

ORISSA ORDINANCE No. 5 OF 1978

THE ORISSA MUNICIPAL (AMENDMENT)
ORDINANCE, 1978

[Promulgated by the Governor on the 26th July 1978, published in an extraordinary issue of the Orissa Gazette, dated the 26th July 1978]

AN

ORDINANCE

TO AMEND THE ORISSA MUNICIPAL ACT, 1950

WHEREAS the Legislature of the State of Orissa is not in session :

AND WHEREAS the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Municipal Act, 1950 in the manner hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Twenty-ninth year of the Republic of India :—

Short title
and
commence-
ment.

1. (1) This Ordinance may be called the Orissa Municipal (Amendment) Ordinance, 1978.

(2) It shall come into force at once.

Orissa Act
23 of 1950
to be tempo-
rarily
amended.

2. During the period of operation of this Ordinance, the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act) shall have effect subject to the amendments hereinafter specified.

Orissa Act
23 of 1950

Substitution
of section 8.

3. For section 8 of the principal Act, the following section shall be substituted, namely :—

“8. There shall be established for each municipality a body to be called the Municipal Council which shall consist of a Chairman and such number of Councillors, not being more than thirty nor less than eleven, as the State Government may specify in the notification constituting the Municipality.”

Amendment
of section 9.

4. In section 9 of the principal Act, for the words “the councillors of a Municipality”, the words “the municipal council” shall be substituted.

Substitution
of section 10.

5. For section 10 of the principal Act including its marginal heading, the following section shall be substituted, namely :—

Chairman
and coun-
cillors to
be elected.

“10. The Chairman and all the Councillors of a municipal council shall be elected in the manner provided under this Act and the rules prescribed thereunder”.

Amendment
of section 12.

6. In section 12 of the principal Act,—

(a) in sub-section (1), for the words “general election of councillors”, the words “general election of the Chairman and the councillors” shall be substituted.

(b) after sub-section (4), the following new sub-section shall be inserted, namely :—

“(4-a) All the electors of a municipality, irrespective of their community, shall be entitled to vote at an election in respect of the office of the Chairman of that municipality.”.

Amendment
of section 14.

7. Section 14 of the principal Act shall be re-numbered as sub-section (2) thereof and before sub-section (2) as so re-numbered, the following new sub-section shall be inserted; namely :—

“(1) No person who is not for the time being in the electoral roll of a municipality, shall be entitled to vote at an election for the office of the Chairman of that municipality.”.

Amendment
of section 16.

8. In section 16 of the principal Act,—

(a) in sub-section (1), for the words “to a seat in a municipality”, the words “as Chairman or councillor of a municipal council” shall be substituted ;

(b) in sub-section (2),—

(i) for the words “a councillor”, the words “a Chairman or a councillor” shall be substituted ;

(ii) for the words “his councillorship”, the words and commas “his Chairmanship or councillorship, as the case may be,” shall be substituted.

Amendment
of section
17.

9. In section 17 of the principal Act,—

(a) in the opening lines, after the word and figure “section 38”, the words “a Chairman or” shall be inserted;

(b) for clause (i), excluding the proviso and the explanation thereto, the following clause shall be substituted, namely :—

“(i) in the case of a councillor, absent himself from four consecutive meetings without obtaining previous permission from the Chairman or without an excuse sufficient in the opinion of the Municipal Council;”.

Amendment
of section
18.

10. In section 18 of the principal Act, for the words “The election of any person as a councillor” wherever they occur, the words “The election of any person as a Chairman or as a councillor” shall be substituted.

Amendment
of section
27.

11. In section 27 of the principal Act, after the words “who has been elected to be”, the words “a Chairman or” shall be inserted.

Amendment
of section
29.

12. In section 29 of the principal Act, for the words “the office of councillor”, the words “the office of the Chairman or a councillor”, shall be substituted.

Amendment
of Sec-
tion 37.

13. In section 37 of the principal Act for the word "councillor" wherever it occurs, the words "Chairman or councillor" shall be substituted.

Amendment
of Sec-
tion 38.

14. In section 38 of the principal Act, for the word "councillor" wherever it occurs, except for the fourth time, the words "Chairman or councillor" shall be substituted.

Amendment
of section
38-A.

15. In section 38-A of the principal Act, for the word "councillor" wherever it occurs, the words "Chairman or councillor" shall be substituted.

Amendment
of sec-
tion 41.

16. In section 41 of the principal Act,—

(a) in the marginal heading, for the word "councillors", the words "the Chairman and the councillors", shall be substituted;

(b) in sub-sections (1), (2) and (3), for the word "councillor" wherever it occurs, the words "Chairman or councillor" shall be substituted;

(c) in sub-section (4), for the word "councillors" wherever it occurs, the words "Chairman and councillors" shall be substituted;

(d) in sub-section (6), for the words "the councillors" the words "the Chairman and the councillors" shall be substituted.

Amendment
of section 43.

17. In section 43 of the principal Act, the words "not being a Chairman" shall be deleted.

Substitution
of section 47.

18. For section 47 of the principal Act including its marginal heading, the following sections shall be substituted, namely:—

Election of
Chairman.

"47. Every municipal council shall have a Chairman who shall be elected at the general election under section 12 by the electors of the municipality.

Election of
Vice-Chair-
man.

47-A. (1) Every municipal council shall have a Vice-Chairman who shall be elected by the councillors from among themselves at the first meeting of the municipal council convened at the instance of the District Magistrate.

(2) The meeting referred to in sub-section (1) shall be held within thirty days from the date of publication of the names of the Chairman and the councillors under section 39 and shall be presided over by the Chairman or in his absence by an officer, not below the rank of an Additional District Magistrate, authorised by the District Magistrate in that behalf."

Substitution
of sec-
tion 48.

19. For section 48 of the principal Act, the following section shall be substituted, namely:—

"48. (1) The Chairman of a municipal council shall be deemed to have vacated his office on his election as Chairman or Vice-Chairman of any other municipal council.

(2) The Vice-Chairman of a municipal council shall be deemed to have vacated his office—

(a) on the expiry of his term of office as, or on his otherwise ceasing to be, a councillor of that municipal council; or

(b) on his election as Chairman or Vice-Chairman of any other municipal council."

Substitution of section 49. **20.** For section 49 of the principal Act, the following sections shall be substituted, namely :—

Filling up casual vacancies. “49. On a vacancy occurring in the Office of the Chairman or Vice-Chairman by reason of death, resignation, removal or otherwise, it shall be filled up by election as soon as may be after the occurrence of the vacancy in the prescribed manner :

Provided that a vacancy occurring within six months prior to the date on which the term of office of the councillors would expire, shall be filled up by the State Government by nominating a person who is otherwise eligible to hold such office.

Failure of election of Chairman or Vice-Chairman. 49-A. If at an election no Chairman or Vice-Chairman, as the case may be, is elected, a fresh election shall be held for the purpose ; and if at such fresh election no person is elected, the State Government shall nominate a person, who is otherwise eligible to hold the office, and the person so nominated shall, subject to the other provisions of this Act, hold office till the expiry of four years from the date of polling at the general election”.

Deletion of section 50. **21.** Section 50 of the principal Act shall be deleted.

Amendment of section 52. **22.** In section 52 of the principal Act,—

(a) in sub-section (2), for the words “the municipal council”, the words “the State Government” shall be substituted.

(b) in sub-section (4), for the words “ the municipal council”, the words “the State Government or the municipal council, as the case may be” shall be substituted.

Amendment of section 54. **23.** In section 54 of the principal Act, after sub-section (1), the following proviso shall be inserted, namely :—

“Provided that no such resolution recording want of confidence in the Chairman shall be passed within two years from the date of his election or nomination, as the case may be.”.

Substitution of section 55. **24.** For section 55 of the principal Act including its marginal heading, the following section shall be substituted, namely :—

Appointment during leave vacancy. “55. If the Chairman or the Vice-Chairman avails himself of leave under section 51, the State Government shall fill up the vacancy by appointing a person who is otherwise eligible to hold the office and the person so appointed shall hold the office during the period of leave”.

Repeal and transitory provisions. **25.** (1) The amendments made by this Ordinance shall not apply to any municipal council holding office immediately prior to date of its commencement.

(2) The rules relating to the election of Chairman framed under the principal Act shall cease to apply to an election of Chairman under the Principal Act as amended by this Ordinance ; and until fresh rules are framed in that behalf, the rules framed under that Act in respect of election of councillors shall, as far as may be and subject to such modifications as the State Government may, by order, make therein, apply to the election of Chairman held under the principal Act so amended :

Provided that no such modification shall remain in force after the expiry of one year from the date of commencement of this Ordinance.

B. D. SHARMA

GOVERNOR OF ORISSA

DATED 26TH JULY, 1978

[53 Law—29]