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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. 260-L.—12th February, 2014.—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. 1 of 2014

THE WEST BENGAL PANCHAYAT (AMENDMENT) BILL, 2014.

**A
BILL**

to amend the West Bengal Panchayat Act, 1973.

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

West Ben. Act
XLI of 1973.

It is hereby enacted in the Sixty-fifth 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 (Amendment) Act, 2014.*

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Panchayat (Amendment) Bill, 2014.**(Clauses 2-6.)*Amendment of
section 9 of West
Bengal Act XLI of
1973.

2. In sub-section (1) of section 9 of the West Bengal *Panchayat* Act, 1973 (hereinafter referred to as the principal Act), after the second proviso, the following proviso shall be inserted:—

“Provided also that after being elected to the office of a full time office bearer, he shall be allowed lien or leave of absence from the place of his employment for his full tenure in the office of the *Pradhan* with effect from the date of his joining to such office by the Department or authority or undertaking or aided institution of the State Government under which he holds his office of profit:”.

Amendment of
section 98.

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

“Provided also that after being elected to an office of a full time office bearer, he shall be allowed lien or leave of absence from the place of his employment for his full tenure in such office with effect from the date of his joining to such office by the Department or authority or undertaking or aided institution of the State Government under which he holds his office of profit:”.

Amendment of
section 143.

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

“Provided also that after being elected to an office of a full time office bearer, he shall be allowed lien or leave of absence from the place of his employment for his full tenure in such office with effect from the date of his joining to such office by the Department or authority or undertaking or aided institution of the State Government under which he holds his office of profit:”.

Amendment of
section 172.

5. In sub-section (1) of section 172 of the principal Act, after the third proviso, the following proviso shall be inserted:—

“Provided also that after being elected to an office of a full time office bearer, he shall be allowed lien or leave of absence from the place of his employment for his full tenure in such office with effect from the date of his joining to such office by the Department or authority or undertaking or aided institution of the State Government under which he holds his office of profit:”.

Substitution of
new section for
section 213A.

6. For section 213A of the principal Act, the following section shall be substituted:—

“Disqualification on change of political party by Members of Panchayats. 213A. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification in this behalf, may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a member of such *Panchayat* to be disqualified for being a member thereof, if—

(a) he is an elected member set up by a recognised political party and has—

(i) voluntarily given up his membership of such recognised political party, or

(ii) exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in such *Panchayat*; or

(b) he is an elected member not set up by any recognised political party and he has joined a recognised political party on the expiry of six months from the date of election:

*The West Bengal Panchayat (Amendment) Bill, 2014.**(Clause 6.)*

Provided that the prescribed authority shall not declare any member to be disqualified under this section without giving to such member a reasonable opportunity to represent his case and to be heard in person:

Provided further that an elected member referred to in sub-clause (ii) of clause (a) shall not, on the prescribed authority being satisfied in this behalf, be declared to be disqualified, if—

- (a) the action of such member was taken on obtaining prior permission of, or was condoned by, such recognised political party, or
- (b) such member claims that he and any other members of such recognised political party in the *Panchayat* constitute a group representing a faction consisting of not less than one-third of the total number of members set up by such recognised political party in the *Panchayat* and that all the members of such group have voluntarily given up their membership of such recognised political party, or
- (c) the former recognised political party of the member merges with another recognised political party, and he claims that he and other members of his former recognised political party—
 - (i) have become members of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or
 - (ii) have not accepted the merger, and from the time of such merger, he and such other members constituting not less than one-third of the total number of members set up by the former recognised political party in the *Panchayat*, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a member shall, subject to the provisions of sub-section (12), stand removed from the *Panchayat* from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of a *Panchayat* or within one month from the date on which this section comes into force, as the case may be, elected members set up by the recognised political parties shall, by adopting a resolution, select one member from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the prescribed authority referred to in sub-section (1)—

- (i) a copy of the resolution,
- (ii) a signed statement containing the names, addresses and constituencies of himself and other members set up by such recognised political party, and
- (iii) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of the Leader:

Provided further that the prescribed authority referred to in sub-section (1) shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was not adopted within one month from the date of the first meeting of the *Panchayat* or within one month from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

The West Bengal Panchayat (Amendment) Bill, 2014.

(Clause 6.)

(4) Where there is only one elected member set up by a recognised political party in a *Panchayat*, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the *Panchayat* was held or this section came into force, as the case may be, on the date on which such increase took place.

(5) A member not belonging to any recognised political party shall furnish a statement to that effect to the prescribed authority referred to in sub-section (1) within one month from the date of the first meeting of the *Panchayat*.

(6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5), the Leader or the member, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the prescribed authority referred to in sub-section (1).

(7) The Leader of any recognised political party referred to in sub-section (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the prescribed authority referred to in sub-section (1), stating that—

(a) one or more members of such recognised political party have—
 (i) voluntarily given up his or their membership of such recognised political party, or

(ii) have exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in the *Panchayat*, or

(b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or
 (c) the member referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election, and that such member or members should be declared to be disqualified under sub-section (1) and should be removed from the *Panchayat*.

(8) Every petition referred to in sub-section (7)—

(a) shall contain a concise statement of the material facts on which the petitioner relies, and

(b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and, where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the prescribed authority referred to in sub-section (1) shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

(a) the common decision in regard to the manner of voting to be exercised by the majority members set up by the recognised political party, and
 (b) whether the member or members against whom such petition is filed, exercised the voting right, in a meeting of the *Panchayat* contrary to such manner of voting.

The West Bengal Panchayat (Amendment) Bill, 2014.

(Clause 6.)

(10) For the purpose of enquiry under sub-section (9), the prescribed authority may summon such members of the recognised political party or other persons, and require such signed statements from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the prescribed authority shall, in consideration of the facts and the documents and the records before it,—

- (a) reject the petition, or
- (b) admit the petition wholly or in part and declare any member or members to be disqualified under sub-section (1) for being members of the *Panchayat*.

(12) Any member of a *Panchayat* declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the prescribed authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any member or members to be disqualified in the manner referred to in sub-section (1) and, upon such declaration, the member or members shall stand removed from the *Panchayat*.

(13) The order passed by the authority appointed under sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a member being declared to be disqualified under sub-section (1) for being a member of the *Panchayat*.

(15) The State Government may, by notification, make rules for carrying out the purposes of this section.

Explanation.—For the purposes of this section, an elected member shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the prescribed authority referred to in the sub-section (1) before the expiry of six months from the date of election.”.

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. It has been considered necessary and expedient to amend the West Bengal *Panchayat* Act, 1973 (West Ben. act XLI of 1973) *inter alia*, in order to—

- (a) enable the *Pradhan* of the *Gram Panchayat*, the *Sabhapati* and the *Sahakari Sabhapati* of the *Panchayat Samiti*, the *Sabhadhipati* and *Sahakari Sabhadhipati* of the *Zilla Parishad* and the *Karmadhyaksha* of

The West Bengal Panchayat (Amendment) Bill, 2014.

the *Zilla Parishad* to function as the whole time functionaries of their offices smoothly obtaining lien or leave of absence from their offices of profit under the Department or authority or undertaking or aided institution of the State Government;

(b) provide safeguard to any member from disqualification even if such member claims that he and any other members of such recognized political party in the *Panchayat* constitute a group representing a faction consisting of not less than one-third of the total number of members set up by such recognized political party in the *Panchayat* and that all the members of such group have voluntarily given up their membership of such recognized political party. Prior to West Bengal *Panchayat* (Amendment) Act, 2010 such safeguard was there for the member or members establishing the above facts even after exercising the voting right contrary to the manner of voting by the majority of members set up by any recognized political party in the *Panchayat*.

3. The Bill has been framed with the above objects in view.
4. No expenditure is involved in giving effect to the provisions of the Bill.

KOLKATA,
The 7th February, 2014.

SUBRATA MUKHERJEE,
Member-in-charge.

By order of the Governor,

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