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(2) for the purposes of sub-section (1) of this section, the merger of the political party of a Councillor shall be deemed to have taken place if, and only if, not less than two-thirds of the members 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.

46D. (1) A complaint that a Councillor has become subject to the disqualification under section 46A, may be made by the Councillor or political party to the Election Commission,—

- (a) in a case falling under clause (a) of sub-section (1) of section 46A, within fifteen days from the date the Councillor gives up the membership of his political party;
- (b) in a case falling under clause (b) of sub-section (1) of section 46A within fifteen days after expiry of period of fifteen days as specified therein;
- (c) in a case falling under sub-section (2) of section 46A, 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.

46E. Notwithstanding anything contained in any law, no court shall have jurisdiction in respect of matters connected with disqualification under this Chapter."

ODISHA ACT 15 OF 2015

***THE ODISHA ZILLA PARISHAD (AMENDMENT) ACT, 2015**

[Received the assent of the Governor on the 17th December, 2015 first published in an Extraordinary issue of the *Odisha Gazette*, dated the 19th November, 2015 (No.1717)]

AN ACT FURTHER TO AMEND THE ODISHA ZILLA PARISHAD ACT, 1991

Be it enacted by the Legislature of the State of Odisha in the Sixty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Odisha Zilla Parishad (Amendment) Act, 2015.
- (2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 33.

2. In the Odisha Zilla Parishad Act, 1991 (hereinafter referred to as the principal Act) , in section 33, in sub- section (2), after clause (iv), the following clause shall be inserted, namely :—

“ (v) has been disqualified under section 33 B”

Insertion of new sections 33 B, 33 C, 33 D and 33 E.

3. In the principal Act, after section 33 A, the following sections shall be inserted, namely :—

33. B. Subject to the provisions of section 33 C,—

*Disqualification on the ground of defection.

- (i) if an elected member of the Parishad belonging to any political party voluntarily gives up his membership of such political party, or if such member, contrary to any direction issued by the political party to which he belongs or by a person or authority authorized by it in this behalf, votes or abstains from voting, without obtaining prior permission of such political party, person or authority, in a meeting of the Parishad, in an election of its President, Vice-President, a member of a standing committee, or the Chairman of a standing committee, or in a voting on a no confidence motion against any one of them; and

Odisha Act 17 of 1991.

* [For the Bill, See *Odisha Gazette* Extraordinary dated the 10.12.2015 (No1686) [I Legis-30/ 2015]

Come in to force dt.04-01-2016, Ex.Gzz. No.-55 dt.04-01-2016

- (ii) if an independent member joins any political party after becoming a member of the Parishad;

he shall be disqualified for being a member of that Parishad.

Explanation.—For the purpose of this section an elected member or an independent member of the Parishad shall be deemed to be the member referred to in clause (a) of sub-section (1) of section 6.

Disqualification on ground of defection not to apply in case of merger.

33. C. (1) A member of a Parishad shall not be disqualified under section 33 B where his original political party merges with another political party and he claims that he and any other members of his original 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 purpose of section 33-B and to be his original political party for the purpose of this sub-section;

(2) For the purpose of sub-section (1) of this section, the merger of the original political party of a member of a Parishad shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the party concerned have agreed to such merger.

Decision on question of disqualification on ground of defection.

33. D. (1) Notwithstanding anything contained in section 34, if any question arises as to whether a member of the Parishad has become disqualified under section 33-B, such member or the political party concerned or a person authorized by it in that behalf may file a petition before the Election Commission for his decision.

(2) The Election Commission shall, after making such inquiry as it may deem necessary, decide whether such member has become disqualified or not and its decision shall be final.

(3) Where the Election Commission decides that a member has become disqualified under sub-section (2), he shall notify the same in the official Gazette