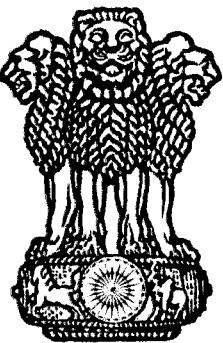


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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1444-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. 34 of 2012

THE WEST BENGAL PANCHAYAT ELECTIONS (SECOND 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 (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 Elections
(Second Amendment) Bill, 2012.*

(Clauses 2, 3.)

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

2. After sub-section (2A) of section 17 of the West Bengal *Panchayat* Elections Act, 2003 (hereinafter referred to as the principal Act), the following sub-section shall be inserted:—

“(2B) Notwithstanding anything contained in sub-sections (1), (2) and (2A), 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 any *Gram Panchayat*, *Panchayat Samiti*, *Zilla Parishad* or the *Mahakuma Parishad* as determined under section 12, section 14 or section 15, as the case may be:

Provided that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes in a *Gram Panchayat*, *Panchayat Samiti*, *Zilla Parishad* or the Siliguri *Mahamuka Parishad*, as the case may be, shall be determined in terms of sub-section (1) and sub-section (2), as the case may be, at the first stage subject to the ceiling limit of fifty per cent of the total seats in any of such *Panchayat* bodies 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 *Panchayat* body:

Provided further that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of sub-section (1) and sub-section (2), as the case may be, severally or jointly exceeds fifty per cent of the total number of seats in a *Panchayat* body, 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 *Panchayat* body, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that *Panchayat* body:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of sub-section (1) and sub-section (2), as the case may be, severally or jointly reaches fifty per cent of the total number of seats in a *Panchayat* body, 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 such *Panchayat* body.”.

Amendment of
section 18.

3. In section 18 of the principal Act,—

(1) in sub-section (1), the following provisos shall be inserted:—

“Provided 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 determined in the aforesaid manner:

Provided further 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 sub-section (1) 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 Elections
(Second Amendment) Bill, 2012.*

(Clause 3.)

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 sub-section (1) 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 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 sub-section (1), 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 the district in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that district.”.

(2) in sub-section (6), the following provisos shall be inserted:—

“Provided that the number of offices of the *Sabhapati* or the *Sahakari Sabhapati* in the *Panchayat Samitis* in a 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* in the *Panchayat Samitis* in the district determined in the aforesaid manner:

Provided further that reservation of offices of the *Sabhapati* or the *Sahakari Sabhapati* in the *Panchayat Samitis* in any district in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage in terms of sub-section (6) 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* of *Panchayat Samitis* in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of sub-section (6) severally or jointly exceeds fifty per cent of the total number of 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 with the total population in that district:

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

(Clause 4.)

Provided also that when the number of offices of the *Sabhapati* or the *Sahakari Sabhapati* of *Panchayat Samitis* in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of sub-section (6) 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 19.

4. In sub-section (1) of section 19 of the principal Act, the following provisos shall be inserted:—

“Provided that the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* of the *Zilla Parishads* or the *Siliguri Mahakuma Parishad* in the State 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 such offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State determined in the aforesaid manner:

Provided further that reservation of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* of the *Zilla Parishads* or the *Siliguri Mahakuma Parishad* in the State in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage in terms of sub-section (1) subject to the ceiling limit of fifty per cent of the total such offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State and then the balance number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State within the ceiling limit of fifty per cent of the total offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the State:

Provided also that if and when the number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* of the *Zilla Parishads* or the *Siliguri Mahakuma Parishad* in the State determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of sub-section (1), severally or jointly exceeds fifty per cent of the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State, 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 the State, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in the State:

Provided also that when the number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* of the *Zilla Parishads* or the *Siliguri Mahakuma Parishad* in the State determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of sub-section (1), severally or jointly reaches fifty per cent of the total number of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State, there shall be no reservation of offices of the *Sabhadhipati* or the *Sahakari Sabhadhipati* in the State in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in the State.”.

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

(Clause 5.)

Repeal and saving.

5. (1) The West Bengal *Panchayat* Elections (Amendment) Ordinance, 2012, is hereby repealed.

West Ben. Ord.
III 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 West Bengal *Panchayat* Act, 1973 (West Ben. Act XLI of 1973) had been amended in the year 2012, *inter-alia*, with a view to increasing the representation and reservation of women and also of other weaker sections of society in three tier of *Panchayat* and ensuring 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. Subsequently, it has been considered necessary and expedient to make some consequential amendment in the West Bengal *Panchayat* Elections Act, 2003 (West Ben. Act XXI of 2003).

2. 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* Elections (Amendment) Ordinance, 2012 (West Ben. Ord. III of 2012), was promulgated.

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