

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act VI of 2001¹

THE HOWRAH MUNICIPAL CORPORATION (AMENDMENT) ACT, 2001.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 15th March, 2001.]

An Act to amend the Howrah Municipal Corporation Act, 1980.

WHEREAS it is expedient to amend the Howrah Municipal Corporation Act, 1980, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Fifty-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Howrah Municipal Corporation (Amendment) Act, 2001.

Short title
and
commence-
ment.

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

2. In section 2 of the Howrah Municipal Corporation Act, 1980 (hereinafter referred to as the principal Act), clause (22A), as inserted by the Howrah Municipal Corporation (Second Amendment) Act, 1990, shall be renumbered as clause (22B), and before clause (22B) as so renumbered, the following clause shall be inserted:—

Amendment
of section 2
of West Ben.
Act LVIII of
1980.

“(22A) “office-bearer” means the Mayor, the Deputy Mayor, the Chairman, or a member of the Mayor-in-Council;”

3. In sub-section (2) of section 6 of the principal Act,—

Amendment
of section 6.

(1) for the words “as soon as possible after he assumes office.”, the words “within a period of thirty days from the date of his entering into office:” shall be substituted; and

¹For proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 14th February, 2001.

²This Act came into force, w.e.f. 23.3.2001 vide the Department of Municipal Affairs Notification No. 301/MA/O/C-4/1A-42/2000, dt. 23.3.2001, published in the *Kolkata Gazette, Extraordinary*, Part I, dt. 28.3.2001.

The Howrah Municipal Corporation (Amendment) Act, 2001.

[West Ben. Act

(Sections 4-8.)

- (2) the following proviso shall be added:—

“Provided that the State Government may, on an application by the Mayor and for reasons to be recorded in writing, extend the period as aforesaid not exceeding thirty days, as the State Government may think fit.”.

Amendment
of section 7.

4. In section 7 of the principal Act,—

- (1) for clause (d), the following clause shall be substituted:—

“(d) a newly elected Mayor enters upon his office in the case of any casual vacancy in the office of the Mayor caused by death, resignation, removal or otherwise.”;

- (2) clause (e) shall be omitted.

Amendment
of section 9.

5. Sub-section (2) of section 9 of the principal Act shall be omitted.

Amendment
of section
10.

6. In sub-section (1) of section 10 of the principal Act,—

- (1) for the words “as soon as may be at any meeting subsequent thereto,” the words “in its next meeting which shall be held within a period of thirty days from the date of its first meeting in that year,” shall be substituted; and

- (2) the following proviso shall be added:—

“Provided that the State Government may, on an application by the Mayor and for reasons to be recorded in writing, extend the period as aforesaid by such period not exceeding thirty days as the State Government may think fit.”.

Amendment
of section
11A.

7. In sub-section (2) of section 11A of the principal Act, for the words “the State Government may by notification determine.”, the words “may be prescribed.” shall be substituted.

Amendment
of section
16.

8. In section 16 of the principal Act, after sub-section (3), the following sub-section shall be inserted:—

“(4) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, and subject to the provisions of sub-section (2), the Corporation may, by resolution, decide to engage, on contract basis with the prior approval of the State Government, officers and other employees of the Corporation against such posts of officers and other employees as may be created under this section:

Provided that the remuneration for, and the other terms and conditions of, such engagement shall be such as the State Government may approve.”.

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(Sections 9, 10.)

9. For section 24 of the principal Act, the following section shall be substituted:—

Substitution
of new
section for
section 24.

“The Deputy
Mayor to act as
Mayor or
Chairman or to
discharge the
functions of
Mayor or
Chairman during
casual vacancy in
the office, or
during the
absence, of Mayor
or Chairman.

24. (1) In the events of the occurrence of any vacancy in the office of the Mayor and/or the Chairman, as the case may be, by reason of his death, resignation, removal or otherwise, the Deputy Mayor shall act as the Mayor and/or the Chairman, as the case may be, until the date on which a new Mayor and/or a Chairman, as the case may be, elected in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Mayor and/or the Chairman, as the case may be, is unable to discharge the functions of the Mayor and/or the Chairman, as the case may be, owing to absence, illness or any other cause, the Deputy Mayor shall discharge his functions until the date on which the Mayor and/or the Chairman, as the case may be, resumes his duties.

(3) Subject to the other provisions of this Act, the Deputy Mayor shall, while acting as, or discharging the functions of, the Mayor and/or the Chairman under this section, have all the powers of the Mayor and/or the Chairman, as the case may be.”

10. For section 40 of the principal Act, the following section shall be substituted:—

Substitution
of new
section for
section 40.

“Term of office of
Councillors.

40. A councillor shall hold office for a period of five years from the date of the first meeting of the Corporation under section 45 or for the period for which the new Board referred to in the second proviso to sub-section (2) of section 53 shall continue thereunder or for the period for which a member chosen to fill a casual vacancy shall be chosen to serve under sub-section (2) of section 83 of the West Bengal Municipal Elections Act, 1994, unless—

- (a) the Board is dissolved earlier, or
- (b) he resigns his office by writing under his hand addressed to the Chairman and the resignation is accepted by the Board at a meeting in which case the resignation shall take effect from the date of its acceptance, or
- (c) his election is void under sub-section (1) of section 31 of the West Bengal Municipal Elections Act, 1994, or

(Sections 11, 12.)

- (d) the entire area of the ward from which he has been elected is withdrawn from the operation of this Act or is included in an existing *Gram Panchayat*, or is constituted one or more *Gram Panchayats*, under sub-section (1) of section 6A of the *West Bengal Panchayat Act, 1973*, or
- (e) he is declared under section 40A to be disqualified for being a Councillor.”.

West Ben.
Act XLI of
1973.

Amendment
of section
40A.

11. In section 40A of the principal Act,—

(1) in sub-section (1),—

- (a) in clause (a), after sub-clause (i), the following sub-clause shall be inserted:—

“(iA) joined another recognised political party, or”;

- (b) in clause (b),—

- (i) for the words “he is an elected Councillor set up by a recognised political party”, the words “he is an elected Councillor not set up by a recognised political party” shall be substituted, and

- (ii) in the second proviso, for the words, figures, letter and brackets “referred to in sub-clause (ii) of clause (a)”, the words, figures, letters and brackets “referred to in sub-clause (iA), or sub-clause (ii), of clause (a)” shall be substituted;

- (2) in clause (a) of sub-section (7), after sub-clause (i), the following sub-clause shall be inserted:—

“(iA) joined another recognised political party, or”.

Insertion of
new sections
54A, 54B
and 54C.

12. After section 54 of the principal Act, the following sections shall be inserted:—

“Special
provisions in the
case of prohibi-
tory order from
court.

54A. Where, by reason of any order of a court of competent jurisdiction, the Corporation is unable to exercise such powers, or to perform such duties, or to discharge such functions, as conferred or imposed on

it by or under any of the provisions of this Act or the rules or regulations made thereunder, the State Government may appoint any authority, or any person or persons, to exercise the powers, or perform the duties, or discharge the functions, as the case may be, during the period of such inability, in such manner, and on such conditions, as the State Government may, by order, direct.

VI of 2001.]

(Section 13.)

Members, officers
and employees to
be public servants.

54B. All the members, officers and other employees of the Corporation shall, while acting, or purporting to act, in pursuance of, or in exercise of any power conferred by or under, any of the provisions of this Act or the rules or the regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

State Government
to place officers
and employees at
the disposal of the
Corporation.

54C. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

- (a) upon the issue of any direction to the Corporation to exercise any power or to perform any function or to discharge any duty, or
- (b) upon the transfer to the Corporation of any function, or control and management of any property,

under any of the provisions of this Act, the State Government shall, subject to such conditions as it may deem fit to impose, place at the disposal of the Corporation the services of such officers and other employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

(2) The officers and other employees, whose services are so placed at the disposal of the Corporation, shall continue to be the officers and other employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or other employee, the Corporation shall make a reference to the State Government for appropriate action.

(3) Where any power or function or duty as conferred or imposed on the Corporation by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.”

13. To sub-section (3) of section 93 of the principal Act, after the second proviso, the following proviso shall be added:—

Amendment
of section
93.

“Provided also that where the Review Committee reduces the valuation of any land or building, such reduction shall not be more than twenty five *per centum* of the annual valuation of such land or building, except in the case of gross arithmetical or technical mistake and the Review Committee shall, in every such case, record in writing the reasons for such reduction.”.

(Sections 14, 15.)

Amendment
of section
102.

14. In sub-section (1) of section 102 of the principal Act, after the words "as may be determined by the Corporation", the words "by regulation" shall be inserted.

Insertion of
new section
159A.

15. After section 159 of the principal Act, the following section shall be inserted:—

"Prevention of
mosquito breeding.

159A. (1) If, in the opinion of the Mayor-in-Council, any pool, ditch, tank, well, pond, swamp, quarry, hole, drain, cesspool, watercourse, pit, cistern, desert or air-cooler, ground, or underground, or overhead tank or any collection of water, or any land on which water may, at any time, accumulate, is or likely to become a breeding place of mosquitoes or, in any other respect, becomes a nuisance, the Mayor-in-Council may by notice require the owner or the person having control thereof to take all or any of the following actions:—

- (a) to clean, or drain-off or remove water therefrom, or to provide cover thereto; or
- (b) to have any courtyard, lane, passage or open space paved with such material, and in such manner, as may be directed by the Mayor-in-Council, to keep such paving in proper repair, or to raise the level of such courtyard, lane, passage, open space, etc; or
- (c) to fill up such unwholesome waterbody:

Provided that any wholesome waterbody can be filled up only after compliance of the provisions of section 4C of the West Bengal Land Reforms Act, 1955, by the owner or the person having control thereof.

West Ben.
Act X of
1956.

(2) No person shall keep, or permitted to be kept or maintained, within any premises or land any collection of stagnant or flowing water which, in the opinion of the Mayor-in-Council, is, or is likely to be, breeding place for mosquitoes, unless such collection of water is treated in such manner as may effectively prevent the breeding of mosquitoes.

(3) All borrow pits dug in the course of construction and repairs of buildings, roads, or embankments, shall be deep and connected with each other in the formation of a drain directed towards the lowest level and properly sloped for discharge into a river, stream, channel, or drain, and no person shall create any isolated borrow pit which, is likely to cause accumulation of water which may again, in turn, may breed mosquito.

(Section 15.)

(4) The owner or occupier of any premises shall not keep therein any bottle, tyre (old or new), vessel, can, container or receptacle in such manner as may allow it to collect, and/or to retain, water which may breed mosquito, and shall clean and dry such bottle, tyre (old or new), vessel, can, container or receptacle at the interval of seven days.

(5) The owner or occupier of any premises shall wrap the openings of the vent-pipes and the outlets of septic tanks with proper mosquito-proof nets and shall maintain covering slabs of septic tanks to prevent entry and exit of mosquitoes.

(6) The owner or occupier of any premises shall seal the overhead tanks, cisterns or water receptacles to prevent mosquito breeding, and shall provide safe ladder for making the overhead tanks or cisterns or water receptacles approachable in order to facilitate inspection of the water in the container by the authorities of the Corporation.

(7) For construction of permanent water collections such as swimming pools, artificial fountains, or water reservoirs, constructed for beautification,—

- (a) an application shall be submitted to the Corporation, stating therein the anti-larval measures, which shall be taken by the applicant to keep the water free of mosquito larvae;
- (b) the Corporation, after considering the application, shall issue a license to the applicant;
- (c) the applicant shall receive the said license on payment of such fee as may be determined by the Corporation, and the license shall be renewed annually.

(8) The owner or occupier of any private pond or water reservoir shall keep such pond or water reservoir free from water hyacinth or allied weeds to prevent mosquito breeding.

(9) If any person contravenes any of the provisions of this section or fails to comply with any requirement under this section, he shall be punished with fine which may extend to one thousand rupees, and a daily fine of fifty rupees in the case of continuance of such contravention commences from the day on which such contravention is brought to the notice of such person by the Corporation.”.

Statement of Objects and Reasons on the Howrah Municipal Corporation (Amendment) Bill, 2001

(Bill No. 8 of 2001).

STATEMENT OF OBJECTS AND REASONS.

It is considered necessary and expedient to make, among others, the following changes in the Howrah Municipal Corporation Act, 1980 (West Ben. Act LVIII of 1980) (hereinafter referred to as the said Act) in order to ensure effective implementation of the provisions of the said Act by—

- (i) amending sub-section (2) of section 6 to fix a time-frame for constitution of the Mayor-in-Council within a period of thirty days from the date on which the Mayor enters into office;
- (ii) amending sub-section (1) of section 10 to provide time-frame of thirty days for constitution of the Municipal Accounts Committee;
- (iii) amending section 11A for making provisions for making of rules for Ward Committees;
- (iv) amending section 24 so that the Deputy Mayor may discharge the functions of the Mayor or the Chairman, is the Mayor or the Chairman is removed or his office falls vacant until the new Mayor or the Chairman, as the case may be, is elected;
- (v) amending section 40A regarding disqualification for being a Councillor on change of political party by the Councillor to make the provision more effective;
- (vi) inserting new sections 54A, 54B and 54C after section 54 for making special provisions to run the affairs of the Corporation in case of prohibitory order of a competent court;
- (vii) inserting a new proviso to sub-section (3) of section 93 so that the Review Committee cannot reduce arbitrarily the tax as assessed by the Corporation;
- (viii) inserting of a new section 159A for prevention of mosquito breeding on the lines of the guidelines of Government of India.

2. The Bill has been framed with the above objects in view.

3. The Bill does not involve any additional burden on the State Exchequer.

KOLKATA,
The 30th January, 2001.

ASOK BHATTACHARYA,
Member-in-charge.