

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