

EXTRACTS FROM THE ODISHA MUNICIPAL CORPORATION ACT,

2003

ORISSA ACT 11 OF 2003

CHAPTER I

PRELIMINARY

Short title, extent, 1. (1) This Act may be called the Odisha Municipal Corporation Act, 2003.

Commencement and application. (2) It extends to the whole of the State of Odisha.

(3) It shall be deemed to have come into force on the 11th day of February, 2003 in the cities of Bhubaneswar and Cuttack and in any other city on the date on which the area thereof is specified by the Governor under clause (2) of article 243 Q of the Constitution to be a larger urban area.

Definitions 2. In this Act, unless the context otherwise requires,

- (1) “agent” means an election agent;
- (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;
- 12. “candidate” means a person who has been nominated as a candidate at any election of a Corporator or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election if he is subsequently nominated as a candidate at such election;
- (15) “casual election” means an election held to fill up a casual vacancy;
- (16) “casual vacancy” means a vacancy occurring otherwise than by efflux of time in the office of a Corporator or in any other office;
- (18) “city” means any area specified by the Governor as a larger urban area under sub-section (1) of section 3 or deemed to be so specified under subsection (4) of the said section;
- (19) “Commissioner” means, the Municipal Commissioner for the city appointed under section 17;
- (23) “Corporation” means a Municipal Corporation constituted under this Act;
- (25) “Corporator” means a person who is duly elected as a Corporator of the Corporation under this Act and includes a nominated Corporator;

(34) "election authority" means such authority as may be prescribed, not being the Mayor, Deputy Mayor or a Corporator;

(35) "election agent" means the person appointed under sub-section (2) of section 75 by a candidate to be his election agent;

(36) "Election Commission" means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under article 243 K of the Constitution;

(44) "Government" means the State Government of Odisha;

(46) "holding" means land held under one title or agreement and surrounded by one set of boundaries;

(51) "Judge" means the District Judge and shall include an Additional District Judge and Civil Judge (Senior Division), having jurisdiction over the Corporation area;

(53) "local authority" means Municipal Corporation or Municipal Council or Notified Area Council or Development Authority or Improvement Trust or Panchayats at any level;

(61) "population" means the number of the inhabitants as ascertained at the last preceding census of which the relevant figures have been published

(63) "prescribed" means prescribed by rules made under this Act;

(67) "public securities" means _____.

- (a) Securities of the Central Government or any State Government.
- (b) Stocks, debentures or shares, the interest whereon has been guaranteed by the Central or any State Government,
- (c) Debentures or other securities for money issued by or on behalf of any local authority,
- (d) Securities expressly authorized by any order which the Government makes in this behalf;

(72) "schedule" means the Schedule appended to this Act;

(73) "section" means a section of this Act;

(85) Words and expressions used but not defined herein shall have the same meaning as respectively as assigned to them in the Odisha Municipal Act, 1950.

CHAPTER II

CONSTITUTION OF CORPORATION

Constitution of Corporation 3. (1) The Governor, having regard to the population of any urban area, the density of population of such area, the revenue generated for the local administration, the percentage of employment in non-agricultural activities, the economic importance or such other activities as may be prescribed, may, by notification, specify such area to be larger urban area.

Explanation. - A population of not less than three lakhs may be considered to be sufficient population for the purpose of declaring a larger urban area.

(2) As soon as may be, after the issue of the notification specifying an area to be a larger urban area, the Government shall, by notification in the official gazette, constitute for the purpose of this Act a Municipal Corporation for that larger urban area.

(3) Notwithstanding anything contained in this Act or in the Odisha Municipal Act, 1950, whenever any smaller urban area is notified under sub-section (1) to be a larger urban area -

(a) the Municipal Council for the said area if any, shall be deemed to be the Municipal Corporation for the larger urban area so specified; and

(b) the Chairperson, Vice-Chairperson and other Councillor of the existing Municipal Council shall be deemed to be the Mayor, Deputy Mayor and other Corporators respectively of the Corporation and they shall continue for the remainder of the period for which the existing Municipal Council would have continued otherwise.

(4) The areas included in the Cuttack Municipal Corporation and Bhubaneswar Municipal Corporation immediately before commencement of this Act, shall be deemed larger urban area specified under sub-section(1) and the provisions of this Act shall mutatis mutandis apply to the said Municipal Corporations.

(5) The Government may, after consultation with the Corporation, by notification, alter the limits of the area of a Corporation constituted under sub-section (2), so as to include therein or to exclude therefrom any area as may be specified in the notification.

(6) The power to issue a notification under sub-section (5) shall be subject to previous publication.

(7) When an area is included in the city, the provisions of this Act and all taxes, rules, bye-laws, regulations, notifications, orders, directory powers, levied, made, issued or conferred, as the case may be, under this Act or any other law shall be deemed to apply to the said area from the date of inclusion of said area within the city.

(8) Save as otherwise provided in this Act or any other law for the time being in force, when an area is excluded from the city -

(i) the rights and liabilities of the Corporation in such area shall vest in Government;

(ii) the Government after consultation with the Corporation determine what portion of the Corporation fund and other property vested in the Corporation shall vest in the

Government for the benefits of the inhabitants of such area and how liabilities of the Corporation shall be apportioned between the Corporation and the Government.

CHAPTER III

THE CORPORATION AUTHORITIES

Municipal Authorities

4. The following shall be the Municipal Authorities for the purpose of carrying out the provisions of this Act, namely:-

- (a) The Corporation;
- (b) The Mayor,
- (c) The Standing Committees of the Corporation; and
- (d) The Commissioner.

Incorporation of Corporation 5. (1) With effect from such date as the Government may, by notification appoint, there shall be a Corporation charged with the Municipal Government of the concerned city to be named thereafter.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and may by its name sue and be sued.

(3) Subject to the provisions of this Act, the Corporation shall be entitled to acquire, hold and dispose of property.

Composition of Corporation 6. The Corporation shall consist of :-

(a) An elected Mayor and such numbers of elected Corporators as are specified in the table below:-

Population Range (1)	Number of Corporators		
	Minimum (2)	Incremental numbers (3)	Maximum (4)
Above 3 lakhs and upto 6 lakhs	39	One additional Corporator for every 15,000 above 3 lakhs	59
Above 6 lakhs and upto 12 lakhs	59	One additional Corporator for every 30,000 above 6 lakhs	79
Above 12 lakhs and upto 24 lakhs	79	One additional Corporator for every 40,000 above 12 lakhs	109
Above 24 lakhs	109	One additional Corporator for every 60,000 above 24 lakhs	150

(b) Not more than five persons nominated by the Government from amongst the residents of the city having special knowledge or experience in municipal administration

Provided that the persons referred to in this clause shall not have the right to vote at any meeting of the Corporation but shall have the right to attend every meeting thereof except the meetings convened under sections 14 and 20.

(c) Every member of the House of People and the member of the State Legislative Assembly representing constituencies which comprise wholly or partly the area of the city and every member of the Council of State who are registered as electors within the area of the city:

Provided that no such member shall have the right to attend any meeting of the Corporation convened under Sections 14 and 20;

Provided further that where any such member is unable to attend any meeting of the Corporation (except as aforesaid) for any reason, he may authorize a person to attend such meeting as his representative, but, in no case the representative so authorized shall have the right to vote at such meeting, but shall have the right to receive notices of the meeting and participate in it.

Reservation of Seats

7. (1) The Government shall, by notification, from time to time, reserve seats for Corporators belonging to the Scheduled Castes and Scheduled Tribes and the number of seats so reserved shall bear as nearly as maybe, the same proportion to the total number of seats to be filled by direct election in the Corporation as the population of the Schedule Castes in the city or of Schedule Tribes in the city bears to the total population of the city:

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Corporation area is not sufficient for reservation of any seat, one seat for the Scheduled Castes or, as the case maybe, one seat for the Scheduled Tribes shall be reserved in that Corporation area.

(2) As nearly as may be, but not less than one-half of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

(3) As nearly as may be but not less than, twenty-seven percentum of the total number of seats to be filled by direct election in a Corporation shall also be reserved in favour of backward class of citizens as referred to in clause (6) of article 243 T of the Constitution.

(4) As nearly as may be, 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 wards as may be prescribed.

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

(8) The reservation of seats under sub-sections (1) and (2) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution:

Provided that any person elected to any such reserved seat shall continue as a Corporator during the term of office for which he was validly elected, notwithstanding that the reservation of seats has ceased to have effect.

(9) Nothing contained in sub-sections (1) and (2) shall be deemed to prevent the members of the Scheduled Castes or the Scheduled Tribes for whom seats have been reserved in the Corporation for seeking election from a non-reserved seat in the Corporation.

Explanation - “Scheduled Castes and Scheduled Tribes” mean such castes and tribes as are specified by the President under article 341 and article 342, respectively, of the Constitution.

Duration of the Corporation 8. (1) Every Corporation, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting as referred to in sub-section (2-a) of section 14 and no longer.

(2) A Corporation constituted upon the dissolution of the Corporation before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Corporation would have continued under sub-Section (1), had it not been dissolved.

Election of Mayor and Deputy Mayor 14. (1) Every Corporation shall have a Mayor and a Deputy Mayor.
(2) A Mayor of the Corporation shall be directly elected by the electors of the Corporation area.

(2-a) The Deputy Mayor of the Corporation shall be elected by the Corporators from among themselves at the first meeting of the Corporation which shall be convened by the Director, Municipal Administration under sub-section(8);

Provided that where the office of the Mayor of a Corporation is not reserved under sub-section (3) for women or where the mayor elected under this Act is not a Woman, the office of the Deputy Mayor of Corporation shall be reserved for women.

(3) Notwithstanding anything to the contrary in sub-section (1)—

- (a) offices of Mayor in the Corporations shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total numbers of such offices as the population of the Scheduled Castes and the Scheduled Tribes, respectively in the Corporation areas of the State bears to the population of such Corporation areas;
- (b) as nearly as may be but not less than one-half of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes; and
- (c) as nearly as may be but not less than one-half (including the number 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 of Mayor in the Corporations shall be reserved for women; and
- (d) as nearly as may be, but not less than, twenty-seven percentum of the offices of Mayor of Corporations shall also be reserved in favour of backward class of citizens as referred to in clause (6) of article 243 T of the Constitution; and
- (e) as nearly as may be, but not less than one-half of the total number of seats 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 after every two terms of General Election 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 Schedule Castes, Scheduled Tribes, backward class of citizens and Women shall, as far as maybe, 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 sub-section (3) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.

(6) If at an election, no Mayor is elected under sub-section (2) or no Deputy Mayor is elected under sub-section (2-a), a fresh election shall be held within thirty days from the date of its first election.

(7) If at the subsequent election held under sub-section (6) no Mayor or Deputy Mayor as the case may be, is elected, the Government shall nominate a person who is otherwise eligible to hold the office, to fill up the office, and the person so nominated shall, subject to other provisions of this Act, hold office till the expiry of five years from the date appointed for the first meeting referred to in sub-section (2-a) of this section.

(8) The first meeting of the Corporation after the general election shall be held on a date, not later than thirty days after the publication of the results of such election and shall be convened by the Director, Municipal Administration.

(8-a) If any casual vacancy occurs in the office of the Mayor, it shall be filled up by election, as soon as may be, after occurrence of such vacancy, in the prescribed manner.

(9) If any casual vacancy occurs in the office of the Deputy Mayor, the Corporators of the Corporation shall, as soon as conveniently may be after the occurrence of the vacancy at a meeting to be convened by the Director, Municipal Administration, elect one from amongst themselves to fill up the vacancy and every Deputy Mayor so elected shall hold office so long as the person in whose place he is elected would have been entitled to hold it, if the vacancy had not occurred.

(10) The meeting convened by the Director, Municipal Administration, under sub-section (8) or sub-section (9) shall be presided over the Director, Municipal Administration.

(11) The ex officio or nominated Corporators shall not be entitled to participate in the meeting convened for the election of the Deputy Mayor.

Resignation of
Mayor and
Deputy Mayor

15. The Mayor may resign from his office by giving notice in writing to the Deputy Mayor and the Deputy mayor may resign his office by giving notice in writing to the Mayor and, such resignation shall take effect in case of Mayor, from the date on which it is accepted by the Corporation and in case of Deputy Mayor, by the Mayor.

Power of
Government to
make rules for
election of
Mayor, Deputy
Mayor etc

16. Subject to the provisions of this Act, the government may make rules, with reference to all the matters not expressly provided in this Act, which relates to election of the Mayor, the Deputy Mayor, the Chairman and members of the Standing Committees and additional standing committees.

Appointment of
Municipal
Commissioner.

17. (1) An officer in the service of Government shall be appointed as the Municipal Commissioner by the Government and he shall not be a Corporator of the Corporation.

(2) The Commissioner shall be a whole time officer of the Corporation and shall not undertake any work unconnected with his office, unless the Government in consultation with the Corporation sanctions to undertake such work by him.

(3) The Commissioner shall hold office for a period of three years, unless his services are withdrawn by the Government sooner from the Corporation.

Acting
Commissioner.

18. During absence of the Commissioner, the Government may appoint a person to act as the Commissioner and every person so appointed shall exercise the functions and perform the duties conferred and imposed by this Act¹, or any other law for the time being in force on the Commissioner and shall be subject to all the liabilities, restrictions and the conditions to which the Commissioner is liable and shall receive such monthly salary and allowance not exceeding the salary and allowance for the time being payable to the Commissioner as the Government may determine.

Removal of
Mayor or
Deputy Mayor

19. (1) If at any time during the term of office of the Mayor or the Deputy Mayor it comes to the notice of the Government that such Mayor or Deputy Mayor willfully omits or refuses to carry out, or disobeys the provisions of this Act or any rules, bye laws, regulations made under this Act or lawful orders issued there under, they may cause an enquiry to be made by an officer not below the rank of a Secretary to the State Government.

(2) On receipt of the report from the enquiring officer, the Government shall give an opportunity to the concerned Mayor or Deputy Mayor to submit his explanation within a period of three weeks.

(3) The Government, after considering the report and the explanation together with the comments, if any, of the enquiring officer and on being satisfied that the Mayor or the Deputy Mayor has failed to discharge the duties of his office or has acted illegally or in contravention of any of the provisions of this Act, or any rules, regulation or bye laws, may by notification issued, as far as practicable, within six weeks from the date of receipt of the explanation, remove the Mayor or as the case may be, the Deputy Mayor from office.

Vote of no
confidence
against Mayor
or Deputy
Mayor

20. (1) Where in a meeting of the Corporation specially convened by the Government in that behalf a resolution is passed, supported by not less than two third of the total number of elected Corporators recording want of confidence in the Mayor or Deputy Mayor, the resolution along with the records of the proceedings at such meetings shall forthwith be

forwarded to the Government who shall publish the same in the official Gazette and with effect from the date of passing of the resolution, the person holding the office of Mayor or Deputy Mayor as the case may be, shall be deemed to have vacated such office and in the event of both Mayor and Deputy Mayor vacating office the Director, Municipal Administration, shall discharge the duties and responsibilities of the Mayor till a new Mayor is elected:

Provided that no such resolution recording want of confidence in the Mayor or Deputy Mayor shall be

- (i) moved within two years from the date of his election;
- (ii) moved more than once during a calendar year

(2) In convening a meeting under sub-section (1) and in the conduct of business at such meeting the procedure shall be in accordance with the rules, made under this Act, subject, however, to the following provisions, namely:-

- (a) no such meeting shall be convened except on a requisition signed by at least one third of the total number of elected Corporators alongwith a copy of the resolution proposed to be moved at the meeting;
- (b) the requisition shall be addressed to the Government;
- (c) the Government shall, within 10 days of receipt of such requisition, fix the date, hour and place of such meeting and give, notice of the same to all the Corporators holding office on the date of such notice along with a copy of the proposed resolution, at least three clear days before the date so fixed;
- (d) an officer of the Government not below the rank of the Secretary as may be authorized by the Government in this behalf shall preside over, conduct and regulate the proceedings of the meeting;
- (e) the voting at all such meeting shall be by secret ballot;
- (f) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Mayor or Deputy Mayor, as the case may be, shall be taken up for consideration at the meeting;
- (g) if the number of elected Corporators present at the meeting is less than two third of the total number of Corporators the resolution shall stand annulled; and
- (h) if the resolution is passed at the meeting supported by the requisite number of Corporators as specified in sub-section (1) the Presiding Officer shall immediately forward

the same in original along with the records of the proceedings to the Government who shall forthwith publish the resolution in accordance with the provisions of sub-section (1);

CHAPTER IV

POWERS AND DUTIES OF THE CORPORATION AUTHORITIES

Deputy Mayor to act as Mayor or to discharge his functions during casual absence of mayor 35. (1) In the event of occurrence of any vacancy in the office of the Mayor by the reason of his death, the Deputy Mayor shall act as the Mayor until the date on which a new Mayor, elected in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Mayor is unable to discharge his functions owing to his absence, illness, or any other cause, the Deputy Mayor shall discharge his functions until the date on which the Mayor resumes his duties.

(3) Subject to other provisions of this Act, the Deputy Mayor shall, while acting as, or discharging functions of the Mayor under this section, have all the powers of the Mayor.

(4) The mayor may, by an order in writing delegate any of his functions to the Deputy Mayor.

Dissolution and reconstitution of the Corporation 48.(1) If in the opinion of the Government the Corporation is incompetent to perform or persistently makes default in performing the duties imposed on it or undertaken by it or under this Act or any other law, or exceeds or abuses its powers or fails to carry out the directions given to it under the provisions of this Act, or any other law, they may, by notification, direct that the Corporation be dissolved and reconstituted by such date not being later than six months from the date of dissolution:

Provided that a Municipal Corporation shall be given a reasonable opportunity of being heard before its dissolution:

Provided further that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to reconstitute the Corporation for such period.

(2) Before publishing a notification under sub-section (1) the Government shall communicate to the Corporation the grounds on which they proposed to do so, fix a reasonable period for the Corporation to show cause against the proposal and consider the explanations and objections, if any, of the Corporation.

(3) On and with effect from the date of publication of such notification, all the Corporators including the Mayor and Deputy Mayor shall be deemed to have vacated their offices as such without prejudice to their eligibility for election under sub-section (4).

(4) Fresh elections should be held to reconstitute the Corporation in accordance with the provisions of this Act and the elected Corporators of the reconstituted Corporation shall hold office only for the remainder of the period for which the dissolved Corporation would have continued had it not been so dissolved.

(5) A copy of the notification issued under sub-section (1) shall be laid as soon as may be before the Orissa Legislative Assembly.

(6) During any interval between the dissolution and the reconstitution of the Corporation all or any of the powers and duties conferred and imposed upon the Corporation, its Standing Committees, the Mayor and the Deputy Mayor, by or under this Act or any other law shall be exercised and performed by an Administrator appointed by the Government in that behalf.

(7) The Government may direct that the Administrator shall be a whole time officer and when such a direction is issued, he shall be paid out of the Corporation fund such monthly salary and allowances as the Government may from time to time, by order determine.

(8) In case, an Officer of the Government is appointed as Administrator, the Corporation shall make such contribution towards the leave allowances, pension and provident fund of the officer as may be required by the conditions of service under the Government to be paid by him or for him, as the Case maybe.

(9) In the discharge of his functions, the Administrator shall be guided by such direction in matters of policy involving public interest as the Government may by order specify and if any question arises whether a direction relates to a matter of policy involving public interest the decision of the Government shall be final.

(10) All properties of the Corporation shall, until its reconstitution vest in the Government.

Powers to
appoint
Administrator
in certain cases

49. (1) Whenever-

- (a) the general elections to the Corporation under this Act or any proceedings consequent thereon have been stayed by an order of a component court or authority; or
- (b) the election of all the Corporators or more than two third of the Corporators has been declared by a competent court or authority to be void; or

(c) all the Corporators or more than two third of the Corporators have resigned; the Government shall, by notification, appoint an Administrator for such period not exceeding six months, as may be specified in the notification.

(2) Notwithstanding anything contained in this Act, on the appointment of an Administrator under sub-section (1) and during the period of such appointment, the Corporation, the Standing Committees, the Mayor and the Deputy Mayor shall cease to exercise any powers and perform and discharge any duties or functions conferred or imposed on them by or under this Act any other law and all such powers shall be exercised and all such duties and functions shall be performed and, discharged by the Administrator.

(3) The provisions of sub-sections (6) and (7) of section 48 shall mutatis mutandis be applicable in respect of the Administrator appointed under subsection (1).

(4) The Government may, if it thinks fit, appoint an Advisory Council to advise and assist the Administrator appointed under sub-section (1) in the exercise of the powers and the performance and discharge of the duties and functions conferred or imposed on him under this Act or any other law.

(5) The members of the Advisory Council shall hold office during the pleasure of the Government.

CHAPTER V

TERM, REMOVAL AND RESIGNATION OF CORPORATORS

Terms of office of Corporators 51. (1) The term of office of the Corporators shall be co-terminous with the duration of the Corporation.

(2) A Corporator, elected at a casual or by-election to fill a vacancy shall hold office for the unexpired period of the term of office of the Corporator in whose place he has been elected.

(3) An outgoing Corporator if otherwise qualified shall be eligible for re-election.

(4) Notwithstanding anything contained in this Act, a person who ceases to be a Corporator for any reason, whatsoever, shall ipsofacto vacate the office or offices, if any held by him by virtue of his being a Corporator.

(5) Whenever the number of Corporators of the Corporation is increased, the additional Corporator or Corporators shall be elected and the term of such additional Corporator or Corporators shall expire simultaneously with the expiry of the term of office of the Corporators, elected at the general election as provided in sub-section (1).

Procedure when no Corporator is elected at an election 52 (1) If at a general election or at a by-election no Corporator is elected, a fresh election shall be held in accordance with the provisions of this Act.

(2) If at such fresh election, no Corporator is elected, the Government shall nominate an eligible person to fill up the vacancy.

Removal of Corporator by Governement 53. (1) Without prejudice to other provisions of this Act, the Government may remove any Corporator, if they are satisfied that the Corporator -

- (a) has been subject to any of the disqualifications specified in subsection (1) of section 71; or
- (b) fails to make within three months of his election the oath or affirmation under section 72; or
- (c) violates the oath or affirmation under section 72; or
- (d) is retained or employed in any professional capacity in connection with any case or matter in which the Corporation has interest:

Provided that no order for removal shall be made without giving the Corporator an opportunity for showing cause against the proposed removal.

(2) Any Corporator against whom an order of removal is made under sub-section (1) may, within thirty days of such order, prefer an appeal before the District Judge within whose jurisdiction the Corporation is situated.

Resignation of Corporator 54. A Corporator, not being the Deputy Mayor, may resign from his office by writing under his hand addressed to the Mayor who shall place the letter of resignation for acceptance before the Corporation at its next meeting of which notice shall be given to the Corporator and on the resignation being accepted by the Corporation, the Corporator shall cease to hold office with effect from the date succeeding the date of such acceptance:

Provided that the Corporator may at any time before acceptance of the resignation, withdraw the same by writing under his hand.

Casual Vacancy 55. (1) In the event of non-acceptance of office by a person elected as a Corporator or the Corporator incurs any disqualification or of becoming incapable of acting during the term of his office he shall cease to be a Corporator and there shall be deemed to have a casual vacancy in such office.

(2) If a Corporator ceases to be a Corporator by reason of his death, resignation, removal or otherwise, or under sub-section (1), the vacancy so caused shall be filled up by election of another Corporator in accordance with the provisions of the Act.

Power to leave casual vacancies on filled in certain 56. Where a vacancy occurs in the office of a Corporator by reason of death, resignation, removal or otherwise and the term of the office of that Corporator would in the ordinary course of events have terminated within six months of the occurrence of the vacancy, the vacancy shall be left until the next general election.

No Corporator to receive remuneration 57. No Corporator shall receive or be paid from the funds placed at the disposal of or under the control of the Corporation any salary or other remuneration for services rendered by him in any capacity whatsoever, but shall be allowed travelling allowance and sitting allowance as may be prescribed:

Provided that the Mayor and the Deputy Mayor may receive such monthly allowance as may be prescribed.

CHAPTER VI

ELECTIONS

Election to constitute the Corporators 58. An election to constitute a Corporation shall be completed-

- (a) before the expiry of its duration specified in sub-section (1) of section 8;
- (b) before the expiry of a period of six months from the date of its dissolution;

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold the election for constituting the Corporation for such period.

Election to fill up casual vacancy 59. A by-election to fill up any casual vacancy in the Corporation shall be held within a period of six months from the date of occurrence of such vacancy in the manner prescribed.

Division of the city into wards 60. (1) For the purposes of the election of the Corporators, the Government may, after consulting the Corporation, by notification, -

- (a) divide the Corporation area in to such number of wards as may be specified in the notification and in the like manner may alter the limits of such wards; and
- (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:

Provided that in dividing the city into wards equitable distribution of population among the various wards and the compactness of the area forming each ward shall be taken into consideration.

- (1-a) a Mayor shall be elected directly by all the electors of the Corporation area.
- (2) One Corporator shall be elected directly from every ward, within the Corporation area.

(3) The Government shall, before making a notification under sub-section (1), publish in the prescribed manner a draft thereof containing a statement showing the number of wards into which the city shall be divided the extent of each such ward and wards in which the seats reserved under section 7 shall be set assigned, with a notice inviting objection and suggestion from all persons interested within the prescribed period and shall consider the same.

Effect of revision of limits of the Corporation 61. (1) When any local area is included in the area of a Corporation under sub-section (5) of section 3, the local area shall either be added to such adjoining ward, or to be formed into a new ward or wards, as the Government may direct.

(2) When a new ward is formed, the Government may direct that one of the elected Corporators then in the Corporation, shall represent such ward or may direct that election shall be held to return a Corporator from that ward.

(3) When an existing ward is abolished on exclusion of any area from the area of a Corporation, the Corporator representing the ward shall cease to be a Corporator of the Corporation, notwithstanding anything to the contrary in this Act.

Superintendence direction and control of elections 62. (1) The superintendence, direction and control of preparation of the electoral rolls for, and the conduct of, all elections to the Corporations shall vest in the Election Commission.

(2) The Election Commission may, by order, delegate any of his powers and functions to any officer under his control or any officer of the Government not below the rank of a Sub-Collector.

(3) Any officers and employees of the Government, made available to the Election Commission pursuant to Clause (3) of article 243 K of the Constitution for the discharge of the functions conferred on the Election Commission by Clause (1) of that article, when appointed by the Election Commission as the Election Officer, Polling Officer or any other Officer, or otherwise designated for the time being, for the conduct of any election under this Act, shall be deemed to be on deputation to the Election Commission for the period commencing on the date of notification calling for such election and ending with the date of declaration of the result of such election and, accordingly, such officers and employees shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.

(4) Notwithstanding anything contained in this Act and the rules made there under, the Election Commission may issue such special or general orders or directions not inconsistent with the provisions of this Act for conduct of free and fair election.

Power of the
Election
Commission to
issue direction to
prevent
impersonation

63. The Election Commission may, with view to prevent impersonation of electors at the time of election, issue such direction, as he thinks fit, to the Presiding Officers and such directions may include instructing the electors to produce at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the People Act, 1951.

Notification
calling upon
wards to elect
Mayor and
Corporators.

64. For the purpose of holding election under this Act the Government shall by one or more notifications published on such date or dates as may be recommended by the Election Commission, call upon all wards in the city to elect a Mayor and the Corporators in accordance with the provisions of this Act and Rules and Orders made there under, before such date or dates as may be specified in the said notification or notifications.

Electoral roll
for the
Corporation

65. (1) Unless the Election Commission, by order published in the Gazette directs otherwise all the persons registered by virtue of the Representation of the People Act, 1950 so much of the electoral roll of any Assembly constituency, prepared or revised in accordance with the provisions of law for the time being in force, as relates to the area of the Corporation shall be entitled to cast their votes at an election to the Corporation and said portion of the roll shall be deemed to be the electoral roll of the Corporation for the purposes of this Act.

(2) So much of the electoral roll of the Corporation as relates to the area comprised within a ward thereof shall be embodied in a register to be maintained for the ward and such register shall be deemed to be the electoral roll for the ward for the purposes of this Act.

(3) The manner of splitting up of the electoral roll for the purpose of preparation of the aforesaid register, the manner of revision of such register from time to time and the officer or authority by whom such splitting up or revision is to be carried out shall be as may be prescribed.

(4) Any person aggrieved by the splitting up or revision of the electoral roll carried out under this section, may prefer an appeal to such authority, in such manner and within such time, as may be prescribed.

Disqualification
for registration in
an electoral roll

66. (1) A person shall be disqualified for registration in an electoral roll if he —
(a) is not a citizen of India; or
(b) is of unsound mind and stands so declared by the competent court; or

(c) is for the time being, disqualified from voting under the provisions of this Act or any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration in an electoral roll, shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll of the Corporation by reason of disqualification under clause (c) of sub-section (1) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

(3) No person shall be entitled to be registered in the electoral roll for more than one ward.

(4) No person shall be entitled to be registered in the electoral roll of more than one Corporation or in any Municipality in addition to the Corporation.

(5) Subject to the provisions of sub-sections (1) to (4) every person who -

(a) is not less than eighteen years of age on the date specified by the Election Commission; and

(b) is ordinarily resident in a city;

shall be entitled to be registered in the electoral roll for any one of the ward of the Corporation in which such person ordinarily resides.

(6) A person shall be deemed to be ordinarily resident in a city, if he generally, resides in that city for not less than one hundred and eighty five days in a period of twelve months preceding the date so specified by the Election Commission:

Provided that no person shall be deemed to be ordinarily resident in the city—

(i) On the grounds only that he owns or is in possession of a dwelling house or a hut therein; or

(ii) by reason of the fact that he is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from diseases or is detained in prison or other legal custody at any place.

Explanation. - A person shall be deemed to reside in any dwelling house or hut which or some portion of which he sometimes uses as a sleeping apartment uninterruptedly and shall not be deemed to reside in any dwelling house or hut merely because he is absent from it or has elsewhere another house or hut in which he resides, if there is liberty of, or if there is no abandonment of intention of returning to it at any time.

(1) No person shall be qualified for election as a Mayor or as a Corporator, unless -

- his name is included in the electoral roll of any one of the wards of the city; and
- he has completed twenty one years of age.

(2) No person in the employment of the Central or any State Government shall be qualified for election:

Provided that this prohibition shall not apply to the holder of any office which does not involve both the following incidence namely:-

- that the incumbent is a whole time servant of the Government; and
- that he is remunerated by either salary or fees.

(3) If any question arises either before or after an election as to whether any person is disqualified under Sub-Section (2) the question shall be referred to the Government whose decision shall be final:

Provided that before taking any decision on any such question, the Government shall obtain the opinion of the Election Commission and shall act according to such opinion.

(4) Where the Election Commission, for the purpose of tendering any opinion to the Government under sub-section (3), considers it necessary or proper to make an enquiry and is satisfied that on the basis of the affidavits filed and the documents produced for such enquiry by the parties concerned of their own accord, it can not come to a decisive opinion in the matter, which is being enquired into, the Election Commission shall, for the purpose of such enquiry, have the powers of the Civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely

- summoning and enforcing the attendance of any person and examining him on oath ;
- requiring the discovery and production of any document or other material object producible as evidence;

- receiving evidence on affidavit;
- requisitioning any public record or a copy thereof from any office;
- Issuing Commission for the examination of witnesses or documents.

(5) The Election Commission shall have the power to require any person, subject to any privilege which may be claimed by the person under any law for the time being in force, furnish opinion on such points or matters as in the opinion of the Election Commission may be useful for or relevant to the subject matter of the enquiry.

(6) The Election Commission shall be deemed to be a Civil Court and when any such offence under Section 175,178,179,180 or 228 of the Indian Penal Code, 1860 is committed in the view of presence of the Election Commission, the Election Commission may, after recording the facts constituting the offence and the statement of the accused as provided under the Code of Criminal Procedure, 1973 forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(7) Any proceeding before the Election Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860.

(8) No statement made by a person in the Course of giving evidence before the Election Commission shall subject him to, or be used against him in, any Civil or Criminal Proceeding except a prosecution for giving false evidence by such Statement-
Provided that the statement-

(a) is made in reply to a question which he is required by the Election Commission to answer, or

(b) is relevant to the subject matter of the enquiry.

Procedure to be followed by the Election Commission
68. The Election Commission shall have the power to regulate its own procedure including the fixing of places and times of its sitting and deciding whether to sit in public or in private.

Protection of action taken in good faith
69. No suit, prosecution or other legal proceeding shall lie against the Election Commission, or any person acting under direction of the Election Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this Chapter or of any order made there under or in respect of the tendering of any opinion by the Election Commission to the Government or in respect of the publication, by or under the authority of the Election Commission of any such opinion, paper or proceedings.

Disqualification of Candidates
70. (1) A person who has been sentenced by Criminal Court to imprisonment for a period exceeding six months for any offence other than an offence of a political character or an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned) shall be disqualified for election as a Mayor or as a Corporator while undergoing the sentence and for five years from the date of the expiration of the sentence.

(2) A person convicted of an offence punishable under the Protection of Civil Rights Act, 1955 shall be disqualified for election as a Mayor or as a Corporator for a period of five years from the date of such conviction.

(3) A person shall be disqualified for election as a Mayor or as a Corporator, if such person at the date of nomination-

(a) is unable to read and write Hindi or the language of the State; or

(b) has been adjudged by a competent court to be of unsound mind

(c) has voluntarily acquired the citizenship of a foreign state; or

(d) is a person against whom an order or surcharge for willful negligence or misconduct has either been certified for payment or confirmed in case of an appeal in respect of any money or property of a Municipal Corporation, under the provisions of the Orissa Local Fund Audit Act, 1948; or a person against whom a decree has been passed under section 375 of the Orissa Municipal Act, 1950; or

(e) is an undischarged insolvent or, being a discharged insolvent has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

(f) is directly, or indirectly by himself or by his partner interested in a subsisting contract made with or any work being done for the Corporation:

Provided that, the person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in -

(i) any lease, sale or purchase of immovable property or any agreement for the same, or

(ii) any agreement for the loan of money or any security for the payment of money only; or

(iii) any newspaper in which any advertisement relating to the affairs of the Corporation is published; or

(iv) any company or association whether incorporated or not which has contract with the Corporation for lighting, or supplying with water to, any part of the city or insuring against fire any property of the Corporation; or

(v) any company including Railway Company; or

(vi) any sale to the Corporation of any articles in which he regularly trades, or the purchase from the Corporation of any articles; or

(g) is employed as a paid legal practitioner on behalf of the Corporation or as a legal practitioner against the Corporation; or

(h) is disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State; or

(i) is disqualified by or under any law made by the Legislature of the State; or

(j) is an officer or servant holding office under this Act or a public prosecutor or Government pleader; or

(k) fails to pay any arrears of any kind due by him otherwise than in a fiduciary capacity, to the Corporation up to and inclusive of the previous years in respect of which a bill, notice or direction has been duly served upon him and the time, if any, specified therein for payment has expired; or

(l) has more than one spouse living; or

(m) has more than two children; or

Provided that all disqualification under this clause shall not apply to a person who has more than two children on the date of commencement of the Orissa Municipal (Amendment) Act, 1994, or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year; or”

Provided that if any question arises, either before or after an election whether any person is or is not disqualified under this clause, the question shall be referred to the Government whose decision shall be final; or

(n) is a Government servant either whole-time or part time or has been dismissed from Government service for corruption or disloyalty to the State, unless a period of five years has elapsed since his dismissal:

(o) has been convicted or found to have been guilty of any offence of corrupt or illegal practice relating to elections, which has been declared, by the Government, under prescribed rules, to be an offence or practice entailing disqualification of membership unless such period has elapsed as may be prescribed in that behalf; or

(p) has given appointment to any person in contravention of the provisions of this Act and the rules made thereunder or the provisions of the Orissa Municipal Act, 1950 and the rules made thereunder during his tenure in the Corporation or the Municipality immediately preceding the election; or

(q) has been removed under the provisions of the Orissa Municipal Act, 1950 or under the provisions of this Act during the term of his office as the Chairperson or the Vice Chairperson of the Municipality or the Mayor or Deputy Mayor of the Corporation, as the case may be, immediately preceding the election

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) the Election Commission may for reasons to be recorded in writing direct that such conviction or sentence shall not operate as a disqualification.

(5) No person who is disqualified under this section shall be qualified for election as a Corporator so long as the disqualification, subsists.

Disqualification of a Mayor and Corporator

71. (1) A Mayor or a Corporator shall cease to hold his office, if he -

- (a) becomes disqualified for being a Mayor or a Corporator for any reason mentioned in section 70; or
- (b) ceases to reside in the city; or
- (c) absents himself from three consecutive meetings of the Corporation without obtaining previous permission from the Mayor or without an excuse sufficient in the opinion of the Corporation:

Provided that no meeting from which a Corporator absents himself shall be counted against him under this clause if due notice of that meeting was not given to him.

Explanation. - Emergent or special meeting shall not be deemed to be meeting within the meaning of this clause.

(2) In the case of a person who has ceased to be a Corporator in consequence of failure to attend meetings, the matter shall be reported by the Commissioner at the next ordinary meeting and the Corporation may at that meeting restore such person to office.

Oath or affirmation

72. (1) Every elected Mayor and the Corporator and every person nominated under clause (b) of section 6 before taking his seat, shall make and subscribe at the first meeting of the Corporation an oath or affirmation according to the following form, namely:-

“I.A.B., having been elected as a Mayor /Corporator (or nominated under clause (b) of section (6) as representative in this Corporation, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.”

(2) If a person seats or votes as a Mayor or as a Corporator or seats as a representative nominated under clause (b) of section 6 before he has complied with requirement of the said section, he shall be liable in respect of each day on which he seats or votes, as the case may be, to a penalty of three hundred rupees to be recovered as arrear of tax under this Act.

District Judge to decide question of disqualification of Mayor and Corporators

73. (1) Whenever it is alleged that any person who has been elected as a Mayor or Corporator is or has become disqualified and such person does not admit the allegation or whenever any Mayor or Corporator himself is in doubt whether or not he is or has become disqualified for office, such Mayor or Corporator or any other Corporator may, and the Mayor at the request of the Corporation shall, apply to the District Judge within whose jurisdiction the Corporation is situated for decision on the allegation or doubt.

(2) The District Judge after making such inquiry as he deems necessary shall determine whether or not such person is or has become disqualified and his decision shall be final.

(3) Pending such decision, the Mayor or the Corporator shall be entitled to act as if he was not disqualified.

Election on Political Party basis

74. Where the election of a Mayor or Corporators is contested on political party basis the candidates contesting such election shall use their respective party symbols.

Explanation. - For the purpose of this section, -

(a) "candidates" means the candidates duly sponsored by the respective political parties;

(b) "party symbol" means the symbol allotted to a particular political party under the Elections Symbols (Reservation and Allotment Order), 1968; and

(c) "political party" means a National Party or, as the case may be, a State Party within the meaning of paragraph 7 of the Order referred to in clause (b).

Nomination of Candidates

75. (1) Subject to the provisions of section 67, any person may file nomination as a candidate for election as a Mayor or Corporator from any ward unless he is disqualified under section 70 for being elected as a Corporator.

(2) On or before the date on which a candidate files nomination referred to in sub-section (1) he may by writing under his hand make a declaration, appointing some other person who is not disqualified under section 80 to be his election agent, and the declaration shall be lodged with such officer as may be appointed by the Election Commission in this behalf.

Deposit of fees and withdrawal of candidature 76. (1) On or before the date appointed for filing of nomination of the candidates, each candidate shall deposit with the Election Commission a sum of rupees two hundred fifty in cash and no candidate shall be deemed to have filed nomination unless such deposit has been made.

(2) The deposit shall be forfeited to the Corporation if the candidate fails to be elected and secures less than ten percent of the votes cast.

(3) The deposit unless forfeited, shall be returned to the candidate, or if he dies, to his legal representative.

(4) A candidate who has withdrawn his candidature shall neither be allowed to cancel such withdrawal nor be allowed to file nomination again for the same election.

Uncontested election 77. (1) If in a Corporation, only one candidate has filed nomination for Mayor and the same is found to be valid unless withdrawn, such candidate shall be declared to be duly elected.

(2) If in a ward, only one candidate has filed nomination for Corporator and the same is found to be valid unless withdrawn, such candidate shall be declared to be duly elected for the ward.

Procedure at election 78. (1) If in a ward, the number of duly nominated candidates after withdrawal of candidature if any, is more than one a poll shall be taken.

(2) Votes shall be given by secret ballot and in person.

(3) At every election where a poll is taken, votes shall be counted by or under the supervision and direction of the Returning Officer and each contesting candidate or in his absence a representative duly authorized by him in writing, shall have a right to be present at the time of counting.

(4) The counting of votes shall be on such day, place and hour as may be prescribed.

(5) When the counting of the votes has been completed, the Returning Officer shall in the absence of any direction by the Election Commission to the contrary, forthwith declare the result of the election in the manner as may be prescribed.

(6) Where an equality of votes is found between the candidates and the addition of one vote will entitle any of the candidate to be declared elected, the determination of the person to whom such additional vote shall be deemed to have been given shall be made by a lot to be drawn in the presence of the Returning Officer and the candidates or their representatives who may be present and in such manner as the Returning Officer may determine.

(7) The Returning Officer shall, without delay; report the result of the election to the Election Commission, and the name of the candidate elected in either case shall be published by the Election Commission in the Gazette.

Explanation. - In this section -

(a) "Returning Officer" means a Returning Officer appointed as such by the Election Commission for every ward and includes an Assistant Returning Officer appointed to assist the Returning Officer; and

(b) "Voter on election duty" means any Presiding Officer, Polling Officer, other public servant or Polling agent who is a voter and is, by reason of his being on election duty, unable to cast vote at the Polling Station where he is entitled to cast his vote.

Government to make rules regarding election

79. (1) Subject to the provisions of this Act, the Government may make rules providing for -

(a) the form and the manner in which, and the conditions, on which nominations may be made and for the scrutiny of nominations;

(b) the appointment of Election Officer/Returning Officer, Presiding Officers and Polling Officers and their duties and functions;

(c) the appointment where necessary, of one or more Assistant Returning Officers to assist a Returning Officer and for the functions and duties of such Assistant Returning Officer or Officers;

(d) the fixing of polling stations for each ward and hours of polling;

(e) the appointment of date and place for making nominations and scrutiny of nominations, last date for withdrawal of nomination or the dates for withdrawal of nomination or the dates for poll, if such poll is necessary;

(f) The allotment of symbols to candidate for election to the office of the Mayor or the Corporator other than the candidates contesting on political party basis;

(g) The issue of public notice of election by the Election Officer or Returning Officer;

(h) Presentation of nomination papers and requirement for a valid nomination;

(i) The manner in which votes are to be given specially by the voter on election duty or illiterate voter or voter under physical or other disability;

(j) The procedure to be followed in respect of tender of votes by the persons representing themselves to be electors after other persons have voted as electors;

(k) Scrutiny of votes;

(l) publication of list of contesting candidates, appointment and revocation of election agents and their functions;

(m) procedure to be followed on death of candidates before poll;

(n)procedure to be followed in contested and uncontested elections;

(o)adjustment of poll in emergency;

(p)fresh poll in the case of destruction of ballot boxes;

(q)safe custody of ballot papers and other election papers for the period for which such papers are to be preserved and for the inspection and production of such papers;

(r) counting of votes;

(s) declaration of result and submission of report and result;

(t) printing and issue of ballot paper; and

(u)such other matters regarding the conduct of election as the Government may think fit, or matter not provided for.

(2) A member of the Corporation or of a committee thereof or an officer or employee of the Corporation shall not be appointed as Returning Officer or a Presiding Officer of a polling station.

Disqualification for being election agent 80. No person who is subject to any disqualification under section 70 shall be appointed to be an election agent.

Revocation of appointment of election agent 81. (1) The appointment of an election agent under sub-section (2) of section 75 may be revoked by a letter signed by the candidate and lodged with the officer appointed under sub-section (2) of that section and such revocation shall operate from the date on which the letter is so lodged.

(2) In the event of such revocation, or in the event of death of an election agent, occurring before, during or the election, the candidate shall appoint forthwith another election agent in accordance with the provisions of sub-section (2) of section 75.

Return of election expenses 82. (1) Within one month after the date of declaration of election, every candidate either personally or through his election agent shall file, with the Election Commission, a return of the election expenses so as to satisfy the Election Commission that the limitation prescribed by him for such expenses has been strictly adhered to containing such particulars as may be prescribed:

(2) Every such return shall contain a statement of all payments made by the candidate, or his election agent, or any person authorized by the candidate in this behalf on account of, or in respect of, the conduct of management of the election, and a further statement of all unpaid claims in respect of such expenses for which the candidate or his election agent, or the person authorized by the candidate is aware.

(3) The return shall be accompanied by declaration by the candidate, his election agent or the person authorized by the candidate which shall be in such form as may be prescribed,

(4) The Election Commission shall cause to be prepared and maintained a record showing the names of all the candidates at every election of a Mayor or Corporator and the date on which the return of election expenses of each candidate has been filed with him.

Accounts of election agent

83. Every candidate or his election agent shall keep regular books of accounts in which the particulars of all expenditure of the nature referred to in section 82 shall be entered, whether such expenditure is incurred by the candidate or by his election agent or by any person authorized by the candidate in this behalf.

Casual vacancy caused by failure to elect a person

84. (1) If there is no valid nomination of candidate for election as a Corporator from any ward or if a nominated candidate dies on or before the date of election, or if the electors of a ward fail to elect a Corporator, the vacancy in the seat of Corporator from such ward shall be deemed to be a casual vacancy which shall be filled up by election and the provisions of this Act and the rules made there under shall apply, as far as it may be, in relation to the election of a Corporator to fill such vacancy.

(2) If there is no valid nomination of candidate for election as a Mayor from a Corporation area or if a nominated candidate dies on or before the date of election, or if the electors of a Corporation fail to elect a Mayor, the vacancy in the office of Mayor from such Corporation shall be deemed to be a casual vacancy which shall be filled up by election and the provisions of this Act and the rules made thereunder shall apply, as far as it may be, in relation to the election of a Mayor to fill such vacancy.

Adjournment of poll in emergencies

85. (1) If at an election in any ward, the proceedings at any polling station are interrupted or obstructed by any riot or open violence, or if it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause, the Presiding Officer of such polling station shall announce an adjournment of the poll to a date to be notified later on shall forthwith inform the Returning Officer concerned.

(2) Where a poll is adjourned under sub-section (1), the Returning Officer shall immediately report the circumstance to the Election Commission and shall, as soon as may be, with the previous approval of the Election Commission appoint the day on which the poll shall recommence and fix the polling station at which, and the hours during which, the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.

86. (1) If at an election in any ward, -

- (a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer or is accidentally or intentionally destroyed or lost or is damaged or tampered with to such extent that the result of the poll of such polling station can not be ascertained; or
- (b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station, the Returning Officer shall forthwith report the matter to the Election Commission.

(2) On receipt of a report referred to in sub-section (1), the Election Commission shall, after taking all material circumstances into account either-

- (a) declare the poll at the polling station to be void and appoint a day, and fix the hours for taking a fresh poll at such polling, station and notify the day so appointed and the hours so fixed in such a manner as it may deem fit; or
- (b) if satisfied that the result of a fresh poll at the polling station will not, in any way, affect the result of the election, or the error or irregularity in procedure is not material, issue such directions to the Returning Officer as it may deem proper for further conduct and completion of election.

(3) The provision of this Act and the rules made thereunder shall apply to every such fresh poll as they apply to the original poll.

87. The following shall be deemed to be corrupt practices for the purpose of this Act -

- (a) bribery and undue influence as defined in sub-sections (1) and (2) respectively, of section 123 of the Representation of the People Act, 1951;
- (b) the systematic appeal by a candidate or his agent or by any other person to vote or refrain from voting on grounds of caste, race, community, religion, or the use of or appeal to religious symbols, or use of appeal to National symbols such as National Flag, or the National Emblem, for the furtherance of the prospects of that candidate's election;
- (c) the publication by a candidate or his agent or by any other person of any statement of fact which is false and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election;

(d) the hiring or procuring whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent or the use of any such vehicle or vessel for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

Provided that the hiring of a vehicle or a vessel by an elector or by several electors at their joint cost for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or the vessel so hired is a vehicle:

Provided further that the use of any public transport vehicle or vessel or railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation. - In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise;

(e) the holding of any meeting in which intoxicating liquors are served;

(f) the issuing of any circular, play card or poster having a reference to election which does not bear the name and address of the printer and publisher thereof; and

(g) any other practice which the Government may, by rules, specify to be a corrupt practice.

Election petitions 88. (1) No Election of a Mayor or a Corporator shall be called in question except by an election petition presented to the District Judge, within whose jurisdiction the Corporation is situated, within forty five* days from the date of publication of the result of the election.

(2) An election petition calling in question any election may be presented on one or more of the grounds specified in section 89 by any candidate at such election, by any elector of the ward concerned.

(3) The petitioner shall implead all the candidates at the election as opposite parties to his petition.

(4) An election petition-

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

(b) shall with sufficient particulars, set forth the ground or grounds on which the election is called in question; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

Grounds for
declaring
elections to the
void

89. (1) Subject to the provision of sub-section (2) if the District Judge is of the opinion-

(a) that on the date of the election, a returned candidate was not qualified or was disqualified to be chosen as a Mayor or Corporator under the provisions of this Act; or

(b) that any corrupt practice has been committed by a return candidate or his agent or by any other person with the consent of a returned candidate or his agent; or

(c) that any nomination paper has been improperly rejected; or

(d) that the result of the election in so far as it concerns a return candidate has been materially affected -

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interest of the returned candidate by a person other than that candidate or his agent, or a person acting with the consent of such candidate or his agent, or

(iii) by the improper acceptance, refusal of any vote or rejection of any vote which is void, or

(iv) by the non compliance with the provisions of this act or any rules or orders made thereunder, he shall declare the election of the returned candidate void.

(2) If the District Judge is satisfied –

(a) that no such corrupt practice was committed at the election by the candidate, and every such corrupt practice was committed contrary to the orders and without the consent of the candidate;

(b) that the candidate took all measurable means for preventing the Commission of corrupt practice at the election; and

(c) that in all other respect, the election was free from any corrupt practice on the part of the candidate or any of his agents; he may decide that the election of the return candidate is not void.

Maintenance of
secrecy of voting

90. Every officer, clerk, agent or other person performing any duty in connection with the recording or counting of votes at an election who, except for some purpose authorized by or under any law, communicates to any person any information showing, directly or indirectly for which candidate any voter has voted, and every person who by any improper means procures any Such information, shall be punished with imprisonment of either description which may extend to six months or with fine, or with both.

Promoting enmity between classes in connection with election 91. Any person who in connection with an election under this Act, promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred between different classes of the citizens of India shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, of both.

Prohibition of public meeting during a period of forty-eight hour fixed for conclusion of poll 92. (1) No person shall -
(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or
(b) display to the public any election matter by means of cinematograph television or other similar apparatus; or
(c) propagate any election matter to the public by holding or by arranging the holding up, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto.
in any polling area of a ward during the period of forty eight hours ending with the hour fixed for the conclusion of the poll for any election in that ward.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with fine, which may extend to two hundred and fifty rupees.

(3) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of any election.

Disturbance of election meetings 93. (1) Any person who at a public meeting acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called shall be punished with fine, which may extend to two hundred and fifty rupees.
(2) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting, require that person to declare immediately his name and address, and if that person refuses or fails so to declare his name or address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

Explanation. - For the-purpose of this section "public meeting" means a meeting of a political character held in any ward between the date of making nomination of candidates for the purpose of election and the date on which such election is held.

Restrictions on the printing of pamphlets, posters, etc 94. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and address of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster -

- (a) unless a declaration as to the identity of the publisher thereof signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and.
- (b) unless the printer shall send within a reasonable time after the printing of the document, one copy of the declaration together with one copy of the document to the Commissioner.

(3) For the purpose of this section-

- (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printed and the expression 'printer' shall be construed accordingly; and
- (b) election pamphlet or poster means any printed pamphlet, hand bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or (2) shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to rupees two thousand or with both.

Officers etc at
elections not to act
for candidate or to
influence voting 95. (1) No person who is a Returning Officer, or an Assistant Returning Officer or a Presiding or Polling Officer, at an election, or an officer or clerk appointed by the Returning Officer or Presiding Officer to perform any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the casting of vote) for the furtherance of the prospects of the election of a candidate.

- (2) No such person as aforesaid, and no member of a police force shall endeavour-
 - (a) to persuade any person to cast his vote at an election; or
 - (b) to dissuade any person from casting his vote at an election; or
 - (c) to influence the voting of any person at an election in any manner.
- (3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punished with imprisonment of either description for a term, which may extend to six months, or with fine, or with both.

Prohibition of canvassing in or near polling stations.

96. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:-

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election;
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with fine, which may extend to two hundred and fifty rupees.

Penalty for disorderly conduct in or near polling station

97. (1) No person shall, on the date or dates on which a poll is taken at any polling station. –

(a) use or operate within or at the entrance of the polling station, or in any public or private places in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker; or

(b) shout, or otherwise act in disorderly manner within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof; so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes or willfully aids or abets the contravention of, the provisions of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

Penalty for misconduct at polling station

98. (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer, may be removed from the polling station by the Presiding Officer or by any police officer on duty or any person authorized in this behalf by such Presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to cast his vote at polling station from having an opportunity of voting at the polling station.

(3) If any person who has been so removed from a polling station re- enters the polling station without the permission of the Presiding Officer, he shall be punished with imprisonment of either description for the term which may extend to three months, or with fine, or with both.

Penalty for illegal hiring or procuring of conveyance 99. If any person is guilty of the corrupt practice as specified in clause (d) of section 87 shall be punished with fine which may extend to two hundred and fifty rupees.

Breaches of official duty in connection with election 100. (1) If any person without reasonable cause is found to be guilty of any act or omission of his official duty, he shall be punished with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

Explanation. - For the purpose of this section, the expression 'any person' means the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidates or the recording or counting of votes at an election, and the expression "official duty" in this section, shall be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removal of ballot papers from polling station to be an offence 101. (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of polling station, or willfully aids or abets the doing of any such act shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person or may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found after search of the person so arrested either by the Presiding Officer, or by the police officer, shall be kept by the police officer in safe custody.

Other offences and penalties therefor. 102. (1) No person at an election shall -
(a) deface or destroy fraudulently any nomination paper; or
(b) deface, destroy or remove fraudulently any list, notice or other document affixed by or under the authority of a Returning Officer; or
(c) deface or destroy fraudulently any ballot paper or the official mark on any ballot paper; or
(d) without due authority, supply any ballot paper to any person or receive any ballot paper from any person or be in possession of any ballot paper; or
(e) fraudulently put into any ballot box anything other than the ballot paper which he is authorized by law to put in; or
(f) without due authority, destroy, take open or otherwise interfere with any ballot paper than in use for the purposes of the election; or
(g) fraudulently or without due authority, as the case may be, attempt to do any of the foregoing acts or willfully aid or abet the doing of any such acts.
(2) Any person who contravenes the provisions of sub-section (1) shall -
(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punished with imprisonment of either description of a term which may extend to two years, or with fine, or with both; or
(b) if he is any other person, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Prosecution regarding certain election offences 103. No court shall take cognizance of any offence punishable under section 95 or under section 100 or under clause (a) of sub-section (2) of section 102 except on complaint in writing made by order of, or under authority of, the Election Commission.

Order of Disqualification 104. Every person convicted of an offence punishable under section 94, 95, 96, 97, 98, 99, 100, 101 or 102 or under chapter IX-A of the Indian Penal Code, 1860 shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of Mayor or Corporator, for a period of five years from the date of his conviction.

Requisitioning of premises, vehicles etc. for election purposes 105. (1) If it appears to the Election Commission that in connection with an election under this Act-
(a) any premises other than residential buildings actually occupied are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or

(b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of member of the police force for maintaining law and order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election; he may, by order in writing, requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning.

Provided that no vehicle, vessel or animal, which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Election Commission to be the owner or person in possession of the premises, vehicle, vessel or animal and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any premises, vehicle, vessel or animal is requisitioned under sub-section (1) the period of such requisition shall not extend beyond the period for which such premises, vehicle, vessel or animal is required for any of the purposes mentioned in sub-section (1).

Explanation. - In this section

- (a) "a premises" means any land, building or part of a building and includes a hut, shed, or other structure or any part thereof; and
- (b) 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

Payment of Compensation 106. (1) Whenever any premises is requisitioned under section 105 there shall be paid by the Corporation to the persons interested thereof a sum as the compensation amount as may be determined by the Election Commission by taking into account the following consideration, namely:-

- (i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality; and
- (ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business the reasonable expenses, if any, incidental to such change.

Provided that where any person interested, being aggrieved by the amount of compensation so determined, makes an application to the Election Commission, within one month from the date of receipt of the order determining the compensation, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator, appointed in this behalf by the Election Commission, may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Election Commission to an arbitrator appointed by it in this behalf for determination and shall be determined in accordance with the decision of such arbitrator.

Explanation. - In this sub-section, the expression "person interested" means the person who was in actual possession of the premises immediately before the requisition under section 105 or where no person was in such actual possession, the owner thereof.

(2) Whenever any vehicle, vessel or animal is requisitioned under section 105 there shall be paid by the Corporation to the owner thereof a sum as may be determined by the Election Commission as the compensation amount, on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of Compensation so determined, makes an application to the Election Commission, within one month from the date of receipt of the order determining the compensation, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator, appointed in this behalf by the Election Commission, may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of hire-purchase agreement, in the possessions of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisitions shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement, in such manner as the arbitrator appointed by the Election Commission in this behalf may decide.

Power to obtain information 107. The Election Commission may, with a view to requisitioning property under section 105, determining the compensation payable under section 106, by order, require any person to furnish to such authority as may be specified in the order, such information in his possession relating to such property as may be so specified.

Power to entry and inspection 108. (1) Any person authorized in this behalf by the Election Commission may for the purpose of section 105, enter into any premises and inspect such premises and any vehicle, vessel or animal with a view to securing compliance with any order to be made under that section.

(2) In this section, the expressions 'premises' and 'vehicle' have the same meaning as in section 105.

Eviction from requisitioned premises 109 (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 105 maybe summarily evicted from the premises by any officer empowered by the Election Commission, in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

Release of premises from requisition 110. (1) When any premises requisitioned under section 105 are to be released from requisition the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the Election Commission to be the owner of such premises and such delivery of possession shall be a full discharge of the Election Commission from all liabilities in respect of such delivery but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 105, is to be given under sub-section (1) can not be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the Election Commission shall cause a notice declaring that such premises are released from the requisition to be affixed on some conspicuous part of such premises and publish the notice in the local newspaper.

(3) When a notice referred to in sub-section (2) is published in the local newspaper, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Election Commission shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Delegation of function of the Election Commission with regard to requisition 111. The Election Commission may, by notification, direct that any powers conferred or any duty imposed by any of the provisions of section 105 to 110 shall under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as maybe specified therein.

Penalty for contravention of any order of requisitioning 112. If any person contravenes any order made under section 105 or 107, he shall be punished with imprisonment of either description for a term, which may extend to six months or with fine or with both.

CHAPTER VI-A

DISQUALIFICATION ON THE GROUND OF DEFLECTION

Decision on the ground of defection 112A. (1) Subject to the provisions of sections 112B, 112C and 112D, a Mayor or Corporator belonging to any political party, shall be disqualified for being such Corporator,—

- (a) if he has voluntarily given up his membership of such political party; or
- (b) if the Corporator votes or abstains from voting in, or intentionally remains absent from, any meeting of the Corporation, in an election of its Deputy Mayor or a vote of no confidence motion under section 20, contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by such political party in this behalf, without obtaining, in either case, the prior permission of such party, person or authority and such voting, abstention or absence has not been condoned by such political party, person or authority as the case may be, within fifteen days from the date of such voting, abstention or absence.

Explanation. — For the purposes of this sub-section,—

- (a) a person elected as a Mayor or Corporator shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such Mayor or Corporator;
- (b) a person elected as a Mayor or Corporator otherwise than as a candidate set up by a political party shall be deemed to belong to the political party of which he becomes a member before the expiry of six months from the date of commencement of his term of office.

(2) An elected Mayor or Corporator, who has been elected as such, otherwise than as a candidate set up by a political party shall be disqualified for being a Mayor or Corporator, if he joins a political party after expiry of six months from the date of commencement of his term.

(3) Notwithstanding anything contained in the foregoing provisions of this section, a person who on the date of commencement of the Odisha Municipal Laws (Second Amendment) Act, 2015, is a Mayor or Corporator shall,—

(a) where he was a member of a political party immediately before such commencement, be deemed for the purposes to have been elected as a Corporator as a candidate set up by such political party;

(b) in any other case, be deemed to be an elected Corporator who has been elected as such otherwise than as a candidate set up by any political party, for the purpose of sub-section (2).

Decision not to apply in case of split 112B. Where a Corporator makes a claim that he and any other Corporators of his political party constitute the group representing a faction which has arisen as a result of a split in his political party and such group consists of not less than two-thirds of the members of such political party

(a) he shall not be disqualified under sub-section (1) of section 112A on the ground,—

(i) that he has voluntarily given up his membership of his political party; or

(ii) that he has voted or abstained from voting in, or intentionally remained absent from, any meeting of the Corporation in an election of its Deputy Mayor or a vote of no confidence motion under section 20, contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by such political party in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting, abstention or absence has not been condoned by such political party, person or authority, as the case may be, within fifteen days from the date of voting or such abstention or absence; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purpose of sub-section (1) of section 112A and to be his political party for the purpose of this section.

Decision not to apply in case of merger 112C. (1) A Mayor or Corporator shall not be disqualified under sub-section (1) of section 112A, where his political party merges with another political party and he claims that he and any other Corporators of his political party,—

(a) have become members of such other political party, or as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-section (1) of section 112A and to be his political party for the purpose of this section.

(2) for the purposes of sub-section (1), the merger of the political party of a Mayor or Corporator shall be deemed to have taken place if, and only if, not less than two-thirds of the Mayor or Corporators of the political party concerned have agreed to such merger.

Explanation. — The expressions "such other political party" and "new political party" shall include a political party whether such political party has been recognised or not by the Election Commission of India as a National party or a State party in the State of Odisha under the Election Symbols (Reservation and Allotment) Order, 1968.

Decision as to disqualification on the ground of defection 112D. (1) A complaint that a Mayor or Corporator has become subject to the disqualification under section 112A, may be made by the Mayor or Corporator or political party to the Election Commission,—

(a) in a case falling under clause (a) of sub-section (1) of section 112A, within fifteen days from the date the Mayor or Corporator gives up the membership of his political party;

(b) in a case falling under clause (b) of sub-section (1) of section 112A, within fifteen days after expiry of a period of fifteen days as specified therein;

(c) in a case falling under sub-section (2) of section 112A, within fifteen days after he joins the political party.

(2) Where complaint is received under sub-section (1), the Election Commission shall decide the question of disqualification within thirty days from the date of such receipt and his decision shall be final.

Bar of Jurisdiction 112E. Notwithstanding anything contained in any law, no court shall have jurisdiction in respect of matters connected with disqualification under this Chapter.”

CHAPTER XXVI

OFFENCES AND PENALTIES

Penalty for acting as Corporator, Mayor, Deputy Mayor when disqualified

639. (1) Who ever acts as a Corporator, knowing that under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold such offices, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever acts as the Mayor or Deputy Mayor of the Corporation or exercise any of his functions knowing that under this or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall be punishable with fine which may extend to one thousand rupees for every such offence.

(3) If the Mayor or the Deputy Mayor of the Corporation intentionally omits to deliver up or to hand over any documents of, or any moneys or other properties vested in, belonging

to, the Corporation which are, in or have come into his possession or control, to his successor in office or other prescribed authority in every case, as soon as his term of office as such Mayor or Deputy Mayor expires and in the case of Deputy Mayor also on demand by the Mayor, such Mayor or Deputy Mayor shall be punishable with fine which may extend to five thousand rupees.

CHAPTER XXVII

RULES, REGULATIONS AND BYE-LAWS

Power of Government to make rules 656. (1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act and prescribe forms for any proceeding for which they consider that a form should be provided.

(2) In making any such rule, the Government may provide that a breach thereof shall be punishable with fine which may extend to rupees one thousand and if the breach is a continuing one a further fine which may extend to rupees fifty for every day after the first day during which the breach was made.

Confirmation of bye-laws and regulation by Government 659. No regulation or bye-law or cancellation or alteration of regulation or bye-law made by the Corporation shall have effect until the same has been approved and confirmed by the Government and published in the Gazette.

Government may modify or repeal bye-laws and regulation 660. (1) If it appears at any time to the Government that any bye-law should be modified or repealed either wholly or in part, it shall cause reasons for such opinion to be communicated to the Corporation and specify a reasonable period within which the Corporation may make any representation with regard thereto which it may think fit.

(2) After receipt and consideration of any such representation or if in the meantime no such representation is received, after the expiry of the specified period, the Government may at any time by notification, modify or repeal such bye-law either wholly or in part.

CHAPTER XXIX

SUPPLEMENTARY AND TRANSITIONAL PROVISIONS

Odisha Municipal Act 1950 not to apply 693. (1) On the commencement of this Act any smaller urban area declared or deemed to be larger urban area under section 3 of this Act, the provisions of the Orissa Municipal Act, 1950 (hereinafter referred to as the said Act) shall cease to apply to such larger urban area

- (2) Such cessation shall not affect, -
 - (a) the previous operation of the said Act in respect of the larger urban area referred to in sub-section (1); or
 - (b) any right, privilege, obligation or liability accrued or incurred under the said Act; or
 - (c) any penalty, forfeiture or punishment incurred, in respect of any offence committed under the said Act; or
 - (d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.
- (3) Notwithstanding anything contained in sub-section (1), all rules, bye-laws, notifications, orders, directions and powers made issued or Conferred under the said Act and in force before the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force in the cities until they are replaced by the notifications, rules, bye-laws, order, directions and powers to be made or issued or conferred under this Act.

Appointment of Administrator 695. (1) There shall be appointed by the government, by notification, an Administrator to exercise the powers perform the duties and discharge the functions of-

- (a) the Standing Committee, and
- (b) the Commissioner.

- (2) The Administrator shall exercise the powers, perform the duties and discharge the functions of the Standing Committees until they are appointed by the Corporation, under this Act and of the Commissioner, until a Commissioner is appointed by the Government as the case maybe, and such officer may, if the Government so direct, receive remuneration for his service from the Corporation fond.

696. (1) If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, make such provisions or give such direction not inconsistent with the express provisions of this Act, as may appear to them necessary or expedient for the removal of such doubt or difficulty and the order of the Government, in such cases, shall be final:

Provided that no such order shall be made or direction shall be given after the expiration of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as maybe, after it is made, be laid before the State Legislature.