

ORISSA ACT 17 OF 1993

THE ORISSA ZILLA PARISHAD (AMENDMENT) ACT, 1993

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ORISSA ACT 17 OF 1993

* THE ORISSA ZILLA PARISHAD (AMENDMENT) ACT, 1993

[Received the assent of the Governor on the 28th August 1993, first published in an extraordinary issue of the *Orissa Gazette*, dated the 1st September 1993].

AN ACT TO AMEND THE ORISSA ZILLA PARISHAD ACT, 1991.

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Orissa Zilla Parishad (Amendment) Act, 1993.

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

Amendment of Section 1.

2. In section 1 of the Orissa Zilla Parishad Act, 1991 (hereinafter referred to as Orissa Act 17 of 1991),—

(a) in the marginal heading, for the words “and commencement”, the comma and words “commencement and application” shall be substituted; and

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

“(5) Nothing in this Act shall apply to the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution.”.

Amendment of Section 2.

3. In section 2 of the principal Act, after clause (a), the following clauses shall be inserted, namely:—

(a-1) “Council” means the State Council of Parishads constituted under section 31-A;

(a-2) “Election Commission” means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under Article 243-K of the Constitution; and

(a-3) “Finance Commission” means the Finance Commission constituted by the Governor under Article 243-I of the Constitution;

Amendment of Section 6.

4. For Section 6 of the principal Act, the following section shall be substituted, namely:—

“6. (1) The Parishad shall consist of the following members, namely:—

(a) one member elected directly on the basis of adult suffrage from every constituency within the district;

(b) Chairman of each Samiti situated within the district;

(c) every member of the House of the People and of the State Legislative Assembly representing constituencies which comprise wholly or partly the area of the Parishad;

(d) members of the Council of States who are registered as electors within the area of the Parishad.

* For the Bill See Orissa Gazette Extraordinary, dated the 19th July 1993 (No. 953)

Explanation—For the purposes of clause (a), “constituency” shall mean a constituency as may be determined by rules subject to the provision in Article 243-C of the Constitution.

(2) The names of the members of the Parishad shall be published in the Gazette.

(3) (a) seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Parishad and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Parishad as the population of the Scheduled Castes in that Parishad area or of the Scheduled Tribes in that Parishad area bears to the total population of that area and such seats shall be allotted on rotation to different constituencies in a Parishad:

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

(b) As nearly as may be, but not less than one-third 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:

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(c) As nearly as may be, but not less than, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled up by direct election in every Parishad shall be reserved for women and such seats shall be allotted by rotation to different constituencies in the Parishad.

(d) The procedure regarding reservation of seats for the purposes of clauses (a) (b) and (c) shall be such as may be prescribed.

(4) The election of members specified in clause (a) of sub-section (1) shall be held in the prescribed manner:

Provided that where such election is contested on political party basis, the candidates contesting such election shall use their respective party symbols.

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

(a) “candidates” means candidates duly sponsored by 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).

(5) All the members the Parishad including the Chairperson and the Vice-Chairperson thereof shall have the right to vote in the meetings of the Parishad.”.

Insertion of
new Section
6-A.

5. After Section 6 of the principal Act, the following section shall be inserted namely:—

Superintendence- direction and control of elections to vest in State Election Commission.

“6-A. (1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Parishad ; shall be vested in the Election Commission.

(2) The condition of service and tenure of office of the State Election Commissioner constituting the Election Commission shall be such as the Governor may by rule determine under clause (2) of Article 243-K of the Constitution.

(3) The Governor shall when so requested by the Election Commission, make available to the Election Commission such staff may be necessary for the discharge of its functions.”.

Amendment of Section 7. 6. For Section 7 of the principal Act including its marginal heading, the following section shall be substituted, namely :—

Duration of Parishad. “7. (1) Every Parishad, unless sooner dissolved under this Act, shall continue for five years from the date appointed for its first meeting referred to in Section 8, and no longer.

(2) An election to constitute a Parishad shall be completed—

(a) before the expiry of its duration specified in sub-section (1), or

(b) where a Parishad is dissolved before the expiry of its duration, before the expiration of a period of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved Parishad would have continued is less than six months, it shall not be necessary to hold an election under this sub-section for constituting the Parishad for such period.

(3) The Parishad constituted upon the dissolution of a Parishad before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Parishad would have continued under sub-section (1) had it not been so dissolved.”

Amendment of Section 8. 7. For Section 8 of the principal Act, the following section shall be substituted namely :—

“8 (1) The members of the Parishad specified in clause (a) of sub-section (1) of Section 6 shall,—

(c) at its first meeting, which shall be convened after publication of the names under sub-section (2) of Section 6, elect in the prescribed manner a Chairperson from among them ;

(b) at a subsequent meeting, which shall be specially convened for the purpose within thirty days from the date of the election of the Chairperson, elect the Vice-Chairperson of the Parishad from among them:

Provided that where the office of the Chairperson is not reserved under this Act for women or where a Chairperson elected under this Act is not a Woman, the office of the Vice-Chairperson of the Parishad shall be reserved for Women.

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

(a) offices of the Chairpersons in the Parishads 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 number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the total population of the State ; and

(b) as nearly as may be, but not less than, one-third of the total number of offices of the Chairperson in the Parishads shall be reserved for women.

(3) Reservation of offices of Chairpersons under sub-section (2) shall be made by the Government by rotation among different Parishads.

(4) The State Election Commission shall notify the reservation of offices of the Chairpersons so made for the Scheduled Castes, the Scheduled Tribes and women in the State.”

Amendment of Section 13 8. In Section 1 of the principal Act,—

(i) in sub-section (3), for the words “District Development Officer”, the words “Project Officer, District Rural Development Agency” shall be substituted ; and

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The Chief Executive Officer and the Secretary of the Parishad shall attend all meetings thereof and may take part in the discussion therein, but shall not have the right to move for resolution or to vote.”

Amendment of Section 18: 9. For section 18 of the Principal Act, the following section shall be substituted namely:—

“18. (1) It shall be the duty of the Finance Commission to review the financial position of Parishads and to make recommendations to the Governor as required under Article 243-I of the Constitution.

(2) The Commission may, for the purpose of maintaining sound financial position of Parishads, make such recommendations including measures needed for improvement of the financial position thereof, as it may deem fit.

(3) The Governor shall cause every such recommendation made by the Finance Commission together with an explanatory Memorandum as to the action taken thereon to be laid before the Legislative Assembly.”

Insertion of new Section 31-A. 10. After section 31 of the Principal Act, the following section shall be inserted namely:—

State Council of Parishads. “31-A. (1) The Government may, by notification, constitute a State Council of Parishads to aid and advise the Government in matters relating to the growth and development of Panchayati Raj institutions in the State.

(2) The Council shall consist of the following members, namely:—

- (i) Chief Minister,
- (ii) Minister in-charge of Panchayati Raj,
- (iii) Chairpersons of Parishads

(3) The Chief Minister and the Minister in-charge of Panchayati Raj shall be the Chairman and the Vice-Chairman respectively of the Council.

(4) The Council may co-opt. the Ministers in-charge of Finance and Planning as its members and may also call for the participation of any officials, connected with the development, administration, in its deliberations.

(5) The Director shall be the *ex-officio* Secretary of the Council.

(6) Without prejudice to the generality of the powers exercisable under sub-section(1), it shall be competent for the Council to decide all disputes arising, between two or more Parishads as may be referred to it from time to time in the manner prescribed”.

Amendment of Section 32. 11. For section 32 of the principal Act, the following section shall be substituted, namely:—

“32.(1) Nos. election of a person either as a member or as the Chairperson or Vice-Chairperson of a Parishad held under this Act shall be called in question except by an election petition presented before the District Judge having jurisdiction over the place at which the office of the Parishad is situated.

(2) For the purposes of sub-section (1). the provisions contained in Chapter VI-A Orissa Act (hereinafter referred to in this section as the said Chapter) of the Orissa Panchayat Samiti Act, 1959 shall *mutatis mutandis* apply except as hereunder provided:—

In the said Chapter,—

(i) the reference to the expressions “Samiti” and “Election Commissioner” wherever they occur, shall be construed as reference to “Parishad” and “District Judge” respectively;

(ii) an election petition presented before a District Judge may, either *suo motu* or on application, be transferred to any Additional District Judge;

(iii) for sub-section (3) of section 44-J, the following sub-section shall be substituted, namely:—

“(3) In the event of the District Judge declaring a casual vacancy to have been created, it shall direct the appropriate authority to take steps for filling the vacancy.”; and

(iv) for section 44-Q, the following section shall be substituted, namely:—

“44-Q. Any person aggrieved by an order passed by the District Judge may prefer an appeal before the appropriate court of law exercising civil appellate jurisdiction over the District Judge and in preferring such an appeal the provisions of the Indian Limitation Act, 1963 shall apply.”

Amendment
of
Section 33.

12. In Section 33 of the principal Act, in sub-section (1),—

- (i) Clause (k) shall be omitted ;
- (ii) in clause (s), for the word and colon "State:" the words and semicolon "State ; or" shall be substituted;
- (iii) after clause (s), the following clauses shall be inserted, namely:—
 - "(t) is less than twenty-one years of age; or
 - (u) is not able to read and write Oriya; or
 - (v) has more than one spouse living ; or
 - (w) has more than two children"; and
- (iv) after the provisio, the following provisio shall be inserted, namely:—

"Provided further that the disqualification under clause (w) shall no apply to a person who has more than two children on the date of commencement of the Orissa Zilla Parishad (Amendment) Act, 1993 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".

Insertion of
new Section
33-A.

13. After Section 33 of the principal Act, the following section shall be inserted, namely:—

No person
to hold more
than one
elected
office.

"33-A (1) Notwithstanding anything contained in any other law, an elected member of Parishad including the Chairperson and the Vice-Chairperson thereof shall not hold simultaneously,

- (i) an elected office in any Samiti or Grama Panchayat ; or
 - (ii) an office as a member of the House of the Peole or of the Council of States or of the State Legislature.
- (2) Where a person is elected as a member of the Parishad—
- (i) while holding an elective office under any Samiti or Grama Panchayat, he shall be deemed to have ceased to hold the first elected office ; or
 - (ii) while continuing as a member of the people or of the Council of State or of the State Legislature, he shall be deemed to have ceased to hold the elected offices in the Parishad,

on and from the expiry of a period of thirty days from the date of publication of his name under sub-section (2) of Section 6, unless he submits within that period his resignation, in the prescribed manner, from one of such offices".

Amendment
of
Section 36.

14. In Section 36 of of the principal Act,—

- (a) in sub-section (1),—
 - (i) in the opening portion, after the words "Every elected member", the words "including the Chairperson and the Vice-Chairperson" shall be inserted
 - (ii) in the form appearing below sub-section (1), for the the word "member" the words and oblique marks a member/the Chairperson/the Vice-Chairperson" shall be substituted ;
- (b) in sub-section (2), for the words "Any such member", the words "Any such member, Chairperson or Vice-Chairperson" shall be substituted and the word "member" occurring for the second time shall be omitted ; and
- (c) in sub-section (3), for the words "No such member", the words "No such member, Chairperson or Vice-Chairperson" shall be substituted and the word "member" occurring for the second time shall be omitted.

Amendment
of Section 39.

15. In Section 39 of the principal Act, in sub-section (4), for the words "one year" the words "two years" shall be substituted.

Amendment
of
Section 40.

16. For Section 40 of the principal Act, the following section shall be substituted, namely:—

"40. Where a vacancy occurs in the office of an elected member or of the Chairperson or Vice-Chairperson of a Parishad by reason of death, resignation or otherwise of the person holding such office, the vacancy shall be filled up, so far as may be, in the same manner as provided for that office in Section 6 or 8, as the case may be, and the member or the Chairperson or Vice-Chairperson so elected shall hold office for the remainder of the term of office of the member or, as the case may be, the Chairperson or Vice-Chairperson in whose place he has been elected".

Omission of
Section 42.

17. Section 42 of the principal Act shall be omitted.

Amendment
of
Section 43.

18. In Section 43 of the principal Act, sub-section (2) shall be omitted.