Vedula Jagannadha Rao's

GREATER HYDERABAD MUNICIPAL CORPORATION ACT, 1955

(As Amended by Act No. 4 of 2011)

along with

ELECTION RULES AND VERY IMPORTANT APPENDICES

Revised By
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(Act II of 1956)

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THE [1][GREATER HYDERABAD MUNICIPAL CORPORATION] ACT, 1955[2]

(Act II of 1956)

An Act to re-enact the law relating to Municipal Corporations in the cities of Hyderabad and Secunderabad.

Preamble:— Whereas it is expedient to re-enact the law relating to Municipal Corporations in the cities of Hyderabad and Secunderabad.

Be it enacted in the Sixth Year of our Republic as follows:—

Commentary

Legislative power:— Entry 5 in List II of the Seventh Schedule of the Constitution of India empowered the State Legislature to make laws about—

"Local Government, that is to say, the Constitutional powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of self-Government or village administration".

This entry gives the State Legislature the right to create a legal body for the management of municipal affairs. 1896 App. Cases 348 at 364. It is very wide in terms and legislation is permissible to the State Legislature with regard to any subject of local government, and it is also permissible to the State Legislature to confer powers upon a local authority provided the power is for self-Government. AIR 1963 Madh.Pr. 74(83). The subject of local Government has been left exclusively to the State Legislature and no restriction has been put by the Constitution on the manner in which the State Legislature may decide to constitute the Municipal Constitution and other local authorities. AIR 1970 All. 571. Article 173(1)(a) of the Constitution does not impose any restriction on the power under this entry. To see whether a particular enactment is covered by this entry, its pith and substance has to be considered. The pith and substance of the Bombay Municipal Corporation Act (1888) is not to deal with in petroleum and petroleum products as such,

1. **Subs. for "Hyderabad Municipal Corporations" by Act No. 13 of 2008, w.e.f. 10.7.2008 (vide G.O.Ms. No. 463 M.A. & U.D (F2), dt 02.07.2008, Pub. in A.P. Gaz. Pt-I, Ext. No. 393, dt. 10.07.2008.**
2. Received the assent of the President on 14th February, 1956; assent first published in the Hyd. Gazette Ext., on the 17th February, 1956. Act as amended and inclusive upto Act No. 34 of 2001.

Note:— Throughout the Act for the words "Councillor" and "Councillors" the words "Member and Members", for the words "Division" and "Divisions" the words "Ward" and "Wards" and for the words "Constituency" and "Constituencies" the words "Ward" and "Wards" respectively substituted by Act No.17 of 1994.

but to device special measures for ensuring the safety and protection of the citizens. The impugned legislation has no relation to the field occupied by the Petroleum Act, 1934 and falls within entries 1, 5, 6 and 23 or List II. ILR 1965 Bom. 899. It is open to the State Legislature to pass a single enactment, under powers conferred upon it by various entries in Lists 2 and 3. It need not express in the preamble what power of legislation is being exercised in enacting the particular statute. It is from the provisions of the statute itself and by reference to the legislative power granted to the Legislatures that is to be inferred what particular power is exercised in enacting a particular provision of the statute. The mere fact that the preamble of the Act did not mention that it was being enacted also for the purpose of enacting a particular Act, it cannot be said that the statute was not enacted in exercise of power relatable to certain entries. AIR 1954 All. 655 (U.P. Village Panchayats Act).

Law enacted under central list will override law under concurrent list. AIR 1991 SC 855.

Ancillary and incidental powers:— The power conferred by this entry on the State Legislature necessarily carries with it all incidental and ancillary powers. The Constitution of an authority for the purpose of local Government necessarily gives the power to provide for election of the bodies which shall be in control of the administration and appointment of authorities for the decision of disputes arising in relation to those elections is ancillary or incidental to the power conferred on the State Legislature in the matter of constitution of local authorities for the purpose of local self Government or its administration. AIR 1957 AP 393. The power to constitute municipal corporations and other local authorities includes the incidental power to dissolve them in certain contingencies in the larger interests of public. 1967 (3) An.WR 482.

Government has ample power to make rules for constitution of tribunal for deciding election disputes. ILR (1956) AP 383, 1955 ALT 532 = 1955 An.WR 754.

Corporation or Body Politic:— An artificial person established, or preserving in perpetual succession certain rights which being conferred on natural persons only would fail in process of time. It is either aggregate, consisting of many members, or sole consisting of one person only, as a person. It is also either spiritual, created to perpetuate the rights of the church, or lay sub-divided into civil created for many temporal purposes, and eleemosynary, to perpetuate founders, charities. It is by virtue of the sovereign's prerogative exercised by a charter, or of an Act of Parliament, or of a prescription, that the artificial personage called a corporation, whether sole or aggregate, civil or ecclesiastical, is created. The royal charter gives it a legal immortality, and name by which it acts and becomes known. It has power to make bye-laws for its own Government and transacts its business

under the authority of common seal its hand and mouth piece, it has neither soul nor tangible form, so it can neither be out-lawed or arrested, it only enjoys a legal entity, sues and is sued by its corporate name and holds and enjoys property by such name. A corporation can sue or be sued for libel, but it cannot sue in respect of an imputation as murder, or incest, or adultery, because it could not commit these crimes.

The several members of a corporation and their successors constitute but one person in law. The duty of a corporation is to answer the ends of its institution to enforce with may be visited, if spiritual by the ordinary, if lay, by the founder of his representatives viz., the civil by the king (who is the Foundator incipience or all), represented in the King's Bench Division of the High Court, the eleemosynary, by the endower (who is the fundator perficiens of such) or by his heirs or assigns.

Corporation and trading partnership:— The distinction between corporation and trading partnership is, that in the first, the laws see only the body corporate and knows not the individuals who are not liable for the contracts of the corporation in their private capacity, their share in the capital being at stake, but in the latter the law books not to the partnership but to the individual members of it, who are therefore answerable for the debts of the firm to the full extent or their assets.

Corporation as person:— Section 3(42) General Clauses Act, 1897 defines 'person' as to include any company or association of body of individuals whether incorporated or not. Relying on this definition in *Nagpur Corporation v. Nagpur Electric High and Power Co. Ltd.,* AIR 1958 Bom. 498, it was contended that local authority such as the corporation of the city of Nagpur was not a person within the meaning of Section 24(1) of the Electricity Act, 1910 and therefore the respondent company had no power to issue notice to it. The contention was rejected by the High Court. It was pointed out that while it was true that a reference is made to a local authority as such in certain provisions of the Electricity Act but it does not follow that by doing so, the legislature intended to give a restricted meaning to the word 'person' as used in Section 24(1) of the Electricity Act. It was held that the definition of the word in Section 3 of the General Clauses Act is wide enough to include a local authority.

Local authority:— Sec. 3(17) of the Andhra Pradesh General Clauses Act defined local authority as "Local Authority shall mean a Municipal Committee constituted under the A.P. Municipalities Act, 1965". The Municipality also renders services to the citizens or ratepayers but not so effectively or compulsorily as laid down by the provisions in the Corporations Act.

Taxation:— The power of taxation of a corporation is wider than a Municipality.

Civic amenities:— In respect to civic amenities such as water supply, drainage and public works, the corporation is given wider powers than a Municipality. A Municipal Corporation is different from a Municipality in its duties though the structure and establishment is almost similar.

Interpretation of the provisions:— In *Municipal Council, Chidambaram v. Subrahmanyam,* AIR 1928 Mad. 1157 Devados, J. held that "Municipalities being statutory bodies created for the benefit of the public, any provision of law relating to them should not be construed as to work hardship". Municipal laws are both remedial statutes and beneficent laws. One should lean towards giving a wide interpretation to a remedial statute like the Factories Act, but that does not justify interpreting an ambiguous provision in a way which leads to quite unreasonable results. 1955 (1) All. ER 285(290) in *Jivabhai v. Chaggam,* AIR 1961 SC 1491. It was observed that if there was any doubt about meaning of sub-section 2-A of the Act, a piece by beneficial legislation. That doubt should be resolved in favour of the tenant for whose benefit the Act was passed. In *Central Railway Works vs. P.V. Viswanath,* AIR 1970 SC 488-491, Duq. J. observed "It is probably true that all legislation in a welfare state enacted with the object of promoting general welfare but certain types of enactments are more responsive to some urgent social demands and also have more immediate and visible impact on social vices by operating more directly to achieve social reforms".

"District Board, body of port commissioners or other authority legally entitled to, or entrusted by Government with the control or the management of a municipal or local fund". By this definition, a Municipal Corporation is a local authority.

A County Borough Council is a local authority within the meaning of Section 1(1) of the Housing Act, 1936.

4th edition-Stroud's Judicial Dictionary Page 1566.

Purpose of the Act:— In this enactment the law relating to Municipal Corporation in the cities of Hyderabad and Secunderabad was re-enacted. This Act repealed the Hyderabad Municipal Corporations Act, 1950 and Hyderabad and Secunderabad Municipal Committees (Composition and Elections) Regulation 1395 F.

Vijayawada Municipal Corporation:— The Vijayawada Municipal Corporation was established under Ordinance No. 7 of 1981 dated 6.6.1981. Section 7 of the Ordinance laid down that the provisions of the Hyderabad Municipal Corporations Act, 1955 including the provisions relating to the levy and collection of any tax or fee except Sections 380, 381 to 385 and 387 in Chapter XI and Chapter XIII are made applicable *mutatis mutandis.*

Visakhapatnam Municipal Corporation:— The Visakhapatnam Municipal Corporation was established under Ordinance No. of 1981 dated.

Obligatory duties of the Corporation:— Sections 112 to 114 lay down the obligatory duties of a Municipal Corporation. Section 115 lay down the discretionary duties of the Corporation. Section 116 deals with the role and functions of the corporation in taking measures to impress the social and economic status of the inhabitants of the city.

The Hyderabad Municipal Corporation Act, 1955 has been amended a number of times. The following is the list of amending Acts.

1. Act No. 43 of 1956
2. Act No. 3 of 1959
3. Act No. 21 of 1960
4. Act No. 38 of 1961
5. Act No. 18 of 1965
6. Act No. 5 of 1969
7. Act No. 17 of 1969
8. Act No. 11 of 1970
9. Act No. 24 of 1974
10. Act No. 15 of 1975
11. Act No. 10 of 1976
12. Act No. 20 of 1978
13. Act No. 17 of 1979
14. Act No. 2 of 1981
15. Act No. 22 of 1981
16. Act No. 5 of 1982
17. Act No. 6 of 1982.
18. Act No. 7 of 1982
19. Act No. 8 of 1982
20. Act No. 6 of 1984
21. Act No. 27 of 1984
22. Act No. 23 of 1985
23. Act No. 33 of 1986
24. Act No. 8 of 1987
25. Act No. 9 of 1987
26. Act No. 10 of 1987
27. Act No. 23 of 1987
28. Act No. 14 of 1989
29. Act No. 20 of 1989
30. Act No. 17 of 1990
31. Act No. 22 of 1990
32. Act No. 11 of 1991
33. Act No. 18 of 1991
34. Act No. 6 of 1992
35. Act No. 7 of 1992
36. Act No. 4 of 1993
37. Act No. 3 of 1994
38. Act No. 10 of 1994
39. Act No. 17 of 1994
40. Act No. 23 of 1994
41. Act No. 1 of 1995
42. Act No. 25 of 1995
43. Act No. 5 of 1996
44. Act No. 19 of 1996
45. Act No. 24 of 1996
46. Act No. 15 of 1997
47. Act No. 21 of 1997
48. Act No. 17 of 1998
49. Act No. 18 of 1998
50. Act No. 11 of 1999
51. Act No. 13 of 1999
52. Act No. 13 of 2000
53. Act No. 14 of 2000
54. Act No. 30 of 2000
55. Act No. 33 of 2000
56. Act No. 7 of 2001
57. Act No. 8 of 2001
58. Act No. 11 of 2001
59. Act No. 32 of 2001
60. Act No. 33 of 2001
61. Act No. 34 of 2001
62. Act No. 24 of 2002
63. Act No. 14 of 2005
64. Act No. 28 of 2005
65. Act No. 29 of 2005
66. Act No. 25 of 2007
67. Act No. 36 of 2007
65. Act No. 5 of 2008
69. Act No. 6 of 2008
70. Act No. 7 of 2008
71. Act No. 9 of 2008
72. Act No. 13 of 2008
73. Act No. 14 of 2008
74. Act No. 4 of 2011

CHAPTER I
Preliminary

1. Short title, extent and commencement:— (1) This Act may be called the [1][Greater Hyderabad Municipal Corporation] Act, 1955.

(2) It extends to the [2][city comprised by Greater Hyderabad Municipal Corporation] and shall come into force at once.

Commentary

Many of the provisions of this Act apply to the Municipal Corporations of Vijayawada, Visakhapatnam, Guntur, Rajahmundry, Warangal, etc.

Construction on Govt. land:— Where the constructions were made by the petitioner in accordance with the permission granted by the Municipal Corporation, demolition of a portion on the ground that the site belongs to the Government without notice is illegal. *Syed Wahid Hussain v. Government of A.P.*, 1996 (4) ALD 361.

Nature and Character:— While dealing with the nature and character of Municipal Corporation in *Vilas v. Manila,* the Supreme Court of America had observed as follows: "They exercise powers which are Governmental and powers which are of a private and of business character. In the one character a Municipal Corporation is a Governmental sub-division and for that purpose exercises by delegation a part of the sovereignty of the State. In the other character it is a mere legal entity or juristic person." (1910) 220 U.S. 345 at 356.

Whether State under Art.12:— Municipal Corporation being a local authority, is a State within the meaning of Article 12 of the Constitution. *Commissioner, Nagar Palika Nigam v. Rama Sharma,* AIR 1987 M.P. 1; *Syed Moose Quadri v. Special Officer, Municipal Corporation of Hyderabad,* AIR 1987 A.P. 6.

Expiry of contractual period:— Where a contract was entered into with Municipal Corporation for putting up hoardings, after the expiry of the period right to advertise seized and hence there need not be a show cause notice by the Corporation under the Delhi Municipal Corporation Act. 1997(2) SCC 241.

Construction of Religious Institutions:— Where there was no dispute that the Mosque in question was not at all constructed by obtaining any permission and under the Municipal Laws a place of worship cannot be constructed without prior permission of the District Collector and the said Mosque was also constructed within the residential area, it was held that it is the duty of the Government to maintain law and order problem, but the authorities cannot allow such things to exist unlawfully objecting the lawful persons who were proceeding with the construction of the cinema theatre after getting No Objection Certificate and permission to construct the same in accordance with law. *Marri Pushpal Reddy v. Joint Collector and Licensing Authority, Medak District and another,* 2008 (4) ALD 336 = 2008 (4) ALT 517.

1. **Subs. for "Hyderabad Municipal Corporations" by Act 13 of 2008, w.e.f. 10.07.2008.**
2. **Subs. for "Cities of Hyderabad and Secunderabad" by *Ibid.***

2. Definitions:— In this Act unless there is anything repugnant in the subject or context—

(1) *'bakery or bake-house'* means any place in which bread, biscuits, or confectionery are baked, cooked or prepared in any manner whatsoever for the purpose of sale;

(2) *'Budget grant'* means the total sum entered on the expenditure side of a budget estimate under a major head and finally adopted by the Corporation:

(3) *'building'* includes a house, out-house, stable, latrine, godown, shed, hut, wall, fencing, platform and any other structure whether of masonry, bricks, wood, mud, metal or of any other material whatsoever;

(4) *'business'* includes any trade, commerce or manufacture, or an adventure or any concern in the nature of trade, commerce or manufacture;

[1][(4-a) *'ceiling limit'* means the ceiling limit as specified in Section 4 of the Urban Land (Ceiling and Regulation) Act, 1976.]

(5) *'cesspool'* includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

[2][(6) *'city'* means the area declared by the State Government, by notification, to be the City of Greater Hyderabad;]

(7) *'Commissioner'* means the Municipal Commissioner for the city appointed under Section 104 and includes an acting Commissioner appointed under Section 110;

(8) *'Company'* means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956) or formed in pursuance of an Act of Parliament or of an Act of the Legislature of a State and includes any firm or association carrying on business in the Telangana Area of the State of Andhra Pradesh whether incorporated, or its principal place of business is situate therein, or not;

(9) *'the Corporation'* means the Municipal Corporation of the city;

(10) [3][*'Member'*] means a person who is duly elected or deemed to be duly elected as a [3][Member] of the Corporation under this Act;

(11) *'cubical contents'* when used with reference to the measurement of a building means the space contained within the external surface of

1. Ins. by Act 7 of 1992. w.e.f. 6-1-1992.
2. **Subs. by Act 13 of 2008, w.e.f. 10.07.2008.**
3. Subs. for "Councillor" by Act 17 of 1994.

its walls and roof and the upper surface of the floor of its lowest story, or where the building consists of one story only, the upper surface of its floor;

(12) *'dairy'* includes any farm, milk store, milk shop or other place from which milk is supplied only on or for sale or in which milk is kept for the purposes of sale, or manufactured into butter, cheese, curd or dried or condensed milk, for sale, and in the case of a dairy-man who does not occupy any place for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include—

(a) shop from which milk is not supplied otherwise than in a properly closed and unopened vessel in which it was delivered to the shop; or

(b) a shop or other place in which milk is sold for consumption on the premises only;

(13) *'dairy-man'* includes any occupier of a dairy, any keeper of milch-kine who trades in milk, or any person who sells milk whether wholesale, or by retail;

(14) *'drain'* includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush tank, septic tank or other device for carrying off or treating sewage, offensive matter, polluted water sullage, waste water, rain water, or sub-soil water, and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejector, compressed air main, sealed sewage main, and special machinery or apparatus for raising, expelling or removing sewage or offensive matter from any place;

[1][(14-a) *'drainage'* includes all liquid discharges except sewage];

(15) *'eating house'* means any premises to which the public or any section of the public are admitted and where food is prepared, supplied or sold for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such premises;

[2][(15-a) *'election authority'* means such officer or authority as may be appointed by the State Election Commission to exercise such powers and to perform such functions in connection with the conduct of elections to the Municipal Corporations;]

1. Ins. by Act 6 of 1982.
2. Subs. by Act 17 of 1994.

(16) *'election tribunal'* means a tribunal constituted under Section 75;

(17) *'factory'* means a factory as defined in the Factories Act, 1948 (63 of 1948) and includes any premises as also its precincts wherein an industrial, manufacturing or trade process is carried with the aid of steam, water, oil, gas, electricity or any other form of power, which is mechanically transmitted and is not generated by human or animal agency;

(18) *'filth'* means—

(a) night soil or other contents of latrines, cesspools and drains;

(b) dirt, dung, refuse, useless or offensive materials thrown out in consequence of any process of manufacture, industry or trade; and

(c) putrid or purifying substance;

[1][(18-a) *'Finance Commission'* means the Finance Commission constituted by the Governor under Article 243-I of the Constitution of India;]

(19) *'financial year'* means the year beginning on the first day of April or such other date as the Government may by notification appoint;

(20) *'food'* includes every article other than drugs and water used by human beings for purposes of eating or drinking, any material or substance used or admixed in the composition, preparation, flavouring or colouring of such article and all confectionery, spices and condiments;

(21) *'frame building'* means a building, the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such frames;

(22) *'goods'* includes animals;

[2][(22-a) *'high rise building'* means and includes all buildings with eighteen (18) meters or more in height measured from the average level of the central line of street on which the site abuts. Staircase rooms, lift rooms, chimneys, elevated tanks above the top most floor and architectural features are excluded from the height of such buildings.]

(23) *'house-drain'* means any drain of, and used for the drainage of one or more buildings or premises and made merely for the purpose of communication with a municipal drain;

1. Ins. by A.P. Act 17 of 1994.

2. Ins. by Act No. 9 of 2008, w.r.e.f 15.12.2007.

(24) *'house-gully'* means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or for affording access to municipal servants or to persons employed in the cleaning of a privy, urinal, cesspool or other receptacle for filth or polluted matter, or in the removal of such matter therefrom;

(25) *'hut'* means any building which is constructed principally of wood, mud, leaves, grass, cloth or thatches and includes any temporary structure, of whatever size or material which the Corporation may for the purposes of this Act declare to be a hut;

(26) *'infectious disease'* means cerebro-spinal fever, chicken-pox, cholera, diphtheria, enteric fever, epidemic influenza, leprosy, measles, plague, rabies, scarlet fever, small-pox, tuberculosis, typhus, yaws, or any other disease which the Government may by notification declare to be prevalent either generally throughout State or City or in such part or parts thereof as may be specified in the notification;

(27) *'the judge'* means [1][in the cities of Hyderabad and Secunderabad, the Chief Judge, Court of Small Causes, Hyderabad] and shall include a Sub-Judge to whom such Judge may transfer in accordance with the provisions of this Act an application or appeal for disposal;

(28) *'land'* includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(29) *'licensed'* means a person licensed under this Act;

(30) *'local authority'* includes Municipal Corporation, City and Town Municipalities, District Boards and Cantonment Board;

(31) *'lodging-house'* means a building or part of building where lodging with or without board or other service is provided for a monetary consideration;

(32) *'market'* includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, livestock, food for livestock, meat, fish, fruit, vegetables, animals intended for human consumption or any other article of human food whatsoever with or without

1. Subs. by A.P. Act 3 of 1959.

the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business carried on, in or on the persons frequenting such place by the owner thereof, or any other person;

(33) *'masonry building'* means any building, other than a frame building or a hut and includes any structure a substantial part of which is made of masonry or of steel, iron or other metal;

[1][(33-a) *'mineral water'* means mineral water as defined in item A-32 of Appendix B to the Prevention of Food Adulteration Rules, 1955, framed under Section 23 of the Prevention of Food Adulteration Act, 1954.]

(34) *'municipal building'*, 'municipal drain', 'municipal market', 'municipal slaughter house' or 'municipal water works' means a building, drain, market, slaughter house or water works as respectively vest in or are managed by the Corporation under this Act;

(35) *'nuisance'* includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell, or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to health or property of the public or of persons in general who dwell in the vicinity, or occasion to exercise a public right;

(36) *'occupier'* includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable.

(b) a rent-free tenant,

(c) licensee in occupation of land or building, and

(d) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(37) *'octroi'* means a cess levied on goods at the time of their entry into the limits of a City for purpose of consumption, use or sale therein;

(38) *'offensive matter'* includes—

(a) filth,

(b) sewage,

(c) dust, house-sweeping, spitting, including chewed betel and tobacco, kitchen or stable refuse, pieces of broken glass or pottery-debris and waste paper;

1. Inserted by Act No. 36 of 2007, w.r.e.f. 22.10.2007.

(39) *'owner'* means,

(a) when used with reference to any premises, the person who receives, the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let and includes—

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable or educational purposes;

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of or to exercise the rights of an owner of the said premises; and

(iv) a mortgagee-in-possession; and

(b) when used with reference to any animal, vehicle or boat includes the person for the time being in charge of animal, vehicle or boat;

[1][(39-a) *'population'* or *'population as at the last census'* with all its grammatical variations and cognate expressions means the population as ascertained at the [2][last census] of which all the relevant and necessary figures have been published];

[3][(39-b) *'packaged drinking water'* (other than Mineral Water) means water manufactured, packaged, sealed labelled and meant for commercial use for drinking purpose to the general public.]

(40) *'premises'* includes messuages, buildings and lands of any tenure whether open or enclosed, whether built on or not and whether public or private;

(41) *'prescribed'* means prescribed by rules made by Government under this Act;

(42) *'private street'* means any street, which is not a 'public street' but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises;

(43) *'privy'* means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;

(44) *'public place'* includes any park or garden, ground or any other place to which the public have or are permitted to have access;

1. Ins. by Act 14 of 1981.
2. Subs. by Act 33 of 1986.
3. Ins. by Act No. 36 of 2007, w.r.e.f. 22.10.2007.

(45) *'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 authorised by any order which the Government makes in this behalf;

(46) *'public-street'* means any street over which the public have a right of way, whether a thoroughfare or not and includes—

(a) a Broadway over or a foot way attached to any public bridge or causeway, and

(b) the drain attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, verandah, or other structure, which lies on either side of the roadway upto the boundaries of the adjacent property, whether that property, is private property or property belonging to Government;

[1][(46-a) *'qualifying date'* in relation to the preparation and publication of every electoral roll under this Act, means the first day of January of the year in which it is so prepared and published.]

[2][(46-b) *"Recognised Political Party"* and *"Registered Political Party"* shall have the meanings respectively assigned to them in the Election Symbols (Reservation and Allotment) Order, 1968, issued by the Election Commission of India under Article 324 of the Constitution of India and in the Registration of Political Parties and Allotment of Symbols Order, 2001, issued by the State Election Commission under Article 243-K read with Article 243-ZA of the Constitution of India.]

(47) *'rack-rent'* means the amount of the annual rent for which the premises with reference to which the term issued might reasonably be expected to let from year to year as ascertained for the purpose of fixing the rateable value of such premises;

1. Subs. by Act No. 34 of 2001.
2. Inserted by A.P. Act 28 of 2005, w.e.f. 22.06.2005

(48) *'rateable value'* means the value of any building or land fixed in accordance with the provisions of this Act and the rules made thereunder for the purpose of assessment to property taxes;

(49) *"rubbish"* includes dust, ashes, broken bricks, mortar waste, garden refuse and refuse of any kind which is not offensive matter or sewage;

(50) *"schedule"* means the schedule annexed to this Act;

(51) *"sewage"* means night soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bathrooms, stables, cattle sheds and other like places and includes trade effluent and discharges from manufactories of all kinds;

[1][(51-a) *"State Election Commission"* means the State Election Commission constituted in pursuance of Article 243-K of the Constitution of India];

(52) *"street"* includes any highway, and any causeway, bridge, viaduct, arch, road, land, footway, sub-way, court, alley or riding path or passage, whether a thoroughfare or not and, when there is a foot way as well as a carriage way in any street, the said term includes both;

(53) *"sweetmeat shop"* means any premises or part of any premises used for the manufacture, treatment or storing for sale, whether wholesale or retail, of any ice-cream, confectionery or sweetmeat of any kind whatsoever, for whomsoever intended and by whatsoever name the same may be known, and whether the same be for consumption on or outside the premises;

(54) *"trade effluent"* means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include sewage;

[2][(55) *"vehicle"* means a carriage, cart, van, dray, truck, handcart, bicycle-rickshaw, and every wheeled conveyance which is used or is capable of being used on a street but does not include a motor vehicle within the meaning of the Motor Vehicles Act, 1939 (Now Motor Vehicles Act, 1988 (59 of 1988).

1. Inserted by A.P. Act 17 of 1994.
2. Subs. by A.P. Act 18 of 1965, w.e.f. 1-4-1963.

[1][(55-a) *"wards committee"* means a wards committee constituted under Section 8-A];

(56) *"water closet"* means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(57) *"water connection"* includes:—

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on any private property and connected with a water-main or pipe belonging to the Corporation; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;

(58) *"water-course"* includes any river, stream or channel;

(59) *"water for domestic purposes"* shall not include water for cattle, or for horse, or for washing vehicles, when the cattle, horses, or vehicles are kept for sale or by a common carrier, and shall not include water for any trade, manufacture or business or for building purposes, or for watering gardens, or for fountains or for any ornamental or mechanical purposes;

(60) *"water works"* includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct whether covered or open, sluice, main pipe, culvert, engine, water-truck, hydrant, standpipe, conduit and machinery, land, building or thing for supplying or used for supplying water or for protecting services of water supply.

Commentary

Business:— This definition is inclusive. Business has more extensive meaning than the word 'Trade'. Wills, J. in *Han's v. Amery,* LR-I.C.P. 148 on the other hand it has been said that, ordinarily speaking business is synonymous with "trade" (Per *Chatterton V.C. Delay v. Delay,* 15 LR 67) - Stroud's Judicial Dictionary Fourth Edition Page 350, Jessel M.R. in *Smith v. Anderson,* 15 Ch.D 258 observed "anything which occupies the time and attention and labour of a man for the purpose of profit is business". But though the contemplation of making profits was stated by Jessel, M.R. to be an ingredient in determining whether a sequence of things done would form a business and though that ideal runs through the other cases, yet that position

1. Inserted by A.P. Act 17 of 1994.

of the definition would seem to be confined to cases under the Companies Act or those of a like kind. It is indeed clean law that there may be a business, offending a prohibitory covenant, without preliminary profit being at all contemplated. In such a connection especially 'business' is a very much larger word than 'trade' and the word business is employed in order to include occupations which would not strictly cover within the meaning of trade, profession of advocate constitutes business. 1981 (4) SCC 511; 1979 (2) SCC 616.

Manufacture:— The expression 'manufacture' is not defined in this Act. But 'Factory' is defined in the same language as it is derived in the Factories Act, 1948. The meaning of manufacture in Section 2 of the Factories Act can be read as follows:

> "Making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adopting any article or substance with a view to its use, sale transport, delivery or disposal, or pumping oil, water or sewerage, or any other substance, or
>
> Generating, transforming or transmitting power, or composing types for printing, printing by letter press, lithography, photogravure, or other similar process or book binding, or preserving or storing any article in cold storage, constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels".

Adventure in the nature of trade may include an isolated transaction so as to render the adventure assessable under the Income Tax Act.

Purchase of tantamount property which was altered and resold at a profit is an adventure.

Purchase of endowment policies with no intention of selling them.

Accretions to capital invested in purchase of endowment policies at public sales. *Stroud's Judicial Dictionary 4th edition Page 76.*

Adventure is an undertaking involving danger and unknown risk, an enterprise involving financial risk-*Webster's Seventh New Collegiate Dictionary.*

An adventure connotes a stray operation. Any speculation is an adventure, but unless it is an adventure in the nature of a trade, the profits of such adventure are not assessable. *Mrs. D.M. Alexander vs. Commissioner of Income Tax, Madras*, AIR 1953 Mad. 166.

Concern:— Trade, manufacture, adventure or concern are expressions that occur mostly in the Income Tax Act. Concern as a noun is meant "Relation, reference, have interest, share etc." *Concise Oxford Dictionary.*

Dairy:— This definition of a dairy is very wide. Ordinarily, 'dairy' means "Roof or building for keeping milk and cream and making butter

etc., according to the *Concise Oxford Dictionary*. In this definition a shop or other place from which milk is supplied for sale or kept for sale also is included.

The exceptions are: (1) Shop where milk is sold for consumption; and

(2) Shop in which milk is supplied in properly closed and unopened vessel.

Eating House:— The Hyderabad Shops & Establishments Act, 1951 which was repealed by the A.P. Shops and Establishments Act, 1966 contained the definition of "restaurant or eating house" as "any premises in which is carried on wholly or principally the business of the supply of refreshments or meals to the public or class of public for consumption on the premises but does not include a restaurant attached to a theatre." In this definition the expression "for the profit or gain of any person owning or having an interest in or managing such premises" qualify the premises.

But even the definition therein contained the expression "business" which indicated that the supply of refreshments must be in the course of business but not as hospitality or charity.

Factory:— Besides the definition of 'a Factory' in the Factories Act, 1948 it includes Premises or precincts wherein industrial, manufacturing, trade process is carried with the aid of steam, water, oil, gas, or electricity or any other form of power which is mechanically transmitted.

Power generated by human or animal agency is excluded from the aids for carrying on the industrial, manufacturing or 'trade process'. The process must be carried on by power, generated, by any other agency except human or animal agency.

The expression 'industrial process' and 'manufacturing process' are self explanatory. But the expression 'trade process' is somewhat new. This definition is same as the definition in Section 2(14) of the A.P. Municipalities Act. The exceptions are not included.

Food:— Drugs and water are excluded from the definition of food. All articles used by human beings for purposes of eating, or drinking. It included any material or substance used or admixed in an article for drinking or eating. All confectionery, spices and condiments also fall under the definition of food, groundnut oil is included in the definition. *City Municipality vs. Mahado Seetha Ram,* AIR 1967 AP 363. The definition of 'food' in Section 2(v) of the Food Adulteration Act is as follows:

"Food" means any article used as food or drink for human consumption other than drugs and water and includes:

(a) any article which ordinarily enters into, or is used in the composition or preparation of human food,

(b) any following matter or condiments, and

(c) any other article which the Central Government may, having regard to its use, nature, substance or quality, declare, by notification in the Official Gazette, as food for the purposes of the Act" Coconut oil is food. 1964 MPLJ (Notes) 91. Aerated water is article of food. AIR 1964 All. 455. Asafoetida is food. AIR 1965 Mad. 98. Ajwan is article of food. 1971 (1) An.WR 624. Betel nut is food. 1975 B.L.R. 460. Supari is food. 1975 (1) SCJ 484. Ice fruit is article of food. 1973 Ker.LT 257. Tobacco is food. 1972 All. WR 668.

Puri falls under food. *Nishi Kant Ghosh v. Corporation of Calcutta,* AIR 1933 Cal. Ghee is a food stuff. *Food Inspector of Puri Municipality v. Anjaneyulu,* AIR 1966 Orissa 144. Lin Seed Oil is food. *Municipal Board, Kanpur v. Janki Prasad,* 1963 ALJ 86. Hing falls under the category of food. *Neela Ram v. State,* AIR 1964 Punjab 427. Tobacco falls under the definition of food. *Manohar Lal v. State of U.P.,* 1989 ALJ 1292.

Goods:— This is only an inclusive definition. Article 366(12) of the Constitution of India defines 'goods' as :

"Goods includes all materials, commodities and articles."

According to this definition it carries with it the implication that the materials, commodities etc., are for purposes of trade. The expression would not include within its ambit luggage and personal effects. In other words goods, whatever the expression may include would mean trade goods or goods of a commercial character. AIR 1955 Ass. 249 at 260.

The definition includes not only concrete goods but also incorporal property like trade marks, goodwill etc. AIR 1969 Mad. 284. It also includes animate things as such as animals livestock and live-poultry. 1971 Tax LR 1332.

In the Sale of Goods Act, 1930 Section 2(7) defines 'goods' as follows:

"Goods means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under contract of sale".

Chose in action are goods and equitable considerations not applicable to goods do not apply to shares in India. AIR 1926 PC 38. In Indian Law a share is not a chose in action. 1972 Tax LR 226 at 229. A sale of shares backed by share certificates and blank transfers in India is a sale of goods and it must not be considered as sale of chose in action. It must be considered to be a sale of movable property. AIR 1950 PC 21. This judgment was not reversed so far as this point is concerned. A decree is

a movable property as defined in Section 3(36) of the General Clauses Act and as such falls within the definition of the goods. AIR 1934 Bom. 84. A contract conveying rights to take forest produce, soil for making bricks, right to prove coppice and bush tender leaves cannot be said to be a contract of sale of goods AIR 1959 SC 735 at 741, sale of jungle wood to be cut from trees standing on land and taken away involves a transaction of sale of goods but not a transfer of interest in land. AIR 1971 SC 908.

The A.P. General Sales Tax Act, 1957 defined goods in Section 2(h) as follows:

"Goods means all kinds of moveable property other than actionable claims, stocks, shares and securities, and includes all materials, articles, and commodities including those used or to be used in the construction, filling out, improvement or repair of movable or immovable property and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale and also includes motor spirit."

Hut:— This definition is same as Section 2(18) of the A.P. Municipalities Act, 1965.

Occupies:— The following persons are covered by this definition.

(1) Person who is paying rent at present.

(2) Person liable to pay such rent for occupation of a building or portion of a building.

(3) Rent free tenant.

(4) Licence in occupation.

(5) Person liable to pay damages for use and occupation for his unauthorised occupation to the owner.

Thus this definition is not applicable to the owner. 1969 (2) An.WR 467.

Octroi:— Octroi is a cess levied on the goods at the time of their entry into the city limits for purposes of consumption, use or sale in the city limits. 'Cess' means an assessment or tax. AIR 1937 Nag. 211.

The word 'cess' has a definite legal connotation indicating tax allocated to a particular thing, not forming part of the General fund..... According to its import, the word "cess" is only a tax and not mere fee. It is therefore not necessary for the purpose of levy of cess there should be *quid pro quo* between the service actually rendered and the amount of tax levied as it is not a fee but a tax. AIR 1960 Mad. 160.

Cess and Licence Fee:— There is a distinction between 'cess' and 'licence fee'. A cess is a tax levied for a specific purpose often with a prefixed words defining the object. A licence on the other hand involves permission subject to conditions. AIR 1952 SC 115.

Delegation of power to levy fee to Municipal Commissioner is ultra-vires under Hyderabad Municipal Corporation Act, 12 of 1342 F. 1972 (2) An.WR 113.

Requirements of Octroi:— In *Burmah Shell Oil Storage and Distributing Company of India Limited v. Belgaun Burough Municipality,* AIR 1963 SC 906 at 911, the Supreme Court considered the requirements peculiar to octroi. The most important difference lies in the requirements peculiar to "octroi" that for this tax to become leviable, the goods must not only enter the area but must be "for the purpose of consumption or use or sale therein." Usually this requirement is sought to be satisfied by (a) the *ab initio* exemption of the goods which merely pass through the area, whether the exit is immediate or after an interval or (b) by the subsequent refund of the tax collected on such goods. Exemptions and refunds therefore, are the distinguishing features of the octroi system.

Terminal Tax and Octroi:— Octroi and terminal taxes were different taxes though they resembled in one respect namely that they were leviable in respect of goods brought into a local area. While terminal taxes were leviable on goods 'imported or exported' from the municipal limits denoting thereby that they were connected with the traffic of goods, octrois according to the legislative practice, were leviable in respect of goods brought into a Municipal area for consumption or use or sale.

Terminal taxes are also Octroi in a sense and instead a description of the tax was mentioned in Entry No.52 in List II of the Seventh Schedule of Constitution of India which reads:

"52. Taxes on the entry of goods into a local area for consumption or use or sale therein." Octrois are leviable in respect of goods put to some use or other in the area but only if they were meant for such user.

Octroi duty is a tax levied on the entry of goods within a particular area. AIR 1950 SC 11.

Owner:— This definition is analogous to the definition in Section 2(26) of the A.P. Municipalities Act, 1965. Ownership and possession are two distinct juristic concepts and in every transfer of ownership from one person

to another by the act of a party transfer of possession is not necessary. ILR 33 All. 683 at 689.

Where a lessee of a premises was at liberty to effect alterations and additions and to put up even new constructions, and he did so, he was held to be a "owner" within the meaning of Section 3(26) of City of Bangalore Municipal Corporation Act, 1949. 1974 (2) Kant.LJ 236.

Ownership may continue to subject although stripped of almost every attribute which makes it valuable. One or more of the subordinate elements of ownership such as right or possession or user may be granted out while the residuary right of ownership remains unimpaired. AIR 1964 AP 21.

This definition is an inclusive definition. It includes agent, guardian or manager, or receiver, or a mortgage in possession, besides the ordinary meaning of owner. In case of animal, boat or vehicle a person incharge of such animal, boat or vehicle is brought under this definition irrespective of the fact whether he is owner or not.

A temporary permissive possession of the property may not be included in this definition. A land holder of ryot lands in the possession of occupancy rights is an owner. 1954 (2) MLJ 556.

Both landlord and lessee are "owners". AIR 1928 Bom. 598.

Occupier and Owner:— An occupier is a person in use or enjoyment of the land i.e., a person having the actual use or occupation. AIR 1957 AP 1042-1044. In the case of an easement under Section 4 of the Easements Act shows that not merely the 'Owner' but even an 'Occupier' may acquire an easement and there is no *prima facie* reason why the enjoyment he had as an occupier should not be tacked on to his enjoyment as 'Owner' if there should be no interruption in his user. 1934 Crl.LJ 183.

Public Place:— This definition is analogous to Sec. 2(30) of the Municipalities Act.

The principle enunciated in *Queen v. Beliard,* (1884) QBD 63 is that a place is a public place though it is private property when it is shown that the public are in the habit of resorting to it. This principle was followed in many decisions. The Madras High Court in *Emperor v. Govindarajulu,* AIR 1916 Mad. 474 held that legal right to access by public is one which is resorted to by the public whether they have a right to go or not. In *Baburam v. Emperor,* AIR 1927 All. 560 Suleman, J. held that a vacant land which was private property and surrounded on three sides by fields and on

one side by a stream is not a public place. His Lordship further observed that a place to which the public had not, by right, permission, usage or otherwise access, could not be a public place even though it were close to a public street so that any member of the public walking along the street could see what was going on there. The Patna High Court in *Raujanak v. Emperor,* AIR 1937 Pat. 276 followed the Madras view in *K. Satyanarayana Raju v. State,* AIR 1950 Mad. 729, wherein Chandra Reddy, J. (as he then was) observed:

"In order to constitute a public place it is not necessary that the place should be a public property but if it is a private property it must be proved that not only the public could have access to it but it is a place to which members of the public in fact resort". The Kerala High Court followed this view. AIR 1967 Ker. 106-107.

The definition of 'public place' being inclusive definition, it is very well settled, has to be given broader meaning while examining whether a place is 'public place'. *Ch. Madan Mohan and others* vs *Municipal Corporation of Hyderabad and another,* AIR 2003 AP 393 = 2003(4) ALD 6.

Commercial Complex – Public Place :- Section 115(40) of the HMC Act casts a duty on the Corporation to provide parking places and levy fees for their use. In view of the definition of public place, all the places to which public have access or public visit are public places and the Corporation has a duty to regulate such parking places. All the commercial complexes are built and operated either expressly or impliedly for the use of public. A person who constructs a commercial complex and expects public and people to come to the place for various activities cannot be permitted to contend that it is a private place. Having invited the public, the builder/owner is bound to take all necessary steps to provide proper security to the people visiting the premises. Therefore, parking place or a common area in a multi-storeyed commercial complex is a public place and nobody can claim absolute right to regulate and levy fees for parking at the parking place. This view is further supported by various provisions of the HMC Act, A. P. Apartments (Promotion of Construction and Ownership) Act, 1987, Municipal Corporation Building Bye-laws, Municipal Corporation of Hyderabad (Layout) Rules, 1965 and Multi-storeyed Building Regulations, 1981. *Ch. Madan Mohan and others* vs *Municipal Corporation of Hyderabad and another,* AIR 2003 AP 393 = 2003(4) ALD 6.

Public:— The word 'public' is ambiguous. It may signify "open to all" capable of being known or observed by all", or it may signify, made or done by any officer of the Government. These are decidedly different

senses. *Field's Law of Evidence 10th Ed. Page 2448.* The expression 'Public Securities' in this Act is analogous to Section 2(43) of the Delhi Municipal Corporation Act, 1957.

Section 2(U) of the Major Port Trust Act, 1963 defines Public Securities as follows:

Public Securities means:—

(i) Promissory notes, debentures, stock or other securities of the Central Government or of any State Government:

Provided that securities both the principal whereof and the interest whereon have been fully and unconditionally guaranteed by any such Government, shall be deemed, for the purpose of this clause, to be securities of such Government;

(ii) Debentures or other securities for money issued by or on behalf of any Municipal body, Improvement Trust, or Port Trust, under the authority of any law for the time being in force in India (including the Port Trust Securities).

Public street:— This definition is analogous to Section 2(31) of the A.P. Municipalities Act.

In *Pallaniandi v. State,* AIR 1928 Mad. 160, it was held that if there is a piece of road poramboke which lies between the roadway and the adjacent property that will be a public road. A public street does not exclude road margin. AIR 1931 Mad. 424. Public street includes the space covered by drains even if the space is private property. AIR 1931 Mad. 424.

Mere dedication to public does not make streets in colony "public streets" for the purpose of Delhi Municipal Corporation Act, 1957. LLR 1971(2) Delhi 1.

Over which the public have a right of way:— This expression governs and qualifies street, road, square, court, alley, passage or siding path. A strip of land running along the side of the road to which nobody can make out a title does not become part of the road unless it is proved that the public have a right of way over it. AIR 1920 Mad. 1159. A lane or street does not become public street only because there is an underground sewer of old times running under it. AIR 1922 All. 386.

Proof:— The onus of proving that it is a public street is on the crown. AIR 1930 All. 26; continuous user by public of a way raises a presumption that the way belongs to public and it has been dedicated to public by the

owner for public use. ILR (32) Mad. 527. In determining the question whether a road through a private property is a public highway though not expressly dedicated to the public, it is of a crucial importance to distinguish between evidence showing that visitors or traders with tenants whose shops about on the road have by permission a right of passage. ILR (38) Mad. 455.

Rack Rent:— Rack rent in legal language means a rent that represents full annual value of the holding. Annual value primarily means net annual value. In *London County Council v. Wandsworth,* (1903) IKB 810. Mathew L.J. said that "in any view rack rent connotes income arising from a proprietary right. In England the expression 'rack rent' occurs or has occurred in Poor Law Amendment Act, 1834 and Towns Improvement (Ireland) Act, 1855 and in certain Public Health Acts. In these Acts the definition has been variously defined. This expression as occurring in the Housing Act, 1939 came up for interpretation in *Rawlence v. Eroydon Corporation,* (1952) QB 803, wherein it has been stated that in ascertaining the full net annual value, the fact that the rent of the house is controlled by the Rent Restriction Acts is to be taken into consideration, for they restrict the value of the house to the landlord, and since the standard rent of such a house, plus statutory increases, is the full amount which the landlord can receive from the tenant that rent is the full net annual value of the house within the meaning of Section 9(4) of the Housing Act, 1936. AIR 1969 Bom. 73 at 74.

Rateable value:— *Prima facie,* "rateable property" means property in its nature capable of being rated. 4 QB 326. Rateable value is the same as that provided for Valuation (Metropolis) Act, 1869 namely "Annual Value". Annual Value means the Net Value. It may be laid down that the general *prima facie* meaning of 'annual value' of property is that provided for 'net annual value' by parochial Assessments Act, 1836. In *Walker v. Brisely,* (1900) 2 QB 735, Grantham, J. observed:

The rent at which the same might reasonably be expected to let from year to year, free of all usual tenants rates and taxes and to the commutation rent charge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain them in a state to command such rent". Afterwards this expression was considered in many decisions some of which are:

Western Middlesex Water Works Co. vs. Coleman-14 QBD 529.

Grand Junction Water Works Co. vs. Davies-(1897) 2 QB 209.

Bradford vs. White-(1898) 2 QB 630.

Port of London Authority vs. or set-1920 AC 273.

R.V. Gains Brough LR 7 QB 64.

R.V. Smith-55 LJMC 49.

Stevens vs. Bishop-19 QBD 442.

New Port vs. Stead (1906) 2 KB 147.

The Valuations Acts such as Rating and Valuation (Apportionment) Act, 1928 and Valuation (Metropolis) Act, 1869 the definition is adopted as:

"The term rateable value means the gross value, after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses, necessary to maintain hereditament in a state to command the annual rent which a tenant might reasonably be expected to pay".

Fixation of rateable value:— Section 212 of the Act laid down the method and manner of determining the rateable value. Sub-section (2) dealt with the determination of rateable value of land which is not appurtenant to a building or land which is not used as agricultural purpose or land which is not built upon, but capable of being used for buildings. After the Urban Land (Ceiling and Regulation) Act, 1976 such land is known as Urban Vacant Land. The rateable value of such land is 5% of the estimated capital value of the land.

Building or land other than vacant land:— Sub-section (1) of Section 212 laid down the method of determination of the rateable value.

Amount of Annual rent for which such building or land might reasonably be expected to let for a year is to be arrived at. Deduct 10% of the amounts for repairs towards allowances for repairs or on any other account whatever.

The terms building and land will include lift installed in a building under Delhi Municipal Corporation Act, 1957. AIR 1991 Del. 212.

Petroleum storage tanks are "structures" or "things attached to land" within the definition of Sec. 3(s) and Section 3(r) of Bombay Municipal Corporation Act. AIR 1991 SC 686.

Charges for fittings, fixtures to be excluded. It is open to the landlord of a building to stipulate from his tenant besides payment of rent for such building as such, payment of hire agreed to between them, for fixtures and fittings, furnishings, electrical installations, sanitary fittings and other amenities provided by and at the cost of the landlord. The parties may use the broader expressions 'rent' for hire ..... For purposes of levy of property tax the assessable rateable value of the building should be arrived at by deducting

a sum equal to 10% of the annual rental value of the building towards for allowances for repairs and other allied purposes. Even in a case where rent is charged in lumpsum for use and occupation of a building together with fittings, furnishings etc., the taxing authority is liable to apportion a reasonable rental value attributable to the structure of the building without reference to fittings, fixing and furnishings etc. *Smt. Hemalata vs. M.C.H.* (1985) (2) ALT 42 = 1985 (3) APLJ 132.

The fittings and furnishings embodied in the building do not form part of a building within the meaning of Sec. 2(3) of the Municipal Corporation Act - *Arshia Quadri vs. M.C.H.* - 1985(2) ALT 442 Assessment of tax by including special fittings, built in furniture and accessories is not legal - 1984(2) ALT 162: 1985(1) An.W.R. 327.

The expression "building" may be understood as a concept of occupation by human beings or by animals. *Bharat Petroleum Corporation v. Municipal Corporation of Greater Bombay,* 1985 (1) Bom.C.R. 310.

The question whether a structure is a building or not, may have to be decided depending upon the facts of the case and the definition in the statute. *Corporation of City of Nagpur v. Nagpur Handloom Cloth Market Co. Ltd.,* AIR 1963 SC 1192.

However underground petrol bunk does not fall under the expression "building". *Bharat Petroleum Corporation v. Municipal Corporation of Greater Bombay,* AIR 1985 Bom. 242.

An enclosure forming a compound wall may fall under the definition of building. *Pune Municipal Corporation v. Nauasaheb Nagoji Bhosale,* 1995 (1) Mah.L.J. 427 Bom. But a mere boundary wall is not a building. *Baladin v. Lakan Singh,* AIR 1927 All. 214.

For definition of land - See AIR 1988 Bom. 127; AIR 1981 Guj. 75.

For definition of public street under different Corporation Acts see the undernoted cases. AIR 1985 Mad. 23; AIR 1972 Del. 29; AIR 1985 Ker. 2; AIR 1984 Mad. 292.

For the definition of water for domestic purposes - See 1981 All.W.C. 116.

Annual rental value:— The expression 'annual rental value' and the method of assessment of the property laid down in Section 87 of the A.P. Municipalities Act, 1965 is analogous to Section 212(1) of this Act.

Annual rent reasonably to be let:— Where the Rent Control Act applies, the determination of annual rental value is to be done on the basis of the principles contained in the Rent Control Act for fixation of fair rent. Annual rent realised by the land does not form the basis 1978 (1) APLJ 356.

[1][3. "**Constitution of Corporation:—** (1) There shall be established a Municipal Corporation for the City of Greater Hyderabad with effect from the date of notification under sub-section (3):

Provided nothing in this sub-section shall prevent the Government from establishing, with a view to secure efficiency and economy in the Municipal administration, a single Corporation for Greater Hyderabad on such terms and conditions as may be specified in the notification published in the Andhra Pradesh Gazette in this behalf.

(2) The Corporation established under sub-section (1) shall be a body corporate by the name of Greater Hyderabad Municipal Corporation and shall have perpetual succession and a common seal, and subject to any restrictions or qualifications imposed by or under this Act or any other law, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, of entering into contracts, and of doing all things necessary, proper or expedient for the purposes for which it is constituted.

(3) Government may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the limits of the City as declared under clause (6) of Section 2 so as to include therein or to exclude therefrom, the areas specified in the notification.

(4) The power to issue a notification under sub-section (3) shall be subject to previous publication"].

Commentary

Proviso:— The proviso to the sub-section (1) empowers the Government to establish a single corporation for the twin cities, or alter the limits of the existing corporation for including the areas contiguous thereto.

In the case of the statutes establishing Visakhapatnam and Vijayawada Municipal Corporations the proviso in those Acts (Ordinances) gives wider powers to alter the limits by inclusion or exclusion of any area. The expression 'areas contiguous' found in the proviso to this Act is not there in the Acts of those corporations.

1. **Subs. by Act No. 13 of 2008, w.e.f. 10.07.2008.**

Alter the Limits of Corporation:— Sub-section (2) of Section 3 of this Act is the same as the proviso of sub-section (1) of the other Corporation Acts. The condition precedent for alteration of limits is 'Consultation' with the Corporation.

Consultation:— The expressions 'consultation' or 'after consultation' are not defined in these Acts. Backmil L.J, in *Rollo vs. Minister of Town and County Planning* 1948(1) All.ER 13 explained the expression "consultation with any local authority" in New Towns Act, 1946: "Consultation means that, on the one side, the Minister must supply sufficient information to the local authority to enable them to tender advice, and on the other hand, a sufficient opportunity must be given to the local authority to tender advice".

In *Union of Benefies of Whippinghan and East Cowes, Janes Street* 1954 AC 245 arising under Postal Reorganisation Measure 1949 it was explained to mean that "a full and sufficient opportunity for the members of the council to ask questions and submit their opinions in any reasonable way should be given". But in *Post Low's Corp. vs. Ag.(Masitins)* 1965 AC 1111 arising under Masitins Local Govt. Ordinance 1962, it was held that "correspondence in which the Minister of Local Government gave a clear invitation to a local authority to express its views on a clear proposal was "consultation". The word "consult" implies a conference of two or more persons or an impact of two or more minds in respect of a topic in order to enable them to evolve a correct or at least a satisfactory solution *Pushpam vs. State of Madras.* AIR 1953 Mad. 392 at 393, it is further said that such a consultation may take place at a conference table or through correspondence. The form is not material but the substance is important. It is necessary that the consultation shall be directed to the essential points and to the core of the subject involved in the discussions. The consultation Trust enable the consultor to consider the pros and cons of the question before coming to a decision. A person consults another to be elucidated on the subject matter of the consultation. A consultation may be between an unimproved person and an expert or between two experts.

No opportunity to the Rate Payer:— In these Acts no opportunity is contemplated to be given to the ratepayer in the corporation for alteration of the limits of the corporation. Sub-section (2) of Section 3 of the A.P. Municipalities Act provided opportunity to the tax payer or a resident of the local area to submit his objections for inclusion or exclusion of areas to or from the Municipality. The taxpayer in the corporation is vitally interested in the local limits of the corporation. It is submitted that this section be redrafted on the lines of Section 3 of the A.P. Municipalities Act so that the "Voice of taxpayers" is considered before altering the limits of the Corporation.

Previous Publication:— The power is regulated by the procedure of previous publication. The previous publication is laid down by Section 7 of the A.P. General Clauses Act, 1891 and Section 17 of the A.P. (Telangana Area) General Clauses Act 1308. F.

The procedure is as follows:—

(a) Publication of the draft in the Gazette.

(b) With the draft a notification or notice shall accompany specifying a date after which the draft will be taken up for consideration.

(c) Consideration of suggestions or objections by the authority having power to make the rule or order.

(d) Publication of the final rule or order in the Official Gazette.

This procedure affords an opportunity to the persons to submit suggestions or objections. This is a general procedure applicable to make rules by previous publication. But in the matter of altering the limits of a corporation it is necessary that the procedure laid down by Section 3 of the A.P. Municipalities Act, 1965 established a better democratic process than this general procedure.

Time for objections:— If sufficient time for submission of objections is not furnished the rules become illegal.

Presumption 'Duly Published':— This presumption is subject to the power of High Court under Article 226 of the Constitution of India. It is open for the High Court to scrutinise whether the rules are duly published. AIR 1962 Raj. 24.

Consider objections:— 'To consider' means "contemplate mentally, weigh the merits of the claim" while considering the objections of rate payers. In *Franklin vs. Minister for Town and Country Planning* 1947 (1) All.ER 396 popularly known as *Stevenege case* arising under the New Towns Act, 1946 Lord Thankerlon observed:

"The respondents' duties under Section 1 of the Act and Schedule 1 thereto are, in my opinion, purely administrative but the Act prescribes certain methods or steps in discharge of that duty. It seems clean also that the purpose of inviting objections and whether they are not withdrawn, of having a public enquiry to be held by some one other than the respondent to whom that person reports, was for the further information for the respondent in order to the final consideration of the soundness of the scheme. I am of the opinion that no judicial duty is laid on the respondent in discharge of these statutory duties and that the only question is whether he has complied with the statutory directions".

In Errington vs. Minister of Health 1935 (1) KB 249. Maugham L.J. observed:

"Are his acts in that respect merely acts of administration or is he exercising a quasijudicial function. The Minister is not in my opinion in the position of a Judge and he is not to hold a judicial proceeding". Following the dictum in *Board of Education vs. Rice,* 1915 AC 120 it was observed:

"They must act in goodfaith, fairly listen to both sides, for, that is the duty lying upon every one who decides anything. But I do not think they are bound to treat such a question as though it were a trial. They have no power to administer an oath and need not examine witnesses. They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant state unit prejudicial to their view".

It was further held:— Although the act or affirming a clearance area order is an administrative act, the consideration which must precede the doing of that act is of the nature of quasi-judicial consideration and the Minister is bound to the extent mentioned in *Board of Education vs. Rice".*

Dealing with the question whether the dictum in *Errington case* remains unaffected by the decision in *Franklin's case,* Griffithe and Street in their treatise on "The Principles of Administrative Law" 4th Ed. Page 183 observed:

"*Franklin case* is to be regarded as limited in its application to case under New Towns Act, decisions like *Errington's case* are unaffected. Under the Housing Act the Minister is required to consider objections. He is acting in a manner to which original parties are the local authority and objectors, the issues are more local in scope and it may be that Parliament thought a lesser degree of policy was involved."

Consideration of objections:— The objections must be considered in their correct perspective. If it can be shown that the Government is influenced on extraneous considerations or on irrelevant considerations or upon matters which are germane to the issue, such consideration is no consideration at all. AIR 1960 SC 1223.

Reasons for decision:— The functions of the Government in cases like constituting a Municipality are administrative in nature, it is not necessary for them to give reasons. 1968 (1) MLJ 77. It has never been a principle of natural justice that reasons should be given for decisions. (1970) 2 GB 417.

Powers of Government as to formation of corporation:— The Government in exercise of its powers under Section 3 is not subject to the rules of natural justice any more than is legislature itself. The rules of natural justice are not applicable to legislative action subordinate. The procedural requirement of hearing is not implied in the exercise of legislative powers unless hearing was expressly prescribed. The powers of Government are neither executive nor

administrative. Court cannot sit in judgment over such decision; it cannot lay down norms for exercise of that power. It cannot substitute even "its juster will for theirs". *Sudarjas Kalyanlal Bhathija v. Collector, Thana* (AIR 1991 Sew 2124) AIR 1990 SC 261 = 1989 (3) SCC 396.

Constitution of GHMC:— Article 371-D was inserted in the Constitution by the Constitution (Thirty-second Amendment) Act, 1973 for giving equitable opportunities and facilities to the people belonging to different parts of the State in matters of public employment and education. With a view to ensure that the revisions contained in the 1973 Order under Clauses (1) and (2) of Article 371 D are not subverted or bypassed by the political or executive apparatus of the State, overriding effect was given to the same. This has been recognised in a catena of decisions of this Court and the Supreme Court. The term "City of Hyderabad" has been defined in Para 2(l)(a) of the 1975 Order as the part of the State comprising the territories specified in the First Schedule. Entry 1 of the First Schedule appended to the 1975 Order refers to Hyderabad Municipal Corporation area *i.e.,* Hyderabad Division and Secunderabad Division. If the constitution of Greater Hyderabad Municipal Corporation is formalised, it would necessarily include the areas of Hyderabad Division and Secunderabad Division and will in no way adversely affect the existing territories of the City of Hyderabad. Likewise, it will have no adverse impact on the term "local area". There may have been some merit in the argument of the learned Senior Counsel if the territory of the City of Hyderabad had been reduced or the "local area" as defined in Para 2(l)(c) read with Para 6 of the 1975 Order had been altered. However, the fact of the matter is that the proposed constitution of Greater Hyderabad Municipal Corporation would only result in enlarging the territory of the City of Hyderabad as well as the local area and the existing territory/area will merge in the larger territory/area. Therefore, the two G.Os. (G.O. Ms. Nos. 703 and 704, MA & UD (Elec.II) Dept., dated 20.7.2005), cannot be declared *ultra vires* the provisions of Article 371 D or the 1975 Order. *Mohd. Moazam Khan and others v. Government of Andhra Pradesh and others,* 2008 (5) ALD 585 = 2008 (4) ALT 443 (DB).

CHAPTER II

The Municipal Constitution — Municipal Authorities

4. Municipal Authorities charged with the execution of the Act:— The Municipal authorities charged with carrying out the provisions of this Act are:—

(a) a Corporation;

(b) a Standing Committee;

(c) a Commissioner;

[1][(d) The Wards Committee.]

1. Added by A.P. Act 17 of 1994.

The Municipal Corporation

5. [1][Composition of Corporation]:— [2][(1) Subject to the provisions of sub-section (2) the Corporation shall consist of such number of elected members as may be notified from time to time by the Government in the Andhra Pradesh Gazette, in accordance with such principles as may be prescribed.]

[3][(1-A) Every Member of the Legislative Assembly of the State and every Member of the House of the People representing a [4][constituency] of which the Corporation or a portion thereof forms part [5][and every member of the council of State registered as an elector within the area of the Municipal Corporation [6][and every Member of the Legislative Council of the State registered as an elector within the area of the Municipal Corporation as on the date of filling of nomination for becoming Member of Legislative Council or on the date of nomination by the Governor, as the case may be] shall be *ex-officio* [7][Member] of the Corporation;]

Provided that a Member of the Legislative Assembly or a Member of the House of the People representing a [4][constituency] which comprises a portion of the Corporation and a part of any Municipality or Municipalities, or of one such Municipalities, which he chooses and he shall also have the right to take part in the proceedings of any meetings of the other Municipal Councils or Corporation, as the case may be, within the [4][constituency], but shall not be entitled to vote at any such meeting.

[8][(1-B) In addition to the members referred to in sub-sections (1) and (1-A) three persons having special knowledge or experience in Municipal Administration of whom one shall be woman, be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

Provided that the members co-opted under this sub-section shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.

1. **Subs. for 'Constitution of Corporation' by Act 13 of 2008, w.e.f. 10.07.2008.**
2. Subs. for Sub-section (1) by Act No. 14 of 2005.
3. Subs. by Act 11 of 1991, w.e.f. 16.04.1991.
4. Subs. for "ward" by Act No. 29 of 2005, w.e.f 6.08.2005.
5. Subs. by Act No. 17 of 1994.
6. **Ins. by Act 5 of 2008; w.e.f 30.04.2008, (vide GOMs. No. 327 MAUD Elec-II, dt. 30.04.2008.**
7. Subs. for 'Councillor' by Act No. 17 of 1994.
8. Subs. by Act 29 of 2005, w.e.f. 6.08.2005.

(1-C) Two persons belonging to the minorities of whom one shall be woman be co-opted as members of the Corporation in prescribed manner by the members of the Corporation specified in sub-sections (1) and (1-A) from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

Provided that the members co-opted under this sub-section shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.]

[1][(1-D)] No person shall be member in more than one of the categories specified in [2][sub-sections (1), (1-A), (1-B) and (1-C)]. A person who is or becomes a member of the Corporation in more than one such category shall, by notice in writing signed by him and delivered to the Commissioner, within fifteen days from the date on which he so becomes a member, intimate in which one of the said categories he wishes to serve, and thereupon he shall cease to be the member in the other category. In default of such intimation within the aforesaid period, his membership in the Corporation in the category acquired earlier shall, and his membership acquired later in the other category shall not, cease at the expiration of such period. The intimation given under this sub-section shall be final and irrevocable].

[3][(2) In the Corporation out of the total strength of elected Members, the Government shall, subject to the rules as may be prescribed, by notification, reserve,—

(a) such number of seats to the Scheduled Castes and Scheduled Tribes as may be determined by them, subject to the condition that 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 by direct election to the Corporation, as the population of the Scheduled Castes, as the case may be, the Scheduled Tribes in the Corporation bears to the total population of the Corporation; and such seats may be allotted by rotation by different wards in the Corporation ;

(b) one third of the seats for the members belonging to the Backward Classes; and such seats may be allotted by rotation to different wards in the Corporation ;

1. Sub-section (1-B) renumbered as (1-D) by A.P. Act No. 17 of 1994.
2. Subs. by *Ibid.*
3. Subs. by A.P. Act No. 17 of 1994.

[1][x x x]

(c) not less than one-third of the total number of seats reserved under clauses (a) and (b) for women belonging to the Scheduled Castes, Scheduled Tribes or as the case may be, the Backward Classes;

(d) not less than one third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes) of the total number of seats to be filled by direct election to the Corporation shall be reserved for women and such seats may be allotted by rotation to different Wards in a Corporation.]

[2][x x x]

[3][***Explanation:***— In this section,—

(i) the expression "Scheduled Castes" and "Scheduled Tribes" shall have the same meanings respectively assigned to them in clause (24) and clause (25) of Article 366 of the Constitution of India;

(ii) the expression "Backward Classes" means any socially and educationally Backward Classes of citizens recognised by the Government for the purposes of clause (4) of Article 15 of the Constitution of India] [4][without reference to the classification but including the creamy layer amongst such Backward Classes of citizens.]

(iii) [5][x x x]

Commentary

Validity of representation to women:— The subject of 'Local Governments' has been left exclusively to the State Legislature and no restriction has been put by the Constitution on the manner in which the State Legislature may decide to constitute the Municipal Corporation and other local authorities. (Substituted by Act 17 of 1979). Therefore unless there is some provision the Constitution itself which prohibits the State Legislature from providing for separate representation for women, the mere fact that the constitution has not provided for any reservation for women the Parliament or State Legislature cannot be used as an argument against the competency of the State Legislature to make provision for reservation of seats for women in local bodies. AIR 1970 All 571.

1. Proviso omitted by A.P. Act 1 of 1995, w.e.f. 3.2.1995.
2. Sub-section (3) omitted by Act No. 13 of 2008, w.e.f. 10.07.2008.
3. Subs. by A.P. Act 33 of 1986.
4. **Added by Act No. 4 of 2011, w.r.e.f. 25-9-1986.**
5. Clause (iii) omitted by Act No. 1 of 1995.

Reservation for Scheduled Castes and Scheduled Tribes:— The above principle applies to the reservation of seats for Scheduled Castes and Scheduled Tribes. Considering the challenge to the reservation of posts of Presidents of Panchayat Samithis to Scheduled Castes and Scheduled Tribes in *K. Krishna Murthy vs. Government of A.P.*, AIR 1953 Bom. 311, Justice Kuppuswami (as he then was) speaking for the Bench observed:

"We do not agree that the direct result of such reservation is only political advancement to the particular individual and not the advancement of the Scheduled Caste to which he belongs, we are therefore of the view that even if the expression `advancement' in Article 15(4) is interpreted in a restrictive sense as equivalent to social, economical, or educational advancement, the impugned provision would be one for the purpose of such advancement. We therefore see no substance in the contention that Sec. 5 as amended by Act No. 26 of 1978 is *ultra vires* Articles 14 and 15 of the Constitution."

Corporate body:— The corporation constituted or established under this Act is a body corporate having a common seal and perpetual succession with power to acquire and dispose of property and sue and be sued.

Relationship between Members and the Corporate Body:— In *State of A.P. vs. Municipal Council Nalgonda*, ILR 36 Mad. 113, the composition, characteristics of the corporate body and the relationship of members was discussed. It was pointed out that;

"The modern Municipality is a legal entity distinct from its composite members, vested with rights, powers, immunities and liabilities prescribed by law, depending on the manner in which it was created and is either limited by its sphere of operation by its incorporating statute or else has most of the rights which a natural person possesses. Thus a Municipality in its strict proper sense is a body politic and corporate constituted by the incorporation of the inhabitants of a city or a town or any other defined locality for the purpose of local Government thereof. The incorporated Municipality or Municipal Council is distinct by separate from the elected members who compose it".

The powers of a statutory corporation must be strictly construed and what is not permitted to such a body must be taken to be forbidden".

Liability of Corporation and Tort:— A Corporation is a legal person and distinct from its members. It acts through its servants or agents and not *in proria* persons. It is as much liable in action in tort as an individual. Jagadisan J. in *Thiruverianothu Pillai vs. Municipal Council, Shencottah,* AIR 1961 Mad. 230 held that the Municipality is liable to pay damages to the appellant whose pet dog was killed by the servant of the Municipality while killing stray dogs.

Misfeasance:— In *Municipal Council, Vizagapatnam, vs. Foster,* AIR 1918 Mad. 264, it was held that "Municipalities in India are not exercising

sovereign powers or agents of the state in laying or maintaining roads. The public have a right to use the full breadth of public road and any obstruction to such use amounts to misfeasance. It is the duty of the Municipality to lay and maintain roads so that the public may pass over them safely and they are liable for injuries resulting to the public through the negligence or the improper performance of that duty. The liability cannot be shifted to a contractor employed by them for a particular purpose. They are not relieved from liability to those injured by the failure to perform it.

Non-feasance:— No action will lie against a public body for mere non-feasance in the absence of proof of negligence of carelessness in the discharge of duties. AIR 1919 Mad. 177. The Municipality refused licence for doing business to the applicant which act is within its powers. It may be an error of judgment. A suit for damages in misconceived. AIR 1963 A.P. 436.

Remedy for public nuisance:— In *Municipal Council Ratlam vs. Sri Vardichan*, AIR 1962 Mad. 204, Justice Krishna Iyer held:

"The dynamics of the judicial process has a new `enforcement' dimension not merely through some of provisions of criminal procedure code but also through activated tort consciousness. The officers incharge and even the elected representatives will have to face the penalty of the law if what the constitution and follow up legislation direct them to do are defied or denied wrongfully".

The learned Judge further observed:— "Section 133 Cr.P.C. permits enforcement of civic rights under the Municipal Law where neglect had led to public nuisance. The section permits affirmative action to abate the nuisance on a time bound basis by issuing specific directives.

Providing drainage system in a working condition sufficient to meet the needs of the people, cannot be evaded by the Municipality on ground of financial inability, such a plea has no juridical basis. The Magistrate must estimate the cost of the scheme, fix reasonable time limits for its execution and even overseas the actual execution of the scheme".

Private nuisance:— If the Municipality fails to perform its duty to maintain and repair *inter alia* channels, drains, latrines, and if nuisance arises therefrom it will be certainly liable in a Court of Law for damages. The Municipality of Mathura was held liable for damages. AIR 1962 All. 211.

Malicious prosecution:— A corporation can be liable for damages in all cases where a master would be liable for an act of his servant acting within the scope of his employment. But the liability of corporation for malicious prosecution is no greater than that of an ordinary individual. AIR 1920 Mad. 193.

Power of Civil Court:— The Civil Court can interfere with the discretionary orders of the municipal committee if those orders are in any way unreasonable, arbitrary, capricious, oppressive or partial. But the Civil Court is not entitled to go into motives of a municipality or *bona fides*.

Difference in language:— Section 5 in the three Acts is not the same. Section 5 in the Vijayawada Ordinance vested power in the Govt. to determine the number of seats for reservation for women, Scheduled Castes and Scheduled Tribes whereas in this Act the number is fixed by the statute itself. The minimum number for women is fixed at two leaving the maximum to the Government in case of Vijayawada. The ceiling is put on total reservation at half of the strength of the members of the corporation. It is submitted that it is desirable to have similar provisions for all the corporations in this State. Section 5 of the other corporation Acts is analogous to Section 8 of the A.P. Municipalities Act.

Term of Office of Councillors

[1]**[6. Term of office of [2][Members]:—** (1) The term of office of elected [2][members] shall, save as otherwise expressly provided in this Act, be five years from the date appointed for the first meeting of the Corporation under clause (b) of Section 88 and the last day of their term of office is in this Act referred to as the day for retirement];

[3][(3) An *ex-officio* [2][Member] shall hold office so long as he continues to be the member of the Legislative Assembly of the State or the Legislative Council of the State or the House of the People, as the case may be].

7. Election when to be held:— (1) Every general election requisite for the purpose of this Act shall be held [4][x x x] in the manner prescribed, within three months before the day for retirement of the [2][members] as specified in Section 6.

[5][(2) Every casual vacancy in the office of an elected member of a Municipal Corporation shall be reported by the Commissioner to the State Election Commission within fifteen days from the date of occurrence of such vacancy and shall be filled within four months from that date.

(3) A member elected in a casual vacancy shall enter upon office forthwith but shall hold office only so long as the member in whose place

1. Subs. for sub-sections (1) and (2) by the A.P. Act 18 of 1992.
2. Subs. for "councillors" by Act 17 of 1994.
3. Ins. by A.P. Act 24 of 1974.
4. The words "by the Commissioner" omitted by Act 25 of 1995, w.e.f. 16.2.1995.
5. Subs. by Act No. 28 of 2005, w.e.f. 22.06.2005.

he is elected would have been entitled to hold office if the vacancy had not occurred.

(4) No casual election shall be held to a Municipal Corporation within six months before the date on which the term of office of its members expires by efflux of time.]

Commentary

For meaning of the word election see the undernoted cases. AIR 1975 Punjab 168; AIR 1975 SC 1708; AIR 1971 Pun. 379; AIR 1985 Del. 8.

Qualifications and Disqualifications of voters

[1][8. Division of Corporation into [2][ward] etc., for the purposes of election of [3][Members]:— [4][(1) For the purpose of election of Members of the Corporation, the Government shall, by notification in the Andhra Pradesh Gazette, divide the city into as many wards as the number of members notified under sub-section (1) of Section 5 in such manner as may be prescribed.]

(2) [5][x x x]

(3) Where a notification issued under sub-section (1) results in the material alteration of the existing [2][ward] of the city into [2][wards], the Government may direct that the alteration shall take effect from the date of next ordinary elections.

(4) Where any local area within the jurisdiction of any other local authority is included in the city [6][x x x], the local area shall be added to such adjoining [2][ward] or [2][wards] of the city, as the Government may direct.

[7][(4-A) Where any local area comprised in a Gram Panchayat constituted under the Andhra Pradesh Gram Panchayats Act, 1964[8] is included in a Corporation, the Government may direct that the electoral roll relating to the said local area shall be adopted suitably for the purpose of elections under this Act, until an electoral roll for such area is prepared in accordance with the provisions of this Act.]

1. Subs. by A.P. Act 17 of 1969.
2. Subs. for "constituency" by Act 17 of 1994.
3. Subs. for "councillors" by *Ibid.*
4. **Subs. for sub-section (1) with proviso by Act 13 of 2008, w.e.f. 10.07.2008.**
5. **Omitted by *Ibid.***
6. **The words "under Section 3" Omitted by *Ibid.***
7. Ins. by A.P. Act 8 of 1987.
8. Now A.P. Panchayat Raj Act, 1994.

(5) When a new [1][ward] is formed or when an existing [1][ward] is abolished, the Commissioner shall with the approval of the Government determine—

(a) the [1][ward] which each elected [2][Member] then in the Corporation shall be deemed to represent; and

(b) the [1][ward] or [1][wards] in which elections shall be held to fill up the vacancies, if any, in the Corporation.]

[3][**8-A. Constitution composition and functions, rights of Ward Committee, etc.:**— (1) There shall be constituted a Ward Committee for each Ward of Municipal Corporation within three months from the date as may be notified.

(2) Each Ward Committee shall consist of,

(i) the member of the Municipal Corporation representing the Ward, who shall be the Chairperson of the Ward Committee;

(ii) not more than ten electors representing the civil society from the ward, to be nominated by the Municipal Corporation in such manner as may be prescribed:

Provided that if the population of the ward is not more than ten thousand the number of nominated members shall be four, and thereafter, there shall be one additional member for every four thousand population or part thereof:

Provided further that in reckoning the number of additional members of the Ward Committee exceeding four, any part of less than two thousand population may be ignored:

Provided also that half of the persons to be nominated to the Ward Committee shall be women.

(iii) the Area Sabha Representatives.

Explanation:- For the purposes of this section and Section 8-B, civil society means any non-governmental organization or association of persons, established, constituted or registered under any law for the time being in force and working for social welfare, and includes any community

1. Subs. for "constituency" by Act 17 of 1994.
2. Subs. for "councillors" by *Ibid.*
3. **Subs. by Act No. 7 of 2008, w.e.f. 6-2-2010, vide G.O.Ms.No. 48, MA & UD (UBS), dt. 4-1-2010.**

based organization, residents welfare association, professional institution and civic, health, educational institution, social or cultural body or any trade or industrial organization, other stakeholders and such other association or body, as may be prescribed by the Government.

(3) A person shall be disqualified for being nominated as a member of the Ward Committee or to continue as such member, if under the provisions of the Act, for the time being in force, he would be disqualified for being elected as a member of a Municipal Corporation.

(4) The term of office of Ward Committee shall be co-terminus with the term of office of the Municipal Corporation.

(5) The manner of conduct of business at the meetings of the Ward Committee shall be such as may be prescribed.

(6) The Ward Committee shall discharge the following functions, namely:-

(i) supervision over;

(a) sanitation work and drainage maintenance;

(b) distribution of water supply;

(c) working of the street lights;

(d) minor repair of roads;

(e) maintenance of markets;

(f) maintenance of parks and playgrounds;

(g) implementation of poverty alleviation programmes;

(ii) monitoring the functioning of schools, maternity centers, dispensaries and health centers wherever they are under control of the Municipal Corporation;

(iii) facilitation in the collection of taxes and non-taxes;

(iv) preparation of list of beneficiaries for beneficiary oriented schemes, pensions and subsidies;

(v) prepare an annual ward development plan in a manner consistent with the rules to be prescribed;

(vi) map the ward infrastructure index;

(vii) preparation of inventory of municipal assets;

(viii) assistance in the implementation of all government schemes; and

(ix) any other function as may be prescribed.

(7) Every Ward Committee shall have the following rights, namely:-

(i) to seek information from the Commissioner regarding any matter relating to the ward;

(ii) to obtain information about the master plan and zonal developmental plan of the Municipal Corporation;

(iii) to obtain full Municipal Corporation budget;

(iv) to be consulted in the development of land use and zoning regulations within the ward;

(v) to obtain full details of all revenue items relating to the ward.

(8) (a) The Corporation shall allocate twenty percent of the amount earmarked in the annual budget of the Municipal Corporation for maintenance of services namely: sanitation, water supply and drainage, roads, street lightings, parks, markets to all ward committees for attending to the functions specified above.

(b) The utilization of funds by Ward Committees for maintenance of civic services and all matters related thereto shall be such as may be prescribed.

(9) The Ward Committee may, from time to time, appoint from amongst the members such sub-committees consisting of such number of members as it may think fit and may refer to such sub-committees for enquiry or opinion on any matter relating to the functions entrusted to the Ward Committee.

8-B. Constitution of Area Sabha; representatives of Area Sabha and their qualifications, functions, duties, etc.: (1) Each ward in a Corporation shall be divided into such number of areas based on the population, so however, that each such area as far as possible shall consist of not less than two thousand and not more than five thousand population.

(2) There shall be an Area Sabha for each such area with all the electors in the jurisdiction of the area. There shall be an Area Sabha Representative for each area to be nominated by the Municipal Corporation from the representatives of the civil society as may be prescribed.

(3) The qualifications and disqualifications prescribed for getting elected as member of Municipal Corporation and for holding the office as Member of Municipal Corporation under the relevant provisions of the Act shall apply *mutatis mutandis* for the representative of the Area Sabha.

(4) The term of the representative of the Area Sabha shall be ordinarily coterminous with that of the Municipal Corporation concerned.

(5) An Area Sabha may, having regard to its managerial, technical, financial and organizational capacity and the actual conditions obtaining in the ward area, perform and discharge the following functions and duties namely:-

(i) to generate proposals and determine the priority of schemes and development programmes to be implemented in the Area Sabha and forward the same to Ward Committee for inclusion in the development plan of the Ward Committee;

(ii) to identify the most eligible persons for beneficiary oriented schemes on the basis of criteria fixed by the Government and prepare the list of beneficiaries in order of priority and forward the same to Ward Committee for inclusion in the Development plan of the Ward Committee;

(iii) to verify the eligibility of persons getting various kinds of welfare assistance from Government such as pensions and subsidies;

(iv) to identify the deficiencies in water supply, street lighting and sanitation arrangements in the jurisdiction to the Area Sabha and to suggest the remedial measures to the Ward Committee;

(v) to suggest the location of street lights, public taps, public wells, public toilets to the Ward Committee;

(vi) to Assist in the activities of public health centres in the area; and

(vii) to undertake and support tax mapping.

(6) The Area Sabha, subject to the rules as may be prescribed in this regard, shall exercise the following rights, namely:-

(i) to get information from the officials concerned as to the services they will render and the works proposed to be executed in the area in the succeeding period of three months after the meeting of the Ward Committee;

(ii) to be informed by the Ward Committee about every decision taken by them concerning the jurisdiction of the Area Sabha;

(iii) to be informed by the Ward Committee of follow up action taken on the decisions concerning the jurisdiction of the area;

(iv) to cooperate with the Ward Committee in the provision of sanitation arrangements in the area; and

(v) to impart awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution.

(7) The manner of the conduct of the business at the meetings of Area Sabha shall be such as may be prescribed.]

Commentary

Scope:— Sections 8 to 15 deal with delimitation of wards, reservation of wards for Scheduled Castes, Scheduled Tribes and women, preparation of electoral rolls and publication of the same. These sections are analogous to Sections 10 to 11-G of the A.P. Municipalities Act and Sections 13-D and 15 of the Peoples Representation Act, 1950.

Distribution of Divisions into Wards:— The power of the Government is an administrative power. It is not exhausted by dividing once. AIR 1958 AP 458. Redistribution of wards is not a matter for judicial review by the High Court under Article 226 of the Constitution. *Ratna Sabhapathi Rao vs. State of Madras*, AIR 1953 Mad. 510.

Publication for public opinion:— The proviso laid down the procedure for division of constituencies. This procedure is the same as "previous publication procedure contemplated by Sec. 7 of the A.P. General Clauses Act.

[1][**9. State Election Commission:—** The preparation of electoral rolls for, and the conduct of elections to Corporation shall be under the superintendence, direction and control of the State Election Commission].

[2][**10. Powers and functions of the State Election Commissioner:—** (1) All elections to the Municipal Corporations shall be held under the supervision and control of the State Election Commission and for this purpose it shall have power to give such directions as it may deem necessary to the Commissioner of the concerned Municipal Corporation, District Collector or any officer or servant of the Government and the

1. Subs. by A.P. Act 17 of 1994.
2. Ins. by Act 28 of 2005, w.e.f 22.06.2005, which was omitted by Act. No. 34 of 2001.

Municipal Corporation concerned institutions so as to ensure efficient conduct of the elections under this Act.

(2) The preparation of electoral rolls for the conduct of all elections under the Act shall be done under the supervision and control of the State Election Commission.

(3) For the purposes of this section the Government shall provide the State Election Commission with such staff as may be necessary.

(4) On the request of the State Election Commission, the State Government shall place at the disposal of the Commission such staff of the State Government and the Municipal Corporations for the purpose of conduct of elections under this Act.

(5) The State Election Commissioner may, subject to control and revision, delegate his powers to such officers as he may deem necessary.]

11. [1][x x x]

12. Preparation, Revision and Publication of Electoral Roll for Corporation:— (1) [2][The [3][x x x] electoral roll for the Corporation shall be prepared [4][by the person authorised by the State Election Commissioner] in such manner by reference to such qualifying date as may be prescribed and the electoral roll for the Corporation shall come into force immediately [6][upon its publication] in accordance with the rules made by the Government in this behalf. The [3][x x x] electoral roll for the Corporation shall consist of such part of the electoral roll for the Assembly [6][Ward] published under the representation of the People Act, 1950 as revised or amended under the said Act, upto the qualifying date, [7][as relates to the city or any portion thereof.]

[8][Provided that any amendment, transposition or deletion of any entries in the electoral roll, or any inclusion of names in the electoral roll of the Assembly Constituencies concerned, made by the Electoral Registration Officer under Section 22 or Section 23, as the case may be, of the Representation of the People Act, 1950 (Central Act 43 of

1. Omitted by Act No. 34 of 2001.
2. Subs. by A.P. Act 22 of 1990.
3. The words "draft of the" omitted by Act No. 34 of 2001.
4. Subs. for the words "by the person authorised by such authority" by *Ibid.*
5. Subs. for the words "upon its final publication" by *Ibid.*
6. Subs. for "Constituency" by A.P. Act 17 of 1994.
7. **Subs. for "as relates to the cities of Hyderabad and Secunderabad or any portion thereof" by Act No. 13 of 2008, w.e.f. 10.07.2008.**
8. Inserted by Act No. 34 of 2001.

1950) up to the date of election notification, for any election held under this Act, shall be carried out in the electoral roll of the Corporation and any such names included shall be added to the part relating to the concerned ward.]

Explanation:— Where in the case of any Assembly [1][Ward] there is no distinct part of the electoral roll relating to the [2][city], all persons whose names are entered in such roll under the registration area comprising the [2][city], and whose addresses as entered are situated in the [2][city] shall be entitled to be included in the electoral roll for the Corporation prepared for the purposes of this Act].

[3][(2) The electoral roll for a Corporation—

(a) shall be prepared and published in the prescribed manner by reference to the qualifying date,—

(i) before each ordinary election ; and

(ii) before each casual election to fill a casual vacancy in the office of the [4][Member of the Corporation] ; and

(b) shall be prepared and published in any year, in the prescribed manner, by reference to the qualifying date, if so directed by the State Election Commission :

Provided that if the electoral roll is not prepared and published as aforesaid, the validity, or continued operation of the said electoral roll, shall not thereby be affected.]

[5][x x x]

[6][(3)] [7][The electoral roll] published under sub-section (1) or the electoral roll republished under sub-section (8) shall be the electoral roll for the Corporation and shall remain in force till a fresh electoral roll for the Corporation is published under this section.

1. Subs. for "Constituency" by A.P. Act 17 of 1994.
2. **Subs. for "Cities of Hyderabad & Secunderabad" by Act No. 13 of 2008, w.e.f. 10.07.2008.**
3. Subs. by A.P. Act 17 of 1994.
4. **Subs. for "Mayor or Member of a Corporation" by Act No. 13 of 2008, w.e.f. 10.07.2008.**
5. Sub-section (3) omitted by *Ibid.*
6. Sub-sections (4) to (8) renumbered as sub-sections (3) to (7) by Act 34 of 2001.
7. Subs. for the words "The final electoral roll" by *Ibid.*

[1][(4)] The electoral roll for the Corporation shall be divided into as many lists as there are [2][wards].

[1][(5)] Every person whose name appears in the list of the electoral roll relating to a [2][ward] shall, subject to the other provisions of this Act, be entitled to vote at any election which takes place in that [2][ward] while the electoral roll remains in force and no person whose name does not appear in such list of the electoral roll shall vote at any such election.

[1][(6)] No person shall vote at an election under this Act in more than one [2][ward] or more than once in the same [2][ward] and if he does so, all his votes shall be invalid.

[1][(7)] Where, after the electoral roll for the Corporation or any alteration thereto has been published under this Act, the Corporation is divided into [2][wards] for the first time or any [2][ward] of the Corporation is altered or the limits of the Corporation are varied, the electoral authority shall, as soon as may be, after such [2][ward] or alteration or variation, as the case may be, in order to give effect to the [2][ward] of the Corporation into [2][wards] or to the alteration of the [2][ward] or to the variation of the limits, as the case may be, authorise a rearrangement and republication of the electoral roll for the Corporation or any list of such roll, in such manner as it may direct.

[3]**[Explanation:—** In this section, the expression "Assembly Constituency" shall mean a constituency provided by law for the purpose of elections to the Andhra Pradesh Legislative Assembly.]

[4][x x x]

[5]**[12.A. Voter identity cards:–** With a view to preventing impersonation of electors, provision may be made by rules made under this Act, for the production before the Presiding Officer or Polling Officer of a Polling Station by every such elector, of his identity card before the delivery of a ballot paper or ballot papers to him, if under the rules made in that behalf under the Registration of Electors Rules, 1960 made under the Representation of the Peoples Act, 1950 (Central Act 43 of

1. Sub-sections (4) to (8) renumbered as sub-sections (3) to (7) by Act 34 of 2001.
2. Subs. for the word "division/divisions" by Act No. 17 of 1994.
3. Added by Act No. 34 of 2001.
4. Sub-section (9) omitted by Act No. 34 of 2001.
5. Ins. by Act 28 of 2005, w.e.f 22.06.2005.

1950), electors of the Legislative Assembly constituency or Constituencies in which the Municipal Corporation is situated, have been supplied with identity cards with or without their respective photographs attached thereto.]

13. [1][x x x]

14. [1][x x x]

15. Breach of Official Duty in connection with the preparation, etc., of Electoral Rolls:— (1) If any officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

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

(3) No Court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the electoral authority.]

Commentary

Preparation of Electoral Roll:— Sections 9 to 12 deal with preparation of electoral roll, registration of voters and disqualification for registration of voters. A person is eligible to be a voter if he is not below the age of eighteen years and is ordinarily a resident of the city. The expression ordinarily resident is found in Section 20 of the Representation of the People Act, 1950. Though this expression is not defined in this Act it is useful to understand the term in accordance with Sec. 20 of the Representation of the People Act, 1950.

Reside:— The word 'reside' signifies personal residencc and a person who merely maintained an office for the collection of rent within the Municipal area concludent be said to reside then. AIR 1934 Mad. 15=AIR 1925 Mad. 607. Where a person carrying on business at Hyderabad spent a portion of his vacation in his house of Srirangam he was held to have resided in the Municipal Units of Srirangam. AIR 1926 Mad. 448. Where a person has a house within the Municipality and has been frequently visiting it for the purposes of supervising the renovation and reconstruction of the house during the requisite period, he being at liberty to occupy it at any time, he must

1. Omitted by Act No. 34 of 2001.

be considered to be residing within the Municipality though his entire family has been residing elsewhere. 1950 (1) MLJ 49 (NRC).

Ordinary resident:— In *Inland Revenue Commissioners vs. Laysaught*, 1928 AC 234. This expression in Section 46 of the Income Tax Act, 1918 it was held that it did not mean preponderatingly in point of time, but habitually in the ordinary course of a person's life. Under the Representation of the People Act 1949 residence per decision in *Rickets vs. Cambridge Electoral Registration Officer,* (1970) 2 QB 463 was found to be "to establish residence in a ward for the purposes of the Representation of People Act an elector need only show a considerable degree or performance. University students bound to occupy rooms for at least 29 weeks of the year following the qualifying date were held to show such degree or performance. A man can have two residences and be on two electoral registers." 'House of residence' is a house which primarily is continuously available for the spiritual person in question; it may be a house let on long lease". *Strouds Judicial Dictionary 4th Ed.* Pages 2358 to 2366.

Electoral roll and writ:— In *Shrendra Singhji vs. U.M. Bhat*, AIR 1969 Guj. 292. Justice Bhagwati (as he then was) held that the order of the Chief Election Officer refusing to include a name of a person in the electoral roll of a ward can be challenged by a petition under Article 226. The exclusion or jurisdiction of the High Court under Articles 226 and 227 to issue writ against the Chief Electoral Officer.

In *Amaravila Krishna Nair vs. The Election Commissioner India,* AIR 1973 Ker. 5. Full Bench of the Kerala High Court held "The preparation of electoral roll is not a stage in election process but is something anterior to the election. The election commences only with the notification under Section 15 of the Representation of the People Act, 1951 and ends with a declaration of the result of the election. Therefore the bar under Article 329 does not affect the jurisdiction of the High Court under Article 226 of the Constitution of India to give a declaration that the electoral rolls have been prepared in substantial violation of the material provisions of the Act and give appropriate consequential directions".

The word 'election' is used widely in the Constitution. Rejection or acceptance of nomination is included in the term 'election'. AIR 1958 SC 64. But a Division Bench of A.P. High Court in an unreported judgment WP 2920 of 1974, dated 28-5-1974. A.P. High Court, disagreed with this view and held that a writ petition is not maintainable even questioning electoral rolls when once the process of election started.

Inclusion of areas into Vijayawada Municipality is an administrative act but not a judicial or quasi judicial act. 1981 (2) APLJ 29 (SN).

Voters in Municipality and Gram Panchayat:— Same persons are registered in the Municipality and Gram Panchayat-Not illegal. After they voted

as residents of Gram Panchayat, that area is included in the Municipality, they are not debarred from voting in the Municipality. 1981 (2) APLJ 417.

16. Custody and preservation of list:— (1) Three complete copies of the preliminary list for each [1][ward] and all statements submitted to the Commissioner shall be kept in the office of the Commissioner or at such other place as the [2][State Election Commissioner] may by order specify for a period of one year unless their retention for a longer period is ordered by the [2][State Election Commissioner].

(2) All claims and objections to any preliminary list and, the decisions of the Revising Authority thereon shall be kept in the Office of the Commissioner or at such other place as the [2][State Election Commissioner] may by order specify until the completion of the next annual preparation of the list for such [1][ward].

(3) Such number of copies of the final list for each [1][ward] as may be specified by the [2][State Election Commissioner] shall be kept in the office of the Commissioner or at such other places as the [2][State Election Commissioner] may by order specify until the final publication of the next list for such ward.

(4) One complete copy of the final list for each [1][ward] shall be kept for permanent deposit in such place as the [2][State Election Commissioner] may by order specify.

(5) All copies of the final list for each [1][ward] deposited under sub-section (3) or the copy of the final list for each [1][ward] deposited under sub-section (4) shall before deposit be duly authenticated by the Commissioner or any officer authorised by him in this behalf.

(6) Printed copies of the final [1][ward] list as deposited shall be available for sale to the public until the final publication of the next list for the [1][ward] to which it relates and thereafter such list may be disposed of in such manner as the authority with whom they are deposited may direct.

(7) Every person shall have a right to inspect the papers referred to in sub-sections (1), (2) and (3) and to get attested copies thereof on payment of such fees as may be fixed by the [2][State Election Commissioner].

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1. Subs. for the word "constituency" by Act No. 17 of 1994.
2. Subs. for the word "Government" by Act No. 25 of 1995, w.e.f. 16.02.1995.

Corrupt Practices

[1][**17. Corrupt practices:–** The following shall be deemed to be corrupt practices for the purposes of this Act–

(1) Bribery, that is to say,–

(A) Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object directly or indirectly of inducing,–

(a) a person to stand or not to stand as or to withdraw or not to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to–

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature ; or

(ii) an elector for having voted or refrained from voting;

(B) The receipt of, or agreement to receive, any gratification, whether as a motive or a reward,–

(a) by a person for standing or not standing as or for withdrawing or not withdrawing from being a candidate, or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation:– For the purposes of this clause the term 'gratification' is not restricted to pecuniary gratification or gratification estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bona fide incurred at, or for the purpose of any election and duly entered in the account of election expenses.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent or of any other person with the consent of the candidate or his election agent with the free exercise of any electoral right:

1. Subs. for Sections 17, 18 & 19 by Act 28 of 2005, w.e.f 22.06.2005.

Provided that–

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to thereon, who–

(i) threatens any candidate or any elector or any person in whom a candidate, or an elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community;

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols, or the use of, or appeal to national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

(4) The promotion of, or attempt to promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language by a candidate, or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or of prejudicially affecting the election of any candidate.

(5) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation:– For the purpose of this clause, "sati" and "glorification" in relation of sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (Central Act 3 of 1988).

(6) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent 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 of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(7) 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 such vehicle or vessel for the free conveyance of any elector other than that the candidate himself the members of his family or his agent to or from any polling station:

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

Provided further that the use of any public transport vehicle or vessel by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll 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.

(8) The incurring or authorizing of expenses in contravention of Section 617B.

(9) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or by any other person with the consent of a candidate or his election agent, any assistance (other

than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the State or Central Government, Local Authority or a Corporation owned or controlled by the State or Central Government:

Provided that where any person, in the service of the State or Central Government or a Local Authority or a Corporation owned or controlled by the State or Central Government in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for to or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

(10) Booth capturing by a candidate or his agent or any other person.

Explanation:– (1) In this section the expression 'agent' includes an election agent, a polling agent, and any person who is held to have acted as an agent in connection with election with the consent of the candidate.

(2) For the purposes of clause (9), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

(3) For the purposes of clause (9), notwithstanding anything contained in any other law, the publication in the Andhra Pradesh Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government shall be conclusive proof–

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be; and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.]

Disqualification for voting, for being and continuing as a member

20. Disqualification for voting:— (1) Any person who has been convicted under Section 171-E or 171-F of the Indian Penal Code shall for five years from the date of such conviction be disqualified from voting at any election of the Corporation.

(2) Any person who has been found guilty of any corrupt or illegal practice in elections held under this Act, or any other law for the time being in force, shall be disqualified from voting at any election of the Corporation for a period of six or four years respectively from the date on which the person is found so guilty.

(3) If default is made in making the return of the election expenses of any candidate who has contested the election held under this Act or if such return is found either upon the trial of an election petition or by any Court in a judicial proceeding, to be false in any material particular, the candidate shall be disqualified for voting at any election of the Corporation for a period of five years from the date by which the return was required to be lodged.

(4) Any disqualification under sub-sections (1), (2) and (3) may be removed by Government for reasons to be recorded in writing:

Provided that any removal of disqualification under this sub-section shall not qualify a person to vote or to be elected as a member in any by-election held during the period for which, but for such disqualification he would have been continued as a [1][Member].

[2][**20-A. Disqualification on ground of corrupt practice or election offences:–** Any person who is convicted of any offence punishable under Chapter IX-A of the Indian Penal Code, 1860 (Central Act 45 of 1860), or any person against whom a finding of having indulged in any corrupt practice is recorded in the verdict in an election petition filed under this Act or any person convicted of an offence punishable under Sections 599 to 610, Section 610A, and Section 611 shall be disqualified for contesting in any election held under this Act, for a period of six years from the date of such conviction or verdict, as the case may be.

1. Subs. for "Councillor" by A.P. Act 17 of 1994.
2. Sections 20-A and 20-B Ins. by Act 28 of 2005, w.e.f 22.06.2005.

20-B. Disqualification for failure to lodge account of election expenses:– If the State Election Commission is satisfied that a person,–

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and

(b) has no good reason or justification for the failure, the State Election Commission shall, after following the procedure prescribed, by order published in the Andhra Pradesh Gazette, declare him,–

(i) to be ineligible for a period of three years from the date of the said order to contest any election held for any office under this Act ; and

(ii) to have ceased to hold office, in case he is elected.]

21. Qualification for being elected as a [1][Member]:— (1) Subject to the provisions of this Act a person who is registered in any [2][ward] list, [3][and who is not less than twenty one years of age], shall be qualified to be elected as a [1][Member] for any of the [2][wards] in the city.

(2) Any person who ceases to be a [1][Member] shall if qualified, under sub-section (1) and not otherwise disqualified be eligible for re-election as such.

[4][**21-A. General disqualification:—** A person shall be disqualified for being chosen as, or for being a Member of a Corporation if he is otherwise disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty five years of age, if he has attained the age of twenty one years.

21-B. Person having more than two children to be disqualified:— A person having more than two children shall be disqualified for election or for continuing as Member:

Provided that the birth within one year from the date of commencement of the Andhra Pradesh Municipal Laws (Second Amendment) Act, 1994

1. Subs. for "Councillor" by A.P. Act 17 of 1994.
2. Subs. for "Constituency/Constituencies" by *Ibid.*
3. Ins. by Act 20 of 1978, w.e.f. 07.06.1978.
4. Sections 21-A and 21-B ins. by A.P. Act 17 of 1994.

(hereinafter in this section referred to as the date of such commencement) of an additional child shall not be taken into consideration for the purposes of this section :

Provided further that a person having more than two children (excluding the child if any born within one year from the date of such commencement) shall not be disqualified under this section for so long as the number of children he had on the date of such commencement does not increase:

Provided also that the Government may direct that the disqualification in this section shall not apply in respect of a person for reasons to be recorded in writing].

22. Disqualification for being a [1][Member]:— (1) Subject to the provisions of this Act, a person shall be disqualified for being elected as a [1][Member] if such person is at the date of election:—

(a) one who has been sentenced by any Court to imprisonment or for an offence involving moral turpitude [2][x x x], such sentence not having been subsequently reversed or quashed, or to death, such sentence having been subsequently commuted or altered to transportation or imprisonment:

Provided that, on the expiry of such sentence the disqualification incurred under this clause shall cease;

(b) is of unsound mind and stands so declared by a competent Court, a deaf-mute or a leper;

[3][(bb) already a member or Sarpanch of a Gram Panchayat or a member of a Mandal Praja Parishad or Zilla Praja Parishad constituted under the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 (Act No. 13 of 1994) or a member of a Nagar Panchayat or Municipality constituted under the provisions of the Andhra Pradesh Municipalities Act, 1965 (Act No. 6 of 1965).]

(c) holds any office or place of profit under Government or under the Corporation or under any local authority:

[4][Provided that nothing in this clause shall apply to a person, who, for the time being, is holding the office of the Chairman of an Urban

1. Subs. for "Councillor" by A.P. Act 17 of 1994.
2. The words "and punishable with imprisonment for a term exceeding six months or to transportation" omitted by A.P. Act 1 of 1995, w.e.f. 03.02.1995.
3. **Ins. by Act 5 of 2008, w.e.f 30.04.2008.**
4. Added by Act 7 of 1982.

Development Authority for the development area comprising the Corporation, constituted under sub-section (1) of Section 3 of the Andhra Pradesh Urban Areas (Development) Act, 1975];

(d) is an undischarged insolvent;

(e) holds any judicial office with jurisdiction within the limits of the city;

(f) is employed as paid legal practitioner on behalf of the Corporation, or accepts employment as legal practitioner against the Corporation;

(g) having been a legal practitioner he has been dismissed or is under suspension by order of the High Court on any of the following grounds; the disqualification in the latter case being operative during the period of suspension;

(i) a criminal offence implying a moral defect of character,

(ii) being guilty of fraudulent conduct.

(h) subject to the provisions of sub-section (2) has directly or indirectly, by himself or his partner or if he belongs to a Joint Hindu Family, by any member of such family, any share or interest in any contract or has employment with, by or on behalf of the Corporation;

(i) has been dismissed from the service of the Government, Corporation or any local authority for misconduct and has been declared by a competent authority to be not eligible for further employment in the public service;

(j) [1][x x x]

(k) had been disqualified for voting under Section 20, unless such period has elapsed for which he was disqualified for voting.

(2) A person shall not be deemed to have incurred disqualification under clause (h) of sub-section (1) by reason only of his—

(a) receiving pension from the Corporation;

(b) having any share or interest in—

1. Omitted by Act 28 of 2005, w.e.f 22.06.2005

(i) any lease, sale, exchange or purchase of land or any agreement for the same;

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

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

(iv) any Joint Stock Company or any Society registered or deemed to be registered under the Andhra Pradesh (Telangana Area) Co-operative Societies Act, 1952 (Act XVI of 1952) which shall contract with or be employed by the Commissioner on behalf of the Corporation;

(v) the occasional sale to the Commissioner on behalf of the Corporation of any article in which he regularly trades to a value not exceeding in the aggregate in any financial year rupees five thousand; or

(vi) the occasional letting out on hire to or hiring from the Corporation of any article for an amount not exceeding in the aggregate in any financial year rupees one thousand.

(c) occupying as a tenant for the purpose of residence any premises belonging to the Corporation.

Commentary

Scope:— This section lays down disqualifications for being a member. Section 15 of the A.P. Municipalities Act and Chapter III of the Representation of the People Act lay down the disqualifications.

Office of profit:— The word "Office" is of indefinite content. It means a position or place to which certain duties are attached, especially or of more or less public character. AIR 1969 SC 744. The Zilla Pramukh no doubt receives honorarium from the Parishad's funds to which the Government grants might be made but this factor is not all decisive and cannot lend support to a contention that the Zilla Pramukh holds office under the Government. AIR 1970 Raj. 134. The expression is not restricted to a case where the incumbent actually makes a profit from it, if it might reasonably expected that a man would make profit out of it, it must be considered as "Office of Profit". Shareholder in a company transporting postal articles and mail bags is not a person holding office of profit under Government AIR 1963 MP 316. Chairman Panchayat Samithi drawing an allowance is

not holding an office of profit under the state. AIR 1963 Punj. 450. Undergoing training in a basic training institute is not holding office of profit. AIR 1960 Mad. 201.

Has any Share or Interest in any contract:— Sub-section (2) enacted exceptions to clause (h) of sub-section (1) of Section 22. A person who takes certain mulgies on lease from the corporation cannot be deemed to be having a share or interest any contract with the Corporation. AIR 1957 Hyd. 27 Section 9-A of the Representation of the People Act, 1951 laid down a disqualification for a person who has a subsisting contract with the Government for the supply of goods or to the extension of any works undertaken by that Government. But the language of this clause in this Act is wide and stringent. This disqualification will not apply to—

(1) Persons who have taken any lease, exchange, or purchase of land or any agreement land includes buildings on land as per definition,

(2) Lawns,

(3) Newspaper carrying advertisements,

(4) Joint stock company or a registered society,

(5) Sale not exceeding five thousand rupees in a financial year,

(6) Hirer of article upto rupees one thousand in a financial year,

(7) Tenants of corporation premises.

With these exceptions the disqualification boils down to contracts or share in contract of business nature. It is submitted that it is better the language in S. 9A of the Representation of the People Act, 1951 is to be adopted rather than giving scope to the expression 'Contract' without precisely laying down the nature of the contract.

Clause (I) is analogous to Section 9 of the R.P. Act, 1951.

Clause (J) is analogous to Section 10-A of the R.P. Act, 1951.

23. Disqualification for continuing as [1][Member]:— (1) A [1][Member] shall cease to be a [1][Member] if he—

(a) is or becomes subject to any of the disqualifications specified in Section 22;

[2][(aa) is elected to a Ward/Office reserved for Scheduled Castes or Scheduled Tribes or Backward Classes, and subsequently the community

1. Subs. for "Councillor" by A.P. Act 17 of 1994.
2. Ins. by Act 28 of 2005, w.e.f. 22.06.05.

certificate, on the basis of which he is elected is cancelled under Section 5 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community Certificates Act, 1993 (A.P. Act 16 of 1993).]

(b) ceases to reside in the City;

(c) fails to pay arrears of any kind due by him, otherwise than in a fiduciary capacity, to the Corporation, within three months from the date of service of a notice requiring payment thereof issued by the Commissioner, which it shall be his duty to issue and cause to be served at the earliest convenient date;

(d) absents himself at more than three consecutive meetings of the Corporation unless leave so to absent himself, which shall not exceed six months, has been granted by the Corporation or absents himself for over six consecutive months from meetings of the Corporation:

Provided that no meeting from which a [1][Member] absents himself shall be counted against him under this clause, if due notice of that meeting was not given to him:

[2][Provided further that nothing in this clause shall apply to an *ex-officio* Member].

Explanation:— A special meeting held under clause (d) of Section 88 and a meeting called upon written requisition under clause (h) of Section 88 shall not be deemed to be a meeting within the meaning of this clause.

(2) When a [1][Member] ceases to be a [1][Member] under clause (d) of sub-section (1), the Commissioner shall at once intimate the fact in writing to such [1][Member] and report the same to the Corporation at its next meeting. If such [1][Member] applies for restoration of office to the Corporation on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, whichever is later, the Corporation may at the meeting next after the receipt of such application or *suo motu* at the said meeting restore him to his office as [1][Member]:

Provided that a [1][Member] shall not be so restored more than twice during his term of office.

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1. Ins. by A.P. Act 24 of 1974.
2. Subs. for "Councillor" by A.P. Act 17 of 1994.

Commentary

Scope:— This section lays down disqualifications for continuing as member. This section is analogous to Section 16 of the A.P. Municipalities Act, 1965.

Arrears of any kind:— Sections 264 to 268 lay down the procedure for collection of taxes. Sections 269 to 279 deal with steps to realise the dues. There is a conflict of view on the nature of arrears between the Madras and A.P. High Courts. In *B. Narayana vs. Thirupathi Reddi and others,* 1962 (1) An. WR 260 Chandra Reddy C.J. considering similar expression in the Hyderabad Gram Panchayat Act, 1956 held that this expression does not mean loss, waste or mis-appropriation of monies by a Sarpanch. But the Madras High Court in *Venkatachalapathi vs. Manickam,* 1967 (2) MLJ 398 held that it includes arrears of any kind whether by way of tax or otherwise.

Service of notice:— Sections 629 to 635 deal with the procedure of serving notices; If the service is not according to the procedure, it cannot be said that he is in arrears. 1968 (1) MLJ 403. There must be notice for payment and default. 1968 (2) An. WR 488.

[1][**23-A.** [x x x]

23-B. [x x x]

23-C. [x x x]]

23-D. Authority to decide Questions of Disqualifications of [2][Members] and Mayor:— (1) Where an allegation is made by any voter or authority to the Commissioner in writing that any person who is elected as a [2][member] has not qualified or has become disqualified under [3][Section 21, Section 21-A, Section 21-B, Section 22 or Section 23] and the Commissioner has given intimation of such allegation to the [2][member] and such [2][member] disputes the correctness of the allegation so made or where any [2][member] himself entertains any doubt whether or not he has become disqualified under any of those sections,—

(a) such [2][member] or any other [2][member] may, within a period of two months from the date on which such intimation is given or doubt is entertained, as the case may be, and

1. Sections 23-A to 23-C Omitted by Act 17 of 1990, w.e.f. 06.11.1990, Sections 23A to 23D were ins. by Act 9 of 1987.
2. Subs. for "Councillor" by A.P. Act 17 of 1994.
3. Subs. for "Section 21, Sec. 21-A, Sec. 22 or Sec. 23" by Act 14 of 2005.

(b) the Commissioner shall, either on the direction of the [1][member] with the approval of the Government if no such direction is given within a period of two months from the date of placing of the matter by Commissioner before the council, apply for a decision to the Chief Judge, City Civil Court, Hyderabad.

(2) [2][x x x]

(3) The said Judge, after making such inquiry as he deems necessary, shall determine whether or not such person is disqualified and his decision shall be final.

(4) Pending such decision, the [1][member] shall be entitled to act as if he was not disqualified.]

Conduct of Elections

24. Notification to call upon wards:— For the purpose of holding elections under this Act the [3][State Election Commissioner] shall by one or more notifications published in the [4][Andhra Pradesh Gazette], [5][x x x] call upon all the wards to elect members in accordance with the provisions of this Act and of rules and orders made thereunder, before such date or dates as may be specified in the said notification or notifications:

Provided that for the purpose of holding election under sub-section (1) of Section 7 no such notification shall be issued at any time earlier than four months prior to the day for retirement of the [1][Members].

25. Returning Officer for each ward:— For each ward there shall be a Returning Officer who shall be such officer as the Commissioner, may, with the approval of the [3][State Election Commissioner], designate or nominate :

Provided that nothing in this section shall prevent the Commissioner from designating or nominating the same officer to be Returning Officer for more than one ward.

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1. Subs. for "Councillor" by A.P. Act 17 of 1994.
2. Omitted by Act 17 of 1990, w.e.f. 06.11.1990.
3. Subs. for "Government" by Act 25 of 1995, w.e.f. 16.02.1995.
4. Subs. by A.P. Act 5 of 1969.
5. The words "on such date or dates as may be recommended by the Commissioner" omitted by A.P. Act 25 of 1995, w.e.f. 16.02.1995.

[1][**25-A. Returning Officer for Corporation:—** Such officer as the Commissioner may, with the approval of the [2][State Election Commissioner] designate shall be the returning officer for election to office of Mayor of the Corporation].

26. Assistant Returning Officer:— (1) The Commissioner with the approval of [2][State Election Commissioner] may appoint one or more officers to assist any [3][Returning Officer designated either under Section 25 or Section 25-A] in the performance of his functions.

(2) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer :

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer, [4][which relate to the scrutiny of nominations] unless the Returning Officer is unavoidably prevented from performing the said functions.

27. Returning Officer to include Assistant Returning Officer performing the functions of the Returning Officer:— Reference in this Act to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of Section 26.

28. General duty of the Returning Officer:— It shall be the general duty of the Returning Officer at any election held under this Act to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

29. Provisions of polling stations for [5][wards]:— The Returning Officer for each [5][ward] shall, with the previous approval of the Commissioner, provide a sufficient number of polling stations for such ward, and shall publish in such manner as the Commissioner may direct, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

1. Added by Act 9 of 1987.
2. Subs. for "Government" by Act 25 of 1995, w.e.f. 16.02.1995.
3. Subs. by Act No. 25 of 1995.
4. Subs. by Act 22 of 1981, w.e.f. 29.07.1981.
5. Subs. for the word "constituency" by Act 17 of 1994.

30. Appointment of presiding officers for polling stations:— (1) The Returning Officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer, accordingly.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by Returning Officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

31. General duty of the Presiding Officer:— It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

32. Duties of a polling officer:— It shall be the duty of the polling officer at a polling station to assist the presiding officer for such station in the performance of his functions.

[1][**32-A. Electoral officers and staff etc. deemed to be on deputation:–** (1) Any officer or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of all elections shall be deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall during that period, be subject to the control, superintendence and discipline of the State Election Commission.

1. Ins. by Act 28 of 2005, w.e.f 22.06.2005.

(2) The District Election Authority, Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer appointed under this Act, and any police officer designated for the time being by the State Government for the conduct of any elections shall be deemed to be on deputation to the State Election Commission for the period commencing on and from the date of notification calling for such elections and ending with the date of declaration of the results of such elections and such officer shall, during that period, be subject to the control, superintendence and discipline of the State Election Commission.]

33. Appointment of dates of nominations, etc.:— As soon as the notification calling upon a [1][ward] to elect a [2][Member] or [2][Members] is issued under this Act, the [3][State Election Commissioner] shall, by notification in the [4][Andhra Pradesh Gazette], appoint—

(a) the last date for making nominations, which shall be a date not later than the tenth day after the date of publication of the first mentioned notification not earlier than the fourth day after the date of publication of the notification under this section ;

(b) the last date for the scrutiny of nominations, which shall be a date not later than the third day after the date for making nomination;

(c) the last date for the withdrawal of candidatures, which shall be not earlier than the third day after the date for the scrutiny of nominations; and

(d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the twelfth day after the last date for the withdrawal of candidatures.

Commentary

A notification issued by Government for conducting elections to the corporation under Section 33 is valid-(*Per Justice vs. Anjaneyulu-* W.P.No. 611/86, dated 3-2-1986 (Unreported).

Rejection of nomination on technical grounds:— The nomination paper was delivered to the Returning Officer at 1310hrs. instead of 1500hrs.

1. Subs. for the word "Constituency" by Act 17 of 1994.
2. Subs. for the word "Councillor or Councillors" by *Ibid.*
3. Subs. for the words "Commissioner" by Act 25 of 1995, w.e.f. 16.02.1995.
4. Subs. by A.P. Act 5 of 1969.

due to rush in the office of the Returning Officer - It is a technical defect not of substantial character and does not justify rejection of nomination. Writ petition under Article 226 of the Constitution of India is maintainable - *A.Y.N. Pathkar vs. Municipal Corporation of Hyderabad,* 1986 (1) APLJ 138.

Prior Notification:— The question of specifying the symbols for allotment to contesting candidates, set up by a political party, would arise only after issue of the notification under Section 33 of the Act. Since no such notification was issued, the present impugned notification reserving symbols was held to be premature and accordingly set aside so far as the proposed elections to the Hyderabad Municipal Corporation was concerned. *Majlis Bachao Tahreek and Ors. v. State Election Commission, Secunderabad and Ors.,* 1997 (1) ALD 666 (DB).

[1][**34. Symbols for direct elections:–** The State Election Commission shall, as soon as may be after the issue of an election notification for any direct election by the voters in the Corporation, specify by notification published in the Andhra Pradesh Gazette, the symbols, (including the symbols reserved for recognised political parties and the symbols, if any, reserved for registered political parties for exclusive allotment to contesting candidates set up by such parties), that may be chosen by the candidates contesting at an election to such office and the restrictions to which their choice shall be subject.].

35. Public notice of election:— On the issue of a notification under Section 33 the Returning Officer for the [2][ward] shall give public notice of the intended election in Form 7 of Schedule A inviting nominations of candidates for such elections and specifying the place at which the nomination papers are to be delivered. The aforesaid notice shall subject to any general or special directions issued in that behalf by [3][State Election Commissioner] be published in such manner, in such language or languages and in such places as the Returning Officer thinks fit.

36. Presentation of nomination paper and requirements for a valid nomination:— (1) On or before the date appointed under clause (a) of Section 33 each candidate shall, either in person or by his proposer between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the Returning Officer at the place specified in this behalf in the notice issued under Section 34 a nomination paper in Form 8 of Schedule A and subscribed by the candidate himself as

1. Subs. by Act 28 of 2005, w.e.f 22.06.2005.
2. Subs. for the word "constituency" by Act 17 of 1994.
3. Subs. for the word "Government" by Act 25 of 1995, w.e.f. 16.02.1995.

assenting to the nomination and by the person referred to in sub-section (2) as proposer.

(2) Any person whose name is registered in the [1][ward] list and who is not subject to any disqualification mentioned in Section 10 may subscribe as proposer to as many nomination papers as there are vacancies to be filled but not more:

Provided that if the name of a person is entered more than once in a [1][ward] list or is included in two or more [1][ward] lists of the same class, such person shall not be entitled to subscribe as proposer more than one nomination paper for each vacancy to be filled in that ward or in not more than one of such [1][wards] of the same class.

(3) Every nomination paper delivered under sub-section (1) shall be accompanied by such declarations as may be prescribed and no candidate shall be deemed to be duly nominated unless all such declarations are delivered along with the nomination paper:

[2][Provided that in a [1][ward] where any seat is reserved for Scheduled Castes, Scheduled Tribes or as the case may be, backward class, a candidate shall not be deemed to be qualified to be chosen to that seat, unless his nomination paper contains a declaration by him specifying the particular caste or as the case may be the tribe or tribal community of which he is a member and the area in relation to which that caste is a Scheduled Caste or is a backward class or the tribe or tribal community is a Scheduled Tribe].

(4) Every nomination paper delivered under sub-section (1) shall be also accompanied by a declaration in writing specifying the particular symbol which the candidate has chosen for his first preference out of the list of symbols for the time being in force and also specifying two other symbols out of that list which he has chosen for his second and third preferences respectively :

Provided that the choice to be made by a candidate under this Section shall be subject to such restrictions as the [3][State Election Commissioner] may think fit to impose in this behalf.

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1. Subs. for the word "constituency" by Act 17 of 1994.
2. Subs. by A.P. Act 9 of 1987, w.e.f. 06.02.1987.
3. Subs. for the word "Commissioner" by Act 25 of 1995, w.e.f. 16.02.1995.

(5) Any nomination paper, which is not received before three 'O' clock in the afternoon on the last date appointed under clause (a) of Section 33 shall be rejected.

(6) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and serial numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the [1][ward] list :

Provided that the Returning Officer may —

(a) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the [1][ward] list; and

(b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(7) If at the time of the presentation of the nomination paper the Returning Officer finds that the name of the candidate is not registered in the list of the [1][ward] for which he is the Returning Officer, he shall for the purposes of sub-section (5) require the person presenting the nomination to produce either a copy of the [1][ward] list of the ward or ward for which he is the Returning Officer, or he shall for the purposes of sub-section (6) require the person presenting the nomination paper to produce either a copy of the ward List in which the name of the candidate is included or a certified copy of the relevant entries in such list.

(8) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper for election in the same [1][ward].

[2][**37. Deposits:—** A candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited such sum as may be prescribed. In the case of a candidate belonging to Scheduled Castes or Scheduled Tribes, it shall be competent for the Government to prescribe a lessor amount oi deposit. Every candidate shall deposit the sum prescribed in the manner specified by the rules made in this behalf.]

1. Subs. for the word "constituency" by Act 17 of 1994.
2. Subs. by Act No. 28 of 2005, w.e.f. 22.06.2005.

38. Notice of nominations and the time and place for their scrutiny:— The Returning Officer shall, on receiving the nomination paper under sub-section (1) of Section 36, inform the person or persons delivering the same, of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on, and the hour at, which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the person who has subscribed to the nomination paper as proposer.

39. Scrutiny of nominations:— (1) On the date fixed for the scrutiny of nominations under Section 33, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in Section 36.

(2) The Returning Officer shall then examine the nomination paper and shall decide all objections which may be made to any nomination, and may, either on such objections or on his own motion, after summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:—

(a) that the candidate is not qualified to be elected under this Act, or

(b) that the candidate is disqualified for being elected under this Act; or

(c) that a proposer is disqualified from subscribing a nomination paper under sub-section (2) of Section 36; or

(d) that there has been any failure to comply with any of the provisions of Section 36 or Section 37; or

(e) that the signature of the candidate or any proposer is not genuine or has been obtained by fraud.

(3) Nothing contained in Clause (c), Clause (d) or Clause (e) of sub-section (2) shall be deemed to authorise the rejection of any candidate

on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any technical defect which is not of substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under Clause (b) of Section 33 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control :

Provided that in case an objection is made the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section a certified copy of an entry in the [1][ward] list for the time being in force, shall be conclusive evidence of the fact that the person referred to in that entry is a voter for that [1][ward] unless it is proved that he is subject to a disqualification mentioned in Section 10.

(8) Immediately after all the nomination papers have been scrutinised and decision accepting or rejecting the same have been recorded, the Returning Officer shall, prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix the same to his notice board.

Commentary

Improper rejection of nomination:— A writ of *certiorari* will lie in case of wrong rejection of nomination paper if there is an error apparent on face of record. AIR 1957 Hyd. 27.

Symbol:— Form of declaration specifying the symbol chosen by the candidate was not signed by him. The non-signing of the same is only a technical defect. *S. Shankariah vs. Venkat Ratnam*, 1965 (2) An. W.R. 253.

1. Subs. for the word "constituency" by Act 17 of 1994.

40. Withdrawal of candidature:— (1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as are contained in Form 9 of Schedule A and shall be subscribed by him and delivered before three 'O' clock in the afternoon on the day fixed under Clause (c) of Section 33 to the Returning Officer either by such candidate in person or by his proposer or election agent who has been authorised in this behalf in writing by such candidate:

Provided that if that day is a public holiday or has been notified by the Government as a day to be observed as a holiday in Government Offices in the State, the notice of withdrawal of candidature shall be considered as having been delivered in due time if it is delivered before three 'O' clock in the afternoon on the next succeeding day which is neither such a public holiday nor a day so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1), shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

41. Publication of list of contesting candidates:— (1) Immediately after the expiry of the period within which candidature may be withdrawn, the Returning Officer shall prepare and publish in such form and manner as may be prescribed, a list of contesting candidates, that is to say, candidates who were included in the final list of validly nominated candidates and who have not withdrawn their candidature within the said period.

[1][(2) For the purpose of listing the names under sub-section (1), the candidates shall be classified as follows, namely:–

(i) candidates of recognised political parties ;

(ii) candidates of registered political parties ;

(iii) other candidates.

(3) The categories mentioned in sub-section (2) shall be arranged in the order specified therein and the names of candidates in each category shall be arranged in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be prescribed.]

1. Subs. for sub-section (2) by Act 28 of 2005, w.e.f 22.06.2005.

42. [1][x x x]

43. Appointment of election agents:— (1) Every person nominated as a candidate at an election may [2][in such manner as may be prescribed] appoint in writing some other person to be his election agent.

(2) When a candidate appoints some person to be his election agent he shall obtain in writing the acceptance by such person of the office of such election agent.

44. Disqualification for being an election agent:— No person shall be appointed as an election agent who is disqualified from being a member under Section 22.

45. Revocation of the appointment, or death, of an election agent:— (1) Any revocation of the appointment of an election agent, shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning Officer.

(2) In the event of such a revocation or the death of an election agent whether that event occurs before or during the election or after the election but before the return of candidate's election expenses has been lodged in accordance with the provisions of Section 68, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

46. Other functions of the election agents:— Every election agent shall perform such functions in connection with each election for which he is appointed election agent as are required to be performed by or under this Act by such agent.

47. Appointment of polling agents:— A contesting candidate or his election agent may appoint in the prescribed manner such number of agents and relief agents of such candidate at each polling station at the place fixed and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

1. Omitted by A.P. Act 15 of 1975.
2. Subs. by A.P. Act 15 of 1975.

48. Appointment of counting agents:— A contesting candidate or his election agent may appoint in the prescribed manner one agent and no more to be present as his counting agent at the counting of votes, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

49. Revocation of the appointment, or death, of a polling agent or counting agent:— (1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the Returning Officer, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to Returning Officer.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the Returning Officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer.

50. Functions of polling agents and counting agents:— (1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

51. Candidate and his election agent to perform the functions of polling agent or counting agent:— (1) At every election where a poll is taken, each candidate at such election and his election agent shall have a right to be present at any polling station provided under Section 29 for the taking of the poll.

(2) A candidate or his election agent may himself do any act or thing which any polling agent or the counting agent of such candidate, if appointed, would have been authorised by or under this Act, to do, or may assist any polling agent or the counting agent of such candidate in doing any such act or thing.

52. Non-attendance of polling or counting agents:— When any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

[1][53. Death of candidate of recognised or registered Political Party before poll:– (1) If a candidate set up by a recognised political party or a candidate set up by a registered political party to whom a symbol is reserved by the State Election Commission,–

(a) dies at any time after 10.00 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under Section 39; or

(b) whose nomination has been found valid on scrutiny under Section 39 and who has not withdrawn his candidature under Section 40, dies, and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under Section 41; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll, the Returning Officer shall, upon being satisfied about the fact of the death of the candidate, by order, announce an adjournment of the poll to a date to be notified later and report the fact to the State Election Commission and to the election authority :

Provided that no order for adjourning a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate.

(2) The State Election Commission shall, on the receipt of a report from the Returning Officer under sub-section (1), call upon the recognised or registered political party, as the case may be, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognised or registered political party and the provisions of Sections 33 to 41 shall, so far as may be, apply in relation to such nomination as they would apply to other nominations:

1. Subs. by Act 28 of 2005, w.e.f. 22.06.2005.

Provided that no person who has given a notice of withdrawal of his candidature under sub-section (1) of Section 40 before the adjournment of the poll shall be ineligible for being nominated as a candidate for the election after such adjournment.

(3) Where a list of contesting candidates had been published under Section 41 before the adjournment of the poll under sub-section (1), the Returning Officer shall again prepare and publish a fresh list of contesting candidates under that section so as to include the name of the candidate who has been validly nominated under sub-section (2).]

54. Procedure in contested and uncontested elections:— (1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken.

(2) If the number of such candidates is equal to the number of seats to be filled, the Returning Officer shall forthwith declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled, the Returning Officer shall forthwith declare all such candidates to be duly elected to fill those seats and the [1][State Election Commissioner] shall, by notification in the [2][Andhra Pradesh Gazette] [2][call upon the [3][ward] to elect a person to fill the seat] before such date as may be appointed in this behalf by [1][the State Election Commissioner] and specified in the notification.

(4) If the number of contesting candidates qualified to be chosen to fill the reserved seats is less than the number of such seats ;

(a) all those candidates shall be forthwith declared to be duly elected to fill reserved seats ;

(b) the procedure laid down in Section 54 shall be followed for filling the seats other than the reserved seats ; and

(c) [1][the State Election Commissioner] shall, by notification in the Andhra Pradesh Gazette call upon the ward to elect a person or persons to fill the remaining reserved seat or seats before such date as may be appointed in this behalf by [1][the State Election Commissioner] and specified in the notification.

1. Subs. for 'Commissioner' by Act 25 of 1995, w.e.f. 16.02.1995.
2. Subs. by A.P. Act 5 of 1969.
3. Subs. for the word "constituency" by Act 17 of 1994.

(5) In this section, reference to candidates shall be construed as references to candidates who were duly nominated and who have not withdrawn their candidatures in the manner and within the time specified in sub-section (1) of Section 40.

55. [1][x x x]

[2]**[56. Eligibility of members of Scheduled Castes,** [3]**[Scheduled Tribes, Backward Classes] and women to non-reserved seats:—** For the removal of doubts it is hereby clarified that nothing in this Act shall be deemed to prevent members of the Scheduled Castes [4][or the Scheduled Tribes or the Backward Classes] or Women, for whom seats are reserved from standing for election to the non-reserved seats in the Corporation].

[5]**[56-A Reservation of office of** [6]**[Members] to cease after certain date:—** The provisions of Sections 5 and 8 relating to the reservation of office of [6][member] for the Scheduled Castes and the Scheduled Tribes [7][shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India].

57. Fixing time for poll:— [8][The State Election Commissioner] shall fix the hours during which the poll shall be taken, and the hours so fixed shall be published in the A.P. Gazette and in such manner as [8][the State Election Commissioner] may direct:

Provided that the total period allotted on any one day for polling at election in a [9][ward] shall not be less than eight hours.

58. Adjournment of poll in emergencies:—(1) If at an election the proceedings at any polling station provided under Section 29 are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the

1. Omitted by Act 5 of 1969.
2. Subs. by Act 17 of 1979, w.e.f. 28.04.1979.
3. Subs. by Act 33 of 1986.
4. Subs. by Act 33 of 1986.
5. Ins. by Act 22 of 1981.
6. Subs. for "Councillor" by Act 17 of 1994.
7. Subs. for the words "shall cease to have effect after the 25th January, 2000" by Act 13 of 2000, w.e.f. 24.01.2000.
8. Subs. for 'Commissioner' by Act 25 of 1995, w.e.f. 16.02.1995.
9. Subs. for the word "constituency" by Act 17 of 1994.

presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later and where the poll is so adjourned by a presiding officer, he shall forthwith inform the Commissioner.

(2) Whenever a poll is adjourned under sub-section (1) the Commissioner shall immediately report the circumstances to the [1][State Election Commissioner] and shall, as soon as may be, with the previous approval of the [1][State Election Commissioner], appoint the day on which the poll shall recommence and fix the polling station or place 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.

(3) In every such case as aforesaid, the Commissioner shall notify, in such manner as the [1][State Election Commissioner], may direct, the date, place and hours of polling under sub-section (2).

[2][59. Fresh poll in the case of destruction, etc., of ballot boxes:– (1) If at any election,–

(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 an extent, that the result of the poll at that polling station cannot be ascertained; or

(b) any voting machine develops a mechanical failure during the course of the recording of votes ; or

(c) 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 State Election Commission.

(2) Thereupon, the State Election Commission shall, after taking all material circumstances into account; either–

(a) declare the poll at that polling station to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

1. Subs. for the word "Government" by A.P. Act 25 of 1995, w.e.f. 16.02.1995.
2. Subs. for Section 59, by Act 28 of 2005, w.e.f. 22.06.2005.

(b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the mechanical failure of the voting machine or the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

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

59A. Adjournment of poll or countermanding of election on the ground of booth capturing:– (1) If at any election,–

(a) booth capturing has taken place at a polling station or in such number of polling stations as is likely to affect the result of such election or that the result of the poll at that polling station cannot be ascertained; or

(b) booth capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) The State Election Commission shall on the receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either,–

(a) declare that the poll at that polling station be void, appoint a day, and fix the hours, for taking fresh poll at that polling station and notify the date so appointed and hours so fixed in such manner as it may deem fit, or–

(b) if satisfied that in view of the large number of polling stations involved in booth capturing the result of the election is likely to be affected or that booth capturing had affected counting of votes in such manner as to affect result of the election, countermand the election in that constituency.

Explanation:– In this section "booth capturing" shall have the same meaning as in Section 607C.]

60. Manner of voting at elections:— At every such election where a poll is taken vote shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

[1][**60-A. Voting machines at elections:—** Notwithstanding anything, contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such ward or wards as the State Election Commission may, having regard to the circumstances of each case, specify.

Explanation:— For the purpose of this section, `voting machine' means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.]

61. Right to vote:— (1) No person whose name is not, and except as expressly provided by this Act, every person whose name is, for the time being, entered in the [2][ward] list shall be entitled to vote in that [2][ward].

(2) No person shall vote at a general election in more than one [2][ward] and if a person votes in more than one such [2][ward] his vote in all such [2][wards] shall be void.

(3) No person shall at any election vote in the same [2][ward] more than once, notwithstanding that his name may have been registered in that [2][ward] list more than once, and if he does so vote, all his votes in that [2][ward] shall be void.

(4) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of police :

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

62. [3][x x x]

63. Counting of votes:— At every election where a poll is taken, votes shall be counted by, or under the supervision of the Returning Officer, and each candidate, his election agent and his counting agent, shall have a right to be present at the time of counting.

1. Inserted by Act No. 11 of 2001, which was omitted by Act 6 of 1992.
2. Subs. for the word "Constituency" by Act 17 of 1994.
3. Omitted by A.P. Act 5 of 1969.

[1][**63-A. Destruction, loss, etc., of ballot papers at the time of counting:–** (1) If any time before the counting of votes is completed any ballot papers used at a polling station are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon, the State Election Commission shall, after taking all material circumstances into account, either,–

(a) direct that the counting of votes shall be stopped, declare the poll at that polling station to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.]

64. Equality of votes:— If after the counting of the votes is completed, an equality of vote is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

65. Declaration of results:— When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner prescribed.

66. Report of the result:— As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the [2][Commissioner and the State Election Commissioner] who shall cause to be published in the [3][Andhra Pradesh Gazette] the declarations containing the names of the elected candidates.

1. Ins. by Act 28 of 2005, w.e.f 22.06.2008.
2. Subs. by Act 25 of 1995, w.e.f. 16.02.1995.
3. Subs. by A.P. Act 5 of 1969.

[1][66-A. **Date of election of candidate:—** For the purposes of this Act, the date on which a candidate is declared to be duly elected by the Returning Officer under the provisions of Section 54 or Section 65, shall be the date of the election of that candidate].

67. Prohibition of simultaneous representation:— (1) If a person is elected by more than one [2][ward] he shall, by notice in writing signed by him and delivered to the Commissioner within the prescribed time, choose any one of the [2][wards] which he shall serve and the choice shall be final.

(2) When any such choice has been made the [2][ward] or the [2][wards] other than the [2][ward] which such person has chosen to serve shall be called upon to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-section (1), the election of such person shall be void on all the [2][wards] concerned shall be called upon to elect another person or persons.

68. [3][x x x]

69. [3][x x x]

70. Government may make rules for the conduct of elections:— (1) Subject to the provisions of this Act, the Government may make rules, [4][for the preparation of electoral roll for the Corporation, correction of entries and inclusion of names therein, appeals in relation thereto and conduct of elections].

(2) In particular and without prejudice to the generality of the foregoing power, the Government shall make rules in respect of the following matters—

(a) the appointment of polling stations for each [5][ward] ;

(b) the appointment of polling officers and other persons to assist at the poll and for the remuneration of such polling officers and other persons for their services;

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1. Inserted by Act 15 of 1975.
2. Subs. for the word "constituency/constituencies" by Act 17 of 1994.
3. Omitted by Act 28 of 2005, w.e.f 22.06.2005.
4. Subs. by Act 20 of 1978, w.e.f. 07.06.1978.
5. Subs. for the word "Constituency" by Act 17 of 1994.

(c) the hours during which polling stations shall be open for the recording of votes;

(d) the printing and issue of voting papers;

(e) the checking of voters by reference to the municipal list of voters;

(f) the manner in which votes are to be given and in particular for the case of illiterate voters or of voters under physical or other disability;

(g) enabling a member of the Armed Forces of the Union to whom the provisions of clause (b) of Explanation to Section 9 apply to give his vote by postal ballot;

(h) enabling any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot, and not in any other manner at an election in a [2][ward] where a poll is taken subject to the fulfilment of such requirements as may be prescribed;

(i) marking with indelible ink of the thumb or any other finger of every voter who applies for a ballot paper for the purpose of voting at a polling station before delivery of such paper to him and for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger so as to prevent personation of voters;

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

(k) the scrutiny of votes;

(l) the safe custody of ballot papers and other election papers, for the period for which such papers shall be preserved and for the inspection and production of such papers; and may make such other rules regarding the conduct of the elections as it thinks fit.

[1][**70-A. Requisitioning of premises and vehicles for election purposes:—** (1) If it appears to the Government that in connection with any election held under this Act:—

1. Sections 70-A to 70-F inserted by Act 22 of 1981, w.e.f. 16.06.1981.

(a) any premises 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 is needed or is likely to be needed for the purpose of transport of personnel or ballot boxes to or from any polling station, or transport of members of the police force for maintaining 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, the Government may, by order in writing requisition such premises or such vehicle, as the case may be, and may make such further orders as may appear to them to be necessary or expedient, in connection with the requisitioning:

Provided that no vehicle 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 sub-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 Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

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

Explanation:— For the purpose of this section "premises", mean any land, building or part of a building and include a hut, shed or other structure or any part thereof; and "vehicle", means, any vehicle used, for the purpose of road transport, whether propelled by mechanical power or otherwise.

70-B. Payment of compensation:— (1) Whenever in pursuance of Section 70-A, the Government requisition any premises, there shall be paid to the person interested compensation the amount of which shall be determined by taking into consideration the following 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;

(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 within the prescribed time to the Government 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 Government may determine :

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

Explanation:— (1) In this sub-section, the expression 'person interested' means the person who was in actual possession of the premises requisitioned under Section 70-A immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of Section 70-A, the Government requisition any vehicle, there shall be paid to the owner thereof compensation, the amount of which shall be determined by the Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicles:

Provided that where the owner of such vehicle, being aggrieved by the amount of compensation so determined, makes an application within the prescribed time to the Government 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 Government may determine :

Provided further that where immediately before the requisitioning, the vehicle was, by virtue of a hire purchase agreement, in the possession of a person, other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition 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 an arbitrator appointed by the Government in this behalf may decide.

70-C. Power to obtain information:— The Government may, with a view to requisitioning any property under Section 70-A or determine the compensation payable under Section 70-B, 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 specified.

70-D. Eviction from requisitioned premises:— (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under Section 70-A may be summarily evicted from the premises by any officer empowered by the Government 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.

70-E. Penalty for contravention of any order regarding requisitioning:— If any person contravenes any order made under Section 70-A or Section 70-C, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

70-F. Delegation of powers of the Government:— The Government may, by notification in the Andhra Pradesh Gazette, or subject to such restrictions and conditions as may be specified therein, delegate to any officer, or any authority all or any of the powers vested in them by Sections 70-A to 70-D (both inclusive), and may in like manner, withdraw any powers so delegated.]

[1][**70-FF. Delegation of powers of the Commission:–** The State Election Commissioner may by order in writing, delegate to any officer or authority in the State Government, either generally or as respects any particular matter or class of matters any powers of the Commission under this Act.]

Author's Note:— 70-G. Omitted by Act 17 of 1994. However the said Act 17 of 1994 has not been brought into force till date. This section shall be omitted from the date to be notified by the State Government. Readers are requested to take note of this.

[2][**70-G. Appointment of Special Officer:—** (1) Notwithstanding anything contained in this Act, where in the opinion of the Government it is not possible to hold the elections to the Corporation in accordance

1. Ins. by Act 28 of 2005, w.e.f. 22.06.2005.
2. Inserted by Act 18 of 1991, w.e.f. 30.03.1991.

with the provisions of this Act, before the date of expiration of the term, and to bring the newly elected Councillors into office on the date of expiration of the term as aforesaid, [1][x x x] the Government may, by notification appoint a Special Officer to exercise the powers, perform the duties and discharge the functions of,—

(a) the Corporation,

(b) the Standing Committee, and

(c) the Commissioner,

under the Act, for a period [2][which shall not exceed three and half years] from the date of such appointment.

Provided that the State Government may, from time to time, by notification in the Andhra Pradesh Gazette and for reasons specified therein extend the said period of appointment of Special Officer [3][beyond three and half years], for a further period or periods so however that the period of appointment of the Special Officer shall not, [4][in the aggregate exceed eleven years].

(2) The State Government shall cause elections to be held to the Corporation under the principal Act, so that the newly elected Councillors may come into office on such date as may be specified by the State Government in this behalf by a notification, in the A.P. Gazette :

Provided that the State Government may, from time to time, advance or postpone the date specified under this sub-section and fix instead another date:

Provided further that the date fixed under this sub-section shall be the date on which the appointment of the Special Officer expires.

(3) The Special Officer shall exercise the powers, perform the duties and discharge the functions of the Corporation until the elected Councillors come into office, of the Standing Committee until a Standing Committee is appointed by the Corporation, and of the Commissioner until a Commissioner is appointed by the State Government so direct, receive remuneration for his service from the Municipal Fund].

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1. The words "and the term of office of the councillors is not extended" omitted by Act 18 of 1992, w.e.f. 27.02.1992.
2. Subs. for the words "which shall not exceed three years" by Act 32 of 2001.
3. Subs. for "beyond three years" by Act 32 of 2001.
4. Subs. for "in the aggregate exceed ten and half years" by Act 32 of 2001.

Presentation and trial of election petition

71. Election Petition:— (1) [1][x x x] No election held under this Act shall be called in question except by an election petition which shall be presented in such manner as may be prescribed.

(2) An Election petition calling in question any election may be presented on one or more of the grounds specified in clauses (i) and (ii) of Section 79 and Section 80 to the Election Tribunal by any candidate at such election or any voter, within two months from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and the dates of the election are different is the latter of those two dates.

[2][Provided that the period from the date on which an election petition can be filed under this sub-section to the date of the constitution of an Election Tribunal under Section 75, shall be excluded for purpose of computing the period of two months under this sub-section.]

Commentary

Scope:— Section 71-Objection related to facts when not specifically raised before Election Tribunal cannot be allowed to be raised in appeal against its decision *Shiv Pershad vs. Ganesh Singh*, (1966) 2 ALT 363=(1966) 2 An. W.R. 466=AIR 1968 A.P. 20.

This section is analogous to Article 329 (b) of the Constitution of India. In *Mohinder Singh Gill vs. Chief Election Commissioner*, AIR 1978 S.C. 851 at 886. Krishna Iyer J. observed:

"The conspectus of provisions bearing on the subject of elections clearly express the rule that there is a remedy for every wrong done during the election in progress although it is postponed to the post election stage and procedure as predicated in Article 329 (b) of the Constitution and the 1951 Act. The Election Tribunal has under the various provisions of the Act, large enough powers to give relief to an injured candidate if he makes out a case and such processual amplitude of power extends to directions to Election Commission or appropriate agency to hold a poll, to bring up the ballots, or do other thing necessary for fulfilment of the jurisdiction to undo illegality and injustice and do complete justice within the parameters set by the existing law." In view of this pronouncement of the Supreme Court, it is not now open to interfere with an election by any other legal process other than by an election petition.

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1. Omitted by Act 15 of 1975.
2. Added by Act 28 of 2005, w.e.f. 22.06.2005.

Grounds of Election Petition:— Sub-section (2) lays down that an election petition can be filed on grounds mentioned in Secs. 79 and 80 of this Act. This sub-section is analogous to Section 81 of the RP Act, 1951.

Application of Limitation Act:— Sections 71 to 87 contain the procedure of presentation of election petitions and their disposal. In respect of any elections, the unsuccessful candidate is entitled to challenge the election under Section 71 of the Act by filing election petition. A definite period has been prescribed for filing such petitions. The Legislature had provided a substantive right to the unsuccessful candidate to challenge the election within a period of two months. Section 71 did not carve out any exceptions for condonation of delays. Therefore, when a specific limitation has been fixed under Section 71 and in the absence of application of Section 5 by reference, no petition can be entertained beyond the limitation fixed. Section 671 permits the application of Section 5 of Limitation Act but that has to be confined to appeals and applications under the Act. The Election Petition is neither an appeal nor application and it is an original proceeding. Sec. 671 is not applicable to election petition filed under Sec. 71 of the Act. *Chukka Yesuratnam vs. Shaik Saidulu and others,* 2001 (3) ALD 66 (DB). See also 2001 (2) ALD 110 (DB).

Functions of Election Tribunal :- The function of election tribunal is judicial in nature. The tribunal has not only power to take evidence, it has also a limited power of a Civil Court in terms of Code of Civil Procedure as provided in Section 76. An order passed by the Election Commissioner is subject to the result of an appeal. An order of the election tribunal or the appellate tribunal, is conclusive. Election tribunal is a statutory tribunal. Its functions are not inquisitorial in nature. A District Judge presides over the election tribunal. Not only it has a judicial function to perform but its judgments are conclusive and binding.

It therefore follows that the tribunal, although not a civil Court in its true sense but being a Court is bound to act independently and impartially and exercise judicial authority without any fear or favour.

Election Tribunal is not a *persona designata* but a Court. Hence the provisions of the Limitation Act, 1963 shall apply to election proceedings. *P. Sai Lakshmi* vs *Patram Venkata Rao and others,* 2002 (1) ALD 623 (FB).

Limitation for filing an election petition :-Constitution of a tribunal and functioning thereof are essential features which enable an aggrieved person to file an election petition. If no election tribunal was functioning where an election petition could be filed, the question of moving the said tribunal in terms of sub-section (2) of Section 71 would not arise. Law does not postulate doing or performing some act which is impossible to be performed.

The time for filing such an application, therefore, starts from the date when the Tribunal begins functioning and is ready to accept an election petition. The statute of limitation although is a statute of repose but the same has to be construed in such a manner so that justice can be done to the parties. *P. Sai Lakshmi* v. *Patram Venkata Rao and others,* 2002 (1) ALD 623 (FB).

72. Parties to the Petition:— A petitioner shall join as respondents to his petition:—

(a) Where the petitioner claims a declaration under clause (b) of Section 74, all the contesting candidates other than the petitioner and in any other case all the returned candidates; and

(b) any other candidates against whom allegations of any corrupt or illegal practice are made in the petition.

73. Contents of Petition:— (1) An election petition—

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

(b) shall set forth full particulars of any corrupt or illegal practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice; 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.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

74. Relief that may be claimed by the Petitioner:— A Petitioner may claim any one of the following declarations:—

(a) that the election of the returned candidate is void ;

(b) that the election of the returned candidate is void and that himself or any other candidate has been duly elected;

(c) that the election as a whole is void.

[1][**75. Election Tribunal:—** (1) The Government may, for the purpose of providing speedy disposal of election petitions in respect of an election petitions in respect of an election under this Act, appoint any person who

1. Subs. by Act No. 17 of 1998.

is or has been or is eligible to be appointed as a Judge of the High Court as an Election Tribunal (hereinafter referred to as the "Tribunal" for such period as may be necessary, for trial of petitions in respect of an election under this Act :

Provided that if there are only a limited number of such cases, the Government may, with the concurrence of the Chief Justice of the High Court, by notification specify a Court of District Judge to be an Election Tribunal to try the Election petitions under this Act.

(2) The Tribunal shall deal with such petitions and proceedings in connection therewith in the manner prescribed.]

Commentary

Non-verification of list of documents:— The election petition cannot be dismissed for non-compliance of Sec. 73(2) *M.L. Agarwal vs. Manoj Pershad*, 1987 (2) ALT 22 (NRC).

Age :-Section 75(1) provides for appointment of a High Court Judge sitting or retired as an Election Tribunal. Age is clearly not a qualification under sub-section (1) of Section 75 of the Act. Age of a person for appointment under sub-section (1) of Section 75 of the Act does not enter into his qualifications.

The expression "is eligible" to be appointed as a Judge of a High Court as an Election Tribunal would only mean "is legally qualified to be appointed as a Judge of a High Court". *Panchumarthi Anuradha v. Government of Andhra Pradesh and others,* 2002 (1) ALD 317.

76. Power of the Tribunal:— The Tribunal shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit, in respect of the following matters:

(a) discovery and inspection;

(b) enforcing the attendance of witnesses, and requiring the deposits of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit and;

(g) issuing commissions for the examination of witnesses and may summon and examine *suo motu* any person whose evidence appears to it to be material; and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898).

Commentary

This Section lays down the powers of an Election Tribunal. The following order of the CPC are applicable:

1.	Discovery and Inspection	Order 11
2.	Enforcing the attendance of witnesses	Order 16
3.	Production of Documents	Order 13
4.	Examining witness on oath	Order 18
5.	Granting adjournment	Order 17
6.	Affidavits	Order 19
7.	Commissions	Order 26

Deemed to be a Civil Court:— Section 48 of the Code of Criminal Procedure 1898 is Section 345 (1) of the Cr. P.C. 1973 and Section 482 is Section 346. Sections 345 and 346 of the Code of Criminal Procedure, 1973 deal with procedure in case of contempt of Court. This tribunal is a Civil Court for purpose of the above sections. Besides these powers, the Government is given power to frame rules for the conduct of proceedings before the Election Tribunal.

Jurisdiction:— Where the conclusions reached at by the Election Tribunal were based upon the appreciation of evidence both oral and documentary, appreciation of such evidence was held not to be characterised as perverse by any stretch of imagination. The High Court in exercise of its *certiorari* jurisdiction would not re-appreciate the evidence and substitute the findings of its own for that of the Election Tribunal. Microscopic examination of every observation made by the Election Tribunal by the High Court while exercising jurisdiction under Art.226 of the Constitution is not permissible in law. *Panchumarthi Anuradha v. Avala Nagarani and others,* 2002 (1) ALD 117.

Recounting of votes :- Recount of votes polled cannot be ordered by the Court unless a clear *prima facie* case is made out. The principle of secrecy of vote is no doubt important, but the principle of purity of election process is equally important. In a given case, in order to do complete justice between the parties, the Court may order sample inspection of the ballot papers after arriving at a *prima facie* satisfaction about the irregularities in the counting of votes by the election staff. In a given case, the principle of secrecy of voting may have to give a way to principle of purity of election process. But, under no circumstances, the Court can pass an order directing the recount in a casual or lighthearted manner. *Panchumarthi Anuradha vs Avala Nagarani and others,* 2002 (1) ALD 117.

77. Decision of Tribunal:— At the conclusion of the trial of an election petition, the Tribunal shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected; or

(d) declaring the election to be wholly void.

Commentary

Jurisdiction:— Where the conclusions reached at by the Election Tribunal were based upon the appreciation of evidence both oral and documentary, appreciation of such evidence was held not to be characterised as perverse by any stretch of imagination. The High Court in exercise of its *certiorari* jurisdiction would not re-appreciate the evidence and substitute the findings of its own for that of the Election Tribunal. Microscopic examination of every observation made by the Election Tribunal by the High Court while exercising jurisdiction under Art.226 of the Constitution is not permissible in law. *Panchumarthi Anuradha v. Avala Nagarani and others,* 2002 (1) ALD 117.

78. Other orders to be made by the Tribunal:— (1) At the time of making an order under Section 77, the Tribunal shall also make an order—

(a) where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, recording—

(i) a finding whether any corrupt or illegal practice has or has not been proved to have been committed by or with the connivance of any candidate or his agent at the election, and the nature of that corrupt or illegal practice; and

(ii) the name of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and the nature of that practice, together with any such recommendations as the Tribunal may think proper to make for the exemption of any person from any disqualification which he may have incurred in this connection under S. 20 and in respect of any disqualification arising out of failure to lodge return of election expenses with reference to clause (1) of Section 22.

(b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that no person shall be named in the order under sub-clause (ii) of clause (a) unless—

(i) he has been given notice to appear before the Tribunal and to show cause why he should not be so named; and

(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Tribunal and has given evidence by him, of calling evidence in his defence and of being heard.

(2) Any order as to costs under clause (b) of sub-sec. (1) may include a direction for payment of costs to the Advocate General, Government Pleader or any other Pleader attending the trial.

79. Grounds for declaring election to be void:— (1) If the Tribunal is of opinion that the election has not been a free election by reason that bribery, undue influence or group intimidation has extensively prevailed at the election, the Tribunal shall declare the election as a whole to be void :

[1][x x x]

Explanation:— In this section:—

(a) the expressions 'bribery' and 'undue influence' have the meanings given to them in Section 17; and

(b) the expression 'group intimidation' means any interference or attempt to interference by a community, group or section with the free exercise by another community, group or section of the right to vote or refrain from voting by intimidation, coercion, social or economic boycott, threat of such boycott or other similar means.

(2) Subject to the provisions of sub-section (3), if the Tribunal is of opinion—

(a) that the election of a returned candidate has been procured or induced or the result of the election has been materially affected, by any corrupt or illegal practice; or

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

(c) that the result of the election has been materially affected by the improper reception or refusal of a vote or by the reception

1. Proviso omitted by A.P. Act 5 of 1969.

of any vote which is void; or by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act or of any other Act or rules relating to election, or by any mistake in the use of any prescribed form;

(d) that on the date of his election a returned candidate was disqualified to be elected as a Member under this Act;

then the Tribunal shall declare the election of the returned candidate to be void.

(3) If in the opinion of the Tribunal, a returned candidate has been guilty, by an agent other than his election agent, of any corrupt practice specified in [1][Section 17], but the Tribunal is satisfied that—

(a) no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the sanction or connivance of the candidate or his election agent;

(b) all such corrupt practices were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election;

(c) the candidate and his election agent took all reasonable means for preventing the commission of corrupt or illegal practices at the election; and

(d) in all other respects the election was free from any corrupt or illegal practice on the part of the candidate or any of his agents.

then the Tribunal may decide that the election of the returned candidate is not void.

Commentary

Mistake of presiding officer-Election to be set aside—The presiding officer of the ward failed to put the official mark (Distinguishing mark) on certain ballot papers given to the voters. After the elections, the Returning Officer rejected those votes under Rule 51 (c) of the Hyderabad Municipal Corporation Elections and Election Petition Rules, 1956, as invalid.....In the instant case, the votes of 700 electors could not be looked into due to mistake on the part of the presiding officer for which the parties do not deserve to be penalised - This has materially affected the result of the election. *Shiva Prasad vs. Ganesh Singh*, 1966 (2) An. W.R. 466 = (1966) 2 ALT 363 = AIR 1968 A.P. 20.

1. Subs. for "Section 18" by Act 28 of 2005, w.e.f 22.06.2005.

Caste certificate :- Election Tribunal not competent to go into its legality or validity of Caste Certificate issued in favour of returned candidate. *Durga Singh* vs *M. Lakshman Yadav and others,* 2003 (4) ALD 604.

80. Grounds for which a candidate other than the returned candidate may be declared to have been elected:— If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claims a declaration that he himself or any other candidate has been duly elected and the Tribunal is of opinion.

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt or illegal practices, the petitioner or such other candidate would have obtained a majority of the valid votes;

the Tribunal shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

81. Procedure in case of an equality of votes:— If during the trial of an election petition it appears there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then—

(a) any decision made by the Returning Officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purpose of the petition; and

(b) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

Commentary

Scope:— The Election Tribunal is not competent to traverse beyond the grounds contained in the section. AIR 1958 325.

Irregularity or illegality in the matter of preparation of Electoral Roll cannot be ground for declaring election of returned candidate to be void. AIR 1963 Goa. 53. The Finality of electoral roll cannot be challenged in an election petition. AIR 1971 S.C. 2123.

Disqualification:— The Election Tribunal can enquire into age, qualification of candidate despite fact that his name appears in electoral list as a Voter. AIR 1970 A.P. 56.

Corrupt Practice:— Where candidate after getting knowledge of act of corrupt practice on polling day does not prohibit of regular repetition of similar acts on following polling days is reasonable inference to draw that all acts were committed by design and that candidate must have consented to them. AIR 1960 S.C. 1217. In case of corrupt practice it is not necessary to prove that result of election has been materially affected thereby. AIR 1969 S.C. 1201.

Consent of candidate or election agent may be express or implied. Publication in newspaper about propaganda against a particular candidate cannot be said to be with consent of the candidate or his agent unless consent is proved expressly or impliedly. AIR 1960 Bom. 249.

Criticism:— Criticism of public character is not corrupt practice. Statement that the candidate was purchaser of opponents of congress by means of money is a corrupt practice. AIR 1962 S.C. 1156. A candidate who while he was Chief Minister allotted certain corrupted sheets to a women's society is not a corrupt practice. AIR 1972 S.C. 2367.

Rejection of nomination:— There is distinction between two classes of cases namely improper acceptance and improper rejection of nomination paper. There is presumption in case of improper rejection of nomination paper that the election is materially affected result of election. The fact that one of several candidates for election has been kept out of the area is by itself very material consideration. On the other hand, in case of improper acceptance of nomination paper, proof may easily forthcoming to demonstrate that coming into arena of additional candidate has not had any effect on election of best candidate in the field. Legislature has given legislative sanction to the above view. AIR 1957 SC 242. The word 'improper' must be on same meaning in acceptance and refusal. AIR 1959 SC 422.

Improper reception or rejection of vote:— Mere fact that majority by which successful candidate defeated his next rival candidate would have been reduced would not be taken to have materially affected the result of election. AIR 1960 Punj. 614. Inclusion of votes which could not be included in the electoral roll and polling of such votes can materially affect the result. *Chandalavada Subba Rao vs. K. Brahmananda Reddy*, AIR 1967 AP 155 (175).

Non-compliance with provisions:— Where election was held at a polling station which was not published as directed by the Election Commission it is in substance a non-compliance with provisions of Sec. 25 of the RP Act 1951. In such case election is void AIR 1969 (3) SCC 548. Non-compliance with provisions of 1950 Act is not a ground for declaring election void, ILR (1972) A.P. 1184. Mere non-compliance is not sufficient unless it is shown

that non-compliance has materially affected the result of the election. Where challenge is not on any corrupt practice but non-compliance with provisions of the Act and if respondent had succeeded in proving that separate nomination paper was necessary, declaration of Returning Officer that appellant is elected for general seat would naturally amount to materially affecting the result which deprives respondent from being declared elected. AIR 1958. A.P. 724 (733).

Result materially affected:— Words that 'the result of the election is materially affected' indicate that the result should not be judged by mere increase or decrease in total number of votes secured by returned candidate but by proof of fact that wasted votes would have been distributed in such a manner brought about by defeated candidate. It cannot be held that mere fact that wasted votes are greater than margin of votes between returned candidate and candidates securing next highest number of votes must lead to necessary inference that result of election has been materially affected. That a matter which has to be proved and onus of proving it lies upon the petitioner. Should petitioner fail to adduce satisfactory evidence to enable Court to find in his favour on his point inevitable result would be that Tribunal would be allowed to stand. AIR 1954 SC 513.

Power point inspection of ballot papers is implicit. AIR 1964 SC 1249. Tribunal is not precluded from scrutinising and recounting the ballot papers under Bihar Panchayat Act. AIR 1971 Pat. 10.

Declaration of petition as elected:— The power under Section 80 is analogous to Section 101 of the RP Act, 1951. Apart from this section the Tribunal has no power to declare the unsuccessful candidate to have been duly elected. AIR 1964 Pat. 417. The onus is on the person who applies under Section 101 for a declaration that he is duly elected, to allege and prove that he had received a majority of the valid votes. AIR 1960 SC 131.

Valid votes:— Votes obtained by corrupt practice by returned candidate proved to be guilty of corrupt practice, are expressly excluded in the computation of total votes for ascertaining whether a majority of votes had been obtained by the defeated candidate and no fresh poll is necessary. AIR 1969 SC 604.

Thrown Away Votes:— The doctrine of thrown away votes is based on the principle of a fair inference or wilful perverseness on the part of the electors voting for undisqualified candidate. AIR 1953 Cal. 535. An elector who votes for a disqualified candidate, with knowledge either of disqualification or of the facts creating the disqualification, throws away his votes and such knowledge will be presumed where the disqualification or the facts creating the disqualification are notorious, AIR 1958 Cal. 533. In case where there are only two contesting candidates out of whom one is statutorily disqualified, the Votes cast in his favour will be treated as 'thrown away Votes' and the other candidate will be declared elected. AIR 1969 SC 604. Presiding

Officer omitted to fix official mark for 700 electors. The election is not valid. *Shiva Prasad vs. Ganesh Singh,* (1966) 2 ALT 363 = 1966 (2) An.W.R. 466 = AIR 1968 A.P. 20.

82. Communication of orders of the Tribunal and the transmission of the records of the case to the Commissioner:— The Tribunal shall send a copy of its orders made under Section 77 or 78, unless an appeal is preferred therefrom, in which case, a copy of the order of the High Court, along with the records of the case, to the Commissioner.

83. Appeal against order of Tribunal:— An appeal from an order passed by the Tribunal under Sections 77 and 78 shall lie to the High Court and shall be heard by a Bench consisting of not less than two Judges:

Provided that no such appeal shall be heard by the High Court unless it is filed within thirty days from the date of the order of the Tribunal.

Commentary

Appeal:— An appeal lies to the High Court within 30 days from the date of the order of the Tribunal. The appeal shall be heard by a Bench consisting of not less than two Judges.

Limitation:— The period of limitation is fixed as 30 days from the date of the order of the Tribunal. There is no provision in the Act for the communication of the order to the parties. Section 82 laid down that the Tribunal shall communicate the order to the Commissioner. The language of this section is same as Sec. 116A of the RP Act, 1951. The period of limitation after taking into account time requisite for obtaining public copy of orders or Tribunal will run. AIR 1970 SC 1477. Section 29 of the Limitation Act applies to the appeal. Appellant is entitled to exclude time required for obtaining copy of order under Section 12(2) of the Limitation Act. AIR 1964 SC 1099.

84. Orders of the Tribunal to be final and conclusive:— Every order of the Tribunal made under this Act and unless an appeal is preferred therefrom to the High Court under Section 83 shall be final and conclusive.

85. Orders when to take effect:— An order of the Tribunal under Section 77 or Section 78 shall take effect immediately after the expiry of the period of appeal unless an appeal is preferred therefrom, in which case the order of the High Court shall take effect as soon as it is pronounced.

Commentary

Under Section 84 the order of the Election Tribunal is made conclusive and final subject to the appeal under Section 85. The order takes effect only after the expiry of appeal time of 30 days. This section does not take note of a case where there is an interregnum between the pronouncing the order and filing appeal after obtaining the certified copy of the order. If this period exceeds more than 30 days what will happen to the order? Will it not take effect after the expiry of thirty days from the date of the order? Appeal could not be filed due to the non-supply of the certified copy of the order.

In the RP Act, 1951 Sec. 116-B empowered the High Court to stay the operation of the order pending filing of the appeal. There is no similar provision empowering the Tribunal to stay its own order. After the appeal is filed the High Court in its inherent power under Section 151 Civil Procedure Code can interfere. The Election Tribunal is not a Civil Court and hence it cannot exercise powers under Order 41 Rule 5 of the CPC. Hence a provision on the lines of Section 116B is suggested to be inserted in this Act.

86. Reference to the Election Tribunal:— (1) Whenever it is alleged that any person who has been elected as a [1][Member] is disqualified under Section 20, sub-section (1) of Section 21 or Section 23 and such person does not admit the allegation, or whenever any [1][Member] is himself in doubt whether or not he has become disqualified for office under Section 20 or sub-section (1) of Section 21 or Section 23, such [1][Member] or any other [1][Member] may, and the Commissioner shall, in accordance with the directions of the Corporation, apply to the Tribunal for a decision.

(2) The Tribunal after making such inquiry as it deems necessary, shall determine whether or not such person is disqualified under Section 20, sub-section (1) of Section 21 or Section 23 and its decision shall be final.

(3) Pending such decision, the [1][Member] shall be entitled to act as if he were not disqualified.

Commentary

Disqualifications and Reference:— The disqualifications for being or continuing as a member are enunciated in Secs. 20, 21 and 23. The Election Tribunal was given power to adjudicate the disqualification on reference by the member either by himself or any person who challenges that he is disqualified. This is a forum created to adjudicate complaints and references relating to disqualification of members. This section applies to a stage after a candidate has been duly elected. 57 MLJ 241 (FB).

1. Subs. for the word "Councillor" by Act 17 of 1994.

Pending such Decision:— A similar expression in Section 22 of the A.P. Gram Panchayat Act, 1964 was considered by the A.P. High Court in *R. Somayya vs. Election Officer*, W.P. No. 345/72, dt. 25-4-1972. Parthasaradhi J. observed—

'In the event of a proceeding under Section 22 being commended the member concerned is entitled to act as such, pending the decision of the proceeding. The fact that the Legislature has not made a specific provision for the short interval up to the presentation of the petition under Sec.22(1) is strongly indicative of the legislative intendment that the beneficial provision under sub-section (2) is to be operative for the entire period. The expression 'pending such decision has been advised by the legislature so as to cover the entire period between the incurring of the disqualification and the ultimate adjudication'. This judgment of the learned single Judge was approved by the Division Bench in *N. Kotiah vs. R.D.O. Narasaraopeta.* 1974 (2) APLJ 281.

Who can file:— The member who challenges.

The member who feels a doubt.

Unlike the Municipalities Act there is no time limit prescribed for filing a petition for adjudication by the Commissioner.

A voter can move the Commissioner to initiate action with th directions of the corporation.

87. Procedure when no member is elected:— (1) If at a general election or bye-election no [1][Member] is elected, a fresh election shall be held on such date as [2][the State Election Commissioner] may fix in this behalf.

(2) The term of office of a [1][Member] elected under sub-section (1) shall expire at the time at which it would have expired if he had been elected at the general election or bye-election, as the case may be.

Commentary

Scope:— This section regulates the proceedings of the council. The scope of this section was fully discussed in *Ved Prakash vs. Municipal Corporation*, 1958 (1) An. WR. 22. Jaganmohan Reddy J. (as he then was) considered the scope of power of Mayor under this section. This section which regulates the corporations proceedings and meetings for the despatch of business empowers it to make bye-laws with respect to the summoning, notice, place and management and adjournment of such meetings and generally

1. Subs. for the word "Councillor" by Act 17 of 1994.
2. Subs. for the word "Commissioner" by Act 25 of 1995, w.e.f. 16.02.1995.

with respect to the mode of transacting and managing business of the corporation and asking and answering of questions under Sec.122 subject to the conditions specified in Clauses (a) to (t). No bye-laws appear to have been made, but in any case the meetings and transaction of business should conform to these conditions.

Meetings

1st Meeting:— 1st Meeting after elections must be held within one month from the date of declaration of results.

Ordinary Meeting:— Before the expiry of 20th day of the month in which the first meeting was held.

Mayor and Deputy Mayor:— Elections of Mayor and Deputy Mayor shall be held in the first meeting.

Notice of Meeting:— The day, time, place shall be fixed by the Mayor or Deputy Mayor. Every meeting shall be open to the public unless decided by majority of members.

Quorum for meeting:— Of the whole number of members, for adjourned meeting Quorum is not necessary for transacting business adjourned.

President:— Mayor shall preside. In his absence Deputy Mayor. In his absence Chairman of the Standing Committee. The President has casting vote.

Notice:— 7 Clear days notice shall be given. In emergency no notice is required. For a requisition three days notice required.

The Notice shall be published at least in one local daily newspaper having largest circulation.

Inclusion of subjects:— Member to give notice of the subject to the Secretary before three days if it is not already mentioned in the notice. The Secretary shall give a supplementary announcement of the said business.

Business:— No other business except that specified in the notice shall be transacted at ordinary meeting.

Urgent business:— Three-fourth of the members present at the ordinary meeting have to assent for bringing urgent business for transaction.

Budget meeting or Requisition meeting:— At requisition meeting or budget meeting no other business shall be transacted.

Adjournment of the meeting:— Meeting can be adjourned from time to time with the consent of the majority.

Adjournment meeting and subjects:— No other subject except the subject of the adjourned meeting can be discussed at an adjourned meeting.

Changes in taxes or estimates in adjourned budget meeting:— If a budget meeting is adjourned, a change in tax structure or budget estimates can be discussed after notice of such a change is given and at least two days time is available after adjournment and a special announcement has been given by the Municipal Secretary about the changed proposal.

Minutes:— Minutes of the proceedings of the meeting shall be recorded by the Municipal Secretary.

Bias:— No member shall participate in a meeting where he is interested in the subject.

Decisions:— Decisions are by majority except the proposition about requisition or urgent business.

Poll in meeting:— Poll must be held to decide majority if demanded.

Record of Poll:— Poll is recorded in the Minute book.

Commissioner:— He has right to participate in the meeting and make statement or explain facts.

Officers:— Any officer required by the corporation may also be present in the meeting.

Questions and Answers:— The member has right to ask Questions and the Commissioner shall answer Questions.

In short the above is the scheme of the proceedings of the meeting of the corporation.

Proceedings of the Corporation

88. Provisions regulating the corporation's proceedings:— The Corporation shall meet for the despatch of business and shall from time to time, make such bye-laws with respect to the summoning, notice, place, management and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the Corporation including the submission, asking and answering of questions under Section 122 as they think fit, subject to the following conditions:—

(a) the ordinary meeting in the month immediately preceding the month in which the first meeting referred to in clause (b) is held not later than the twentieth day of the month so preceding ;

(b) the first meeting after general elections shall be held within a month of the publication of the declarations under Section 66 on such day and at such time and place as the Commissioner may fix;

(c) the day, time and place of meeting shall in every other case be fixed by the Mayor, in his absence by the Deputy Mayor and in the absence of both the Mayor and the Deputy Mayor by the Chairman of the Standing Committee;

(d) the Mayor or in his absence the Deputy Mayor, or in the absence of both the Mayor and Deputy Mayor, the Chairman of the Standing Committee may whenever he thinks fit, and shall upon a written requisition signed by not less than one-sixth of the whole number of [1][Members] or by not less than four members of the Standing Committee, call a special meeting ;

(e) every meeting shall be open to the public, unless a majority of the [1][members] present thereat decide by a resolution which shall be put by the presiding authority, of his own motion or at the request of any [1][member] present without previous discussion, that any inquiry or deliberation pending before the Corporation is such as should be held in private, and provided that the presiding authority, may at any time cause any person to be removed who interrupts the proceedings;

(f) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of [1][members] present inclusive of the presiding authority, falls short of one-fourth of the whole number of [1][members], the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed at such meeting shall be disposed of at the adjourned meeting, or, if the latter meeting should be again adjourned, at such adjourned meeting, whether there is a quorum or not;

(g) [2][x x x] Every meeting shall be presided over by the Mayor and in his absence by the Deputy Mayor or in the absence of both the Mayor and the Deputy Mayor by such one of the [1][members] present as may be chosen by the meeting to be the Chairman for the occasion ;

(h) at least seven clear days' notice shall ordinarily be given of every meeting, other than adjourned meeting, but in cases of urgency

1. Subs. for the word "Councillor" by Act 17 of 1994.
2. The words "Save as otherwise provided in Section 90" inserted by Act 23 of 1981 and later omitted by Act 9 of 1987.

such meeting may be called, except for the purpose of considering an annual budget-estimate, in pursuance of a written requisition signed by not less than four members of the Standing Committee, upon a notice of not less than three clear days, of adjourned meetings such previous notice shall be given as shall be practicable having regard to the period of the adjournment;

(i) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat other than questions under Section 122 and shall be given by the Municipal Secretary [1][in the manner prescribed];

(j) any [2][Member] who desires at any meeting to bring forward any business, other than any questions under Section 122 or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the Municipal Secretary at least three clear days before the day fixed for the meeting; and a supplementary announcement of the business of propositions, of which notice has been so given, shall be given by the said Secretary [1][in the manner practicable] not later than the day previous to the meeting ;

(k) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget estimate, no business shall be transacted at any meeting other than the business specified in the notice [3][given] under clause (i) and any questions asked under Section 122 or urgent business not specified in the said notice which the Standing Committee, or the Commissioner deem it expedient to bring before the meeting, and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, [3][given] under clause (j) or which is not in support of the recommendation of the Standing Committee or the Commissioner as the case may be, with reference to any urgent business brought by any of those authorities, respectively before the meeting :

1. Subs. by Act 5 of 1982, w.e.f. 14.12.1981.
2. Subs. for the word "Councillor" by Act 17 of 1994.
3. Subs. for the word "published" by Act 5 of 1982.

Provided that no such urgent business as aforesaid shall be brought before any meeting unless at least three-fourths of the [1][members] present at such meetings, such three-fourths being not less than one-sixth of the whole number of members, assent to its being brought forward thereat;

(l) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget-estimate no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget-estimate as the case may be, and no proposition involving any change in the taxes which the Standing Committee proposes to impose or an increase or decrease of any item of expenditure in a budget-estimate shall be made or discussed at any meeting at which such budget-estimate is under consideration, unless such proposition is specified in the notice of the meeting [2][given] under clause (i) or in the supplementary announcement, if any, [2][given] under clause (j) or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (m) has been fulfilled;

(m) any meeting may, with the consent of a majority of the members present be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjourned meeting took place:

Provided that at any adjourned meeting at which a budget-estimate is under consideration a proposition involving any change such as is described in clause (l) may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place if each of the following conditions had been fulfilled, namely—

(i) that written notice of such proposition has been given at the meeting from which the adjournment took place;

(ii) that the adjournment has been for not less than two clear days; and

1. Subs. for the word "Councillor" by Act 17 of 1994.
2. Subs. for the word "published" by Act 5 of 1982.

(iii) that a special announcement of the proposition has been given by the Municipal Secretary who shall be bound to give such announcement [1][in the manner practicable] not later than the day previous to the adjourned meeting :

(n) a minute of the proceedings at every meeting and showing the names of the members present thereat shall, on the day following the meeting, or as soon thereafter as may be, drawn up and fairly entered by the Municipal Secretary in a book to be provided for this purpose and shall be signed at, by the presiding authority, of the next ensuing meeting; and the said minute book shall at all reasonable times be open at the Chief Municipal Office to inspection by any [2][member] free of charge, and by any other person on payment of a fee of eight annas;

(o) a member shall not vote or take part in the discussion of any matter before a meeting or ask any question concerning any matter in which he is, directly or indirectly, by himself or by his partner, professionally interested on behalf of a client, principal or other person;

(p) every question other than the question whether the Standing Committee or the Commissioner shall be permitted to bring urgent business before a meeting without notice, shall be decided by a majority of votes of the [2][members] present and voting on that question, the presiding authority having a casting vote when there is an equality of votes;

(q) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute book shall, unless a poll be demanded at the time of such declaration by any member, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition ;

(r) when a poll is taken, the vote of each member present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the members voting respectively for or against the proposition shall be recorded in the minute book;

1. Subs. for the words "in not less than one local daily newspaper" by Act 5 of 1982.
2. Subs. for the word "Councillor" by Act 17 of 1994.

(s) the Commissioner shall have the same right of being present at a meeting of the Corporation and of taking part in the discussions thereat as a [1][member] and with the consent of the presiding authority may at any time make a statement or explanation of facts, but he shall not vote upon, or make any proposition at such meetings;

(t) the Corporation may require any officer of the Corporation to attend any meeting or meetings of the Corporation at which any matter dealt with by such officer in the course of his duties is being discussed. When any officer is thus required to attend any such meeting, he may be called upon to make a statement or explanation of facts or supply such information in his possession relating to any matter dealt with by him as the Corporation may require.

89. Powers to order withdrawal of Member:— (1) The presiding authority shall preserve order and may direct any [1][member] whose conduct is in his opinion grossly disorderly to withdraw immediately from the meeting of the Corporation. Any [1][member] so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any [1][member] is ordered to withdraw a second time within 15 days, the presiding authority may suspend the member from attending the meetings of the Corporation and of any committee for any period not exceeding 15 days and the [1][member] so directed shall absent himself accordingly :

Provided that the presiding authority may remit the period of suspension on apology being made to his satisfaction by the [1][member] under suspension.

(2) The presiding authority may, in the case of grave disorder arising in the meeting suspend the meeting for a period not exceeding three days.

Commentary

This section empowers the presiding officer of the meeting of the corporation to order a member to withdraw from the meeting and also suspend the member for not more than fifteen days subject to power of remission. He can suspend the meeting for a period not exceeding three days in case of great disorder arising in the meeting.

1. Subs. for the word "Councillor" by Act 17 of 1994.

[1][**90. Election of Mayor and Deputy Mayor:—** (1) The elected members referred to in sub-section (1) as well as *ex-officio* members referred to in sub-section (1-A) of Section 5 of this Act, shall elect one of its elected Members to be its Mayor and another to be its Deputy Mayor at the first meeting of the Corporation after the ordinary elections by show of hands on party basis duly obeying the party whip given by such functionary of the recognised political party, in the manner prescribed. At an election held for that purpose, if Mayor or Deputy Mayor is not elected, fresh election shall be held on the next day. The names of the Mayor and the Deputy Mayor so elected shall be published in the prescribed manner. Any casual vacancy in the said offices shall be filled, in the same manner at a casual election and a person elected as Mayor or the Deputy Mayor in any such vacancy shall enter upon office forthwith and hold office only so long as the person in whose place he is elected would have been entitled to hold office, if the vacancy had not occurred:

Provided that a member voting under this sub-section in disobedience of the party whip shall cease to hold office in [2][in the manner prescribed] and the vacancy caused by such cessation shall be filled as a casual vacancy.

(2) The Mayor or the Deputy Mayor as the case may be, shall be deemed to have assumed office on his being declared as such and shall hold office in accordance with the provisions of this Act and as long as he continues to be an elected member, unless resigned or removed from such office by no-confidence motion or for any other reason in accordance with the provisions of this Act.]

[3][**90-A. Resolution of disputes relating to cessation for disobedience of party whip:—** Where a member ceased to hold office for disobedience of the party whip, he may apply to the District Court having jurisdiction over the area in which the office of Corporation is situated, for a decision.]

91. Deputy when to act as Mayor:— (1) When the office of the Mayor is vacant his functions shall devolve on the Deputy Mayor until a new Mayor is elected.

1. Subs. for Sections 90 & 90-A, by Act 29 of 2005, w.e.f. 06.08.2005.
2. **Subs. for "forthwith" by Act 5 of 2008, w.e.f. 30.04.2008.**
3. **Ins. by Act No. 5 of 2008, w.e.f. 30.04.2008.**

(2) If the Mayor leaves the City for more than fifteen days or is incapacitated, his functions shall devolve on the Deputy Mayor until the Mayor returns to the City or recovers from his incapacity as the case may be.

[1][**91-A. Motion of no-confidence in Mayor/Deputy Mayor:—** (1) A motion expressing want of confidence in the Mayor otherwise than directly elected or Deputy Mayor may be made by giving a written notice of intention to move the motion, signed by not less than one half of the total number of members of the Corporation having right to vote, together with a copy of the proposed motion to the District Collector concerned in accordance with the procedure prescribed:

Provided that no notice of motion under this section shall be made within three (3) years of the date of assumption of office by the person against whom the motion is sought to be moved:

Provided further that if the motion is not carried by two-thirds majority or if the meeting could not be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same person shall be made until after the expiration of one year from the date of such first meeting:

Provided also that the membership of a suspended member shall also be taken into consideration for computing the total number of members and he shall also entitled to vote in a meeting held under this section.

(2) The District Collector shall then convene a meeting for the consideration of the motion at the office of Municipal Corporation on the date appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (1) was delivered to him. He shall give to the members, Mayor or Deputy Mayor as the case may be and the *Ex-officio* members, notice of not less than fifteen clear days excluding the date of the notice and the date of the proposed meeting of such meeting in such form as may be prescribed by the Government and such notice shall be delivered as may be specified.

Explanation:— In computing the period of thirty days specified in this sub-section, the period during which a stay order, if any, issued by a competen court on a petition filed against a notice under sub-section (1) is in force shall be excluded.

(3) The District Collector or other officer nominated by him (hereinafter referred to as *presiding officer*) shall preside at such meeting.

1. Ins. by Act 29 of 2005, w.e.f. 06.08.2005.

The quorum for such meeting shall be two-thirds of the total number of members. If within half an hour after the time appointed for the meeting, there is no quorum for the meeting, the Presiding Officer shall adjourn the meeting to some other time on the same date and notify the same in the notice board of the Corporation. If there is no quorum at the adjourned time of the same day, no further meeting shall be convened for consideration of the motion and the meeting shall stand dissolved and the notice given under sub-section (1) shall lapse.

(4) As soon as the meeting convened under this section commences, the presiding officer shall read only the motion for the consideration of which the meeting has been convened and shall put it to vote without any debate. The voting shall be by show of hands duly obeying the party whip given by such functionary of the recognised political party in the manner prescribed:

Provided that a member voting under this sub-section in disobedience of the party whip shall cease to hold office forthwith and the vacancy caused by such cessation shall be filled as a casual vacancy.

(5) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall be forwarded immediately on the termination of the meeting by the presiding officer to the District Collector. The District Collector shall forward the same along with his remarks to the Government.

(6) If the motion is carried with the support of two thirds majority of the total number of the members including the *ex-officio* members as on the date of the meeting, the Government shall by notification remove the Mayor or the Deputy Mayour as the case may be from office and the resultant vacancy shall be filled in the same manner as a casual vacancy.

Explanation I:— For the removal of doubts, it is hereby declared that for the purpose of this section, the expression "total number of members" means, all the members who are entitled to vote in the election to the office concerned including the *ex-officio* members.

Explanation II:— For the purposes of the section, in the determination of two-thirds of the total number of members, any fraction below 0.5 shall be ignored and any fraction of 0.5 or above shall be taken as one.]

92. Resignation:— (1) The Mayor may resign his office by giving notice in writing to the Corporation ; the Deputy Mayor may resign his office by giving notice in writing to the Mayor. Such resignation shall take effect in the case of Mayor from the date on which it is accepted by the Corporation and in the case of the Deputy Mayor, by the Mayor.

(2) Any [1][member] may resign his office at any time by notice in writing to the mayor and such resignation shall take effect from the date on which it is accepted by the Mayor.

Committees

[2]**[93. Constitution of the Standing Committee:—** [3][(1)(a) There shall be constituted for the Corporation a Standing Committee consisting of not less than five and not more than fifteen members chosen by the Corporation from among themselves as prescribed to exercise the powers and perform the functions entrusted to it under this Act.

(b) The members of the Standing Committee shall hold office for a period of one year from the date of choosing by the Corporation:

Provided that a member of the Standing Committee shall cease to hold office if he ceases to be a member of the Corporation:

Provided further that the members of the Standing Committee holding office at the commencement of the Andhra Pradesh Municipal Laws (Second Amendment) Act, 2008 shall hold office until the expiry of their term of office.]

[4][(2) The Mayor or in his absence, the Deputy Mayor of the Corporation shall be the *ex-officio* Chairperson of the Standing Committee:

Provided that the Chairperson of the Standing Committee holding office at the commencement of this Act, shall hold office until the expiry of his term of office.]]

94. to 96. [Omitted].

1. Subs. for the word "Councillor" by Act 17 of 1994.
2. Sections 93 subs. for Sections 93 to 96 (both inclusive) by Act 17 of 1994.
3. **Subs. by Act No. 7 of 2008, w.e.f. 6-2-2010, vide G.O.Ms.No. 48, MA & UD (UBS), dt. 4-1-2010.**
4. Subs. for sub-sections (2) & (3) by Act 29 of 2005, w.e.f. 06.08.2005.

97. Provisions regulating the proceedings of the Standing Committee:— [1][(1)] The Standing Committee shall meet for the despatch of business in the Chief Office of the Municipal Corporation and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts as they think fit, subject to the following conditions:—

(a) there shall be a meeting of the Standing Committee once a week, and at such other times as shall be found necessary ;

(b) the first meeting of each Standing Committee shall be held on a day and at a time to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner ; and every subsequent meeting of the Standing Committee shall be held on such day and at such time as the said Committee may from time to time determine;

(c) the Chairman of Standing Committee shall, upon a written requisition signed by the Commissioner, call a special meeting of the said Committee within twenty four hours for the transaction of any business which, in the opinion of the Commissioner, cannot be delayed until the next ordinary meeting of the said Committee ;

(d) no business shall be transacted at a meeting of the Standing Committee unless at least half of the total number of members are present from the beginning to the end of such meeting;

(e) every meeting of the Standing Committee shall be presided over by the chairman, if the chairman is present at the time appointed for holding the meeting and if the chairman is absent, by such one of the members present as may be chosen by the meeting to be the Chairman for the occasion;

(f) every question shall be decided by a majority of votes of the members of the Standing Committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes ;

(g) subject to any bye-laws made in this behalf the Standing Committee may from time to time, by a specific resolution in this behalf, delegate any of its powers or duties to sub-committees, consisting

1. Section 97 numbered as sub-section (1) by A.P. Act 11 of 1991, w.e.f. 16.04.1991.

of such members of the said committee, not less in number than three on each sub-committee as they think fit ; and any sub-committees so formed shall conform to any instructions that may from time to time be given to them by the Standing Committee and the said Committee may at any time discontinue or alter the constitution of any sub-committees so formed ;

(h) a sub-committee may elect a Chairman of its meeting, and if no such Chairman is elected or if he is not present at the time appointed for holding any meeting, the members of the sub-committee present, shall choose one of their members to be Chairman of such meeting ;

(i) a sub-committee may meet and adjourn as it thinks proper, but the Chairman of the Standing Committee may, whenever he thinks fit, and shall, upon the written request of not less than two members of a sub-committee, call a special meeting of such sub-committee ;

(j) questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the Chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof ;

(k) a minute shall be kept by the Municipal Secretary of the names of the members present and of the proceedings at each meeting of the Standing Committee and at each sub-committee's meeting in a book to be provided for this purpose which shall be signed at, and by the presiding authority of, the next ensuing meeting;

(l) a member of the Standing Committee shall not vote or take part in the discussion before the said Committee or before any sub-committee on any matter in which he is directly or indirectly, by himself or by his partner, professionally interested on behalf of a client, principal or other person;

(m) the Commissioner shall have the same right of being present at a meeting of the Standing Committee and of taking part in the discussions thereat as a member of the said Committee, but he shall not vote upon, or make any proposition at such meeting;

(n) the Standing Committee may require any officer of the Corporation to attend any meeting or meetings of the Standing Committee at which any matter dealt with by such officer in the course of his duties is being discussed ; when any officer is thus required to attend any such meeting he may be called upon to make a statement or explanation of facts or supply such information as may be in his possession relating to any matter dealt with by him.]

[1][(2) Where a subject is placed before the Standing Committee, the Standing Committee shall take a decision thereon within a period of fifteen days from the date of placing the matter before it, and if a subject is not considered by the Standing Committee within the aforesaid period, the proposal contained in the subject shall be deemed to have been approved by the Standing Committee. Where a proposal is rejected by the Standing Committee, the Commissioner shall place the matter before the Corporation within a period of fifteen days from the date of such rejection for its decision and a meeting for this purpose shall be held in accordance with clause (c) of Section 88].

Commentary

Scope:— This section regulates the proceedings of the standing committee.

Standing Committee:— In the Municipal Corporation of twin cities it consists of sixteen members. Section 93 of this Act applies to the Municipal Corporations of Vijayawada and Visakhapatnam.

Appointment:— The corporation at its first meeting shall appoint Standing Committee which will retire every year at the end of the year by the noon of the first day of the month in which the first meeting was held.

Who will retire:— For the first year the members who are to retire shall be decided by lot by the chairperson and in successive years the members who have been in office for the longest period.

Reappoint:— The retiring members are eligible for appointment.

Transitory Provision:— At the expiry of the term of the members and between the appointment of the new standing committee the last committee shall function till the new Committee is appointed.

Proceedings of the Standing Committee:— It can make regulations for conducting meetings.

1. Sub-sec. (2) inserted by A.P. Act 11 of 1991, w.e.f. 16.04.1991.

Meetings:— It shall meet at least once in a week and at such other times according to necessity.

First meeting:— The first meeting shall be fixed by the Commissioner the other meetings are to be fixed by the committee.

Special meetings:— Upon written requisition by the Commissioner, the Chairperson shall call a special meeting for doing business which cannot wait for the ordinary meeting.

Quorum:— Half of the members of the Standing Committee, from beginning to the end.

President:— Meeting to be presided by the Chairman. In the absence of the Chairperson any member chosen by other members.

Decision:— All decisions by majority of votes.

Casting vote Minutes:— Minutes shall be recorded by the Municipal Secretary.

Sub-Committees:— Sub-Committees can be constituted with not less than three members.

Delegation of powers and duties:— Standing Committee can delegate its powers and duties to Sub-Committees.

Functioning of sub-committees:— The Corporation can frame bye-laws for delegation and constitution of sub-committees. They will function under instructions from the Standing Committee from time to time.

Sub-Committees meetings:— A sub-committee can elect a council member as a chairman. In his absence any number can be chosen as a chairman. It shall meet at its own discretion according to the need.

Special meeting:— Upon requisition from at least two members of the sub-committee, the Chairman of the Standing Committee can call a special meeting.

Quorum of special meeting:— Two thirds of the members of the Sub-Committee.

Decision:— Majority of Vote.

Casting vote:— Chairman has a casting vote.

Minutes of the Sub-Committees:— Minutes shall be kept by the Municipal Secretary.

Member not to vote:— Member of the Standing Committee or Sub-Committee shall not vote if he is interested in the subject.

Commissioner's rights:— Commissioner has the right to participate in the meeting of the Standing Committee but has no power to vote.

Other Officers:— The Standing Committee has power to require any officer to be present in the Meeting to make a statement or explain facts.

This section empowers the Corporation to appoint Special Committees.

98. Special Committees of the Corporation:— (1) The Corporation, may from time to time appoint, out of their own body, Special Committees and may by specific resolution carried by a vote of at least two-thirds of the members of the Corporation present at the meeting, delegate any of their powers and duties to such committees, and may also by a like resolution define the sphere of business of each Special Committee so appointed, and direct that all matters and questions included in any such sphere shall, in the first instance, be placed before the appropriate committee and shall be submitted to the Corporation with such committee's recommendations.

[1][***Explanation:—*** For the removal of doubt, it is hereby declared that the term "Corporation" shall include the "ex-officio [2][members]"].

(2) Every Special Committee shall conform to any instructions that may from time to time be given to them by the Corporation.

(3) The Corporation may, at any time, dissolve or subject to any bye-laws made by them in this behalf alter the constitution of any Special Committee.

(4) Every Special Committee shall appoint two of their members to be the Chairman and Deputy Chairman :

Provided that no member shall, at same time, be Chairman of more than one Special Committee.

(5) In the absence of the Chairman or Deputy Chairman, the members of the Special Committee present shall choose one of their members to preside over their meeting.

(6) All the proceedings of every Special Committee shall be subject to confirmation by Corporation :

Provided that any Special Committee may by a resolution supported by atleast one-half of the whole number of members of the committee direct that action be taken in accordance with the decision of such committee without waiting for confirmation of their proceedings by the Corporation, should the committee consider that serious inconvenience

1. Added by Act 5 of 1982, w.e.f. 07.03.1982.
2. Subs. for "Councillors" by A.P. Act 17 of 1994.

would result from delay in taking such action; but if the Corporation do not confirm the proceedings of the Special Committee such steps shall be taken to carry out any orders passed by the Corporation as may still be practicable :

Provided also that if, in delegation any of their powers or duties to a Special Committee under sub-section (1), the Corporation directs that the decision of the Special Committee shall be final, then so much of the proceedings of the Special Committee as related to such powers or duties shall not be subject to confirmation by the Corporation, if such decision is supported by at least one half of the whole number of members of the committee.

(7) The Standing Committee may, from time to time, by a resolution carried by a vote of at least two thirds of their members present at the meeting, delegate to any Special Committee appointed under sub-section (1) any of their powers and duties in respect of any matter with which such Special Committee is competent to deal, or refer to any such committee any such matter for disposal or report, and every such Special Committee shall conform to any instructions that may from time to time be given to them by the Standing Committee in this behalf :

Provided that every such resolution shall be reported by the Standing Committee to the Corporation as soon as possible, and the Corporation may at any time cancel such resolution.

(8) Any member of a Special Committee who absents himself during two successive months from the meetings of such Committee, except by reason of temporary illness or other cause to be approved by such Committee, or absents himself from or is unable to attend the meetings of such Committee during four successive months from any cause whatever, whether approved by such Committee or not shall cease to be a member of such Committee and his seat shall thereupon be vacant.

(9) The Corporation may make bye-laws for regulating the constitution of special committees and the conduct of business at meetings of such committees, and for the keeping of Minutes and the submission of reports.

99. Appointment of Ad-hoc Committee:— (1) The Corporation may, from time to time, appoint from amongst the [1][members] such Ad-hoc Committees consisting of such number of [1][members] as it shall think fit, and may refer to such Committees for inquiry and report or for opinion,

1. Subs. for the word "Councillors" by Act 17 of 1994.

such special subjects relating to the purposes of this Act as it shall think fit, and direct that the report of any such committees shall be submitted through the Standing Committee or a Special Committee constituted under Section 98.

(2) An Ad-hoc Committee appointed under sub-section (1) may, with the previous sanction of the Corporation co-opt not more than two persons who are not [1][members] but who in the opinion of the committee possess special qualifications for serving thereon.

100. Joint transactions with other local authorities:— (1) The Corporation, may from time to time join with a local authority or with a combination of local authorities,—

(a) in appointing a joint committee out of their respective bodies for any purpose in which they are jointly interested and in appointing a Chairman of such Committee ;

(b) in delegating to any such committee power to frame terms binding on each such body as to the constitution and future maintenance of joint work and any power which might be exercised by such bodies ; and

(c) in framing and modifying bye-laws for regulating the proceedings of any such committee in respect of the purpose for which the Committee is appointed.

(2) Where the Corporation has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the Government may after hearing the objections, if any of such local authority pass such orders as it deems fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(3) If any difference of opinion arises between the Corporation and any other local authority which has joined the Corporation under this section, the matter shall be referred to Government whose decision, thereupon shall be final and binding :

1. Subs. for the word "Councillors" by Act 17 of 1994.

Provided that if the local authority concerned is a cantonment authority, any such decision shall not be binding unless it is confirmed by the Central Government.

(4) The Corporation, may from time to time, with the sanction of Government enter into an agreement with a local authority or with a combination of local authorities for levy of octroi or toll or any other tax by the Corporation on behalf of the bodies so agreeing and in that event the provisions of this Act shall apply in respect of such levy as if the area of the city were extended so as to include the area subject to the control of such local authority or such combination of local authorities.

Provisions regarding validity of proceedings

101. Vacancies in Corporation, etc., not to invalidate its proceedings:— No act or proceedings of the Corporation or of any Committee or Sub-Committee appointed under this Act shall be questioned on account of any vacancies in its body.

102. Proceedings of Corporation etc., not vitiated by disqualification, etc., of members thereof:— No disqualification of or defect in the election or appointment of any person acting as a [1][member], as the Mayor or the Deputy Mayor or the Presiding Authority of the Corporation or as the Chairman or a [1][member] of any Committee or Sub-Committee appointed under this Act shall be deemed to vitiate any act or proceedings of the Corporation or of any such Committee or Sub-Committee, as the case may be, in which such person has taken part, provided the majority of the persons who were parties to such act or proceedings were entitled.

103. Proceedings of meeting to be good and valid until contrary is proved:— Until the contrary is proved, every meeting of the Corporation or of a Committee or Sub-Committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of meeting shall be deemed to have been duly qualified ; and where the proceedings are proceedings of a Committee or Sub-Committee, such Committee or Sub-Committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the Minutes.

1. Subs. for the word "Councillors" by Act 17 of 1994.

The Municipal Commissioner

104. Appointment of Commissioner:— (1) Subject to the provisions of sub-section (3), the Commissioner shall from time to time be appointed by the Government.

(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 the undertaking thereof by him.

(3) The Commissioner appointed under sub-section (1) shall be liable to be removed from his office as such by the Government, if—

(a) at a meeting of the Corporation not less than two-thirds of the total number of Members vote for such removal in cases where the Commissioner persistently—

(i) makes default in performing the duties imposed or exceeds the powers conferred on him by or under this Act, or

(ii) neglects or refuses to implement the decisions of the Corporation, or Standing Committee or any other Committee of the Corporation, or

(iii) acts in a manner prejudicial to the interests of the Corporation;

(b) it appears to the Government that he is incapable of performing the duties of his office, or has been guilty of misconduct and neglect.

[1][**105. Appointment of** [2][**Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner**]**:—** The Government may appoint [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] to the Corporation. The persons so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.]

1. Subs. by A.P. Act 3 of 1994, w.e.f. 01.03.1994.
2. Subs. for the words "Additional Commissioner and Deputy Commissioner" by Act 25 of 2007, w.r.e.f. 04.05.2007.

106. [1][Functions of an [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner]]:— (1) [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] so appointed shall be subordinate to the Commissioner and shall exercise such of the powers and perform such of the duties as the Commissioner shall from time to time depute to him provided that the Commissioner informs the Corporation of the powers and duties which he, from time to time, deputes to the [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner].

(2) All acts and things performed and done by an [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] during his tenure of the said office and in virtue thereof, shall for all purposes be deemed to have been performed and done by the Commissioner.

Remuneration of Commissioner and [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner].

107. Salary of the Commissioner and [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner]:— The Commissioner and the [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] shall receive from the Local Government Service Fund constituted under sub-section (1) of Section 131 such monthly salary and allowances as Government may, from time to time, determine :

Provided that the salary of the Commissioner and the [2][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] shall not be altered to their disadvantage during the period for which their appointments have been made or renewed.

1. Subs. by A.P. Act 3 of 1994, w.e.f. 01.03.1994.
2. Subs. for the words "Additional Commissioner and Deputy Commissioner" by Act 25 of 2007, w.r.e.f. 04.05.2007.

Provisions for Absence of Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] on leave

108. Grant of leave of absence to the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner]:— Leave of absence may be granted, from time to time, to the Commissioner or the [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] by the Government in consultation with the Standing Committee.

109. Allowance whilst absent on leave:— The allowance to be paid to the Commissioner or to an [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] for absence on leave shall be of such amount, not exceeding respectively the amount of the salary of the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] as shall be determined by the Government :

Provided that if the Commissioner or an [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] is a salaried servant of the Government, the amount of such allowance shall be regulated by the rules in force, relating to the leave allowance of the officers of his class.

110. Appointment and remuneration of Acting Commissioner or Acting [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner]:— During the absence on leave or other temporary vacancies in the Office of the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] the Government may appoint a person to act as a Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint

1. Subs. for the words "Additional Commissioner and Deputy Commissioner" by Act 25 of 2007, w.r.e.f. 04.05.2007.

Commissioner, Deputy Commissioner and Assistant Commissioner] as the case may be, and every person appointed so to act shall exercise the powers and perform the duties conferred and imposed by this Act or any other law in force on the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] and be subject to all the liabilities, restrictions and conditions to which the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] is liable and shall receive a monthly salary not exceeding the salary payable to the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] as the Government shall determine.

Disqualification of the Commissioner and the [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner]

111. Commissioner and [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] not to be interested in any contract with the Corporation:— (1) No person shall be qualified to be appointed to be the Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] who has directly or indirectly or by himself or his partner or as a member of a Joint Hindu family any share or interest in any contract or employment with by or on behalf of the Corporation other than as a Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] as the case may be.

(2) Any Commissioner or [1][Special Commissioner, Additional Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] who shall acquire directly or indirectly by himself or his partner or as a member of Joint Hindu Family any share or interest in any such contract or employment as aforesaid shall cease to be Commissioner or an [1][Special Commissioner, Additional

1. Subs. for the words "Additional Commissioner and Deputy Commissioner" by Act 25 of 2007, w.r.e.f. 04.05.2007.

Commissioner, Zonal Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner] as the case may be and his office shall become vacant.

Explanation:— Nothing in this section shall apply to any such share of interest in any contract or employment with, by or on behalf of the Corporation as in clause (h) of Section 22 it is permissible for a [1][member] to have without his being thereby disqualified for being a [1][Member].

CHAPTER III

Duties and powers of the municipal authorities ; Obligatory and discretionary Duties of the Corporation

112. Matters to be provided for by the Corporation:— The Corporation shall make adequate provision for the following matters, namely:—

(1) erection of substantial boundary marks of such description and in such positions as shall be approved by the Government defining the limits or any alteration in the limits of the City ;

(2) the watering, scavenging and cleaning of all public streets and places in the City and the removal of all sweepings therefrom;

(3) the collection, removal, treatment and disposal of sewage, offensive matter and rubbish and the preparation of compost manure from such sewage, offensive matter and rubbish ;

[2][(3-a) construction of drains and drainage works after collecting the prescribed fees fixed by the Commissioner, from time to time, from the persons who apply for construction addition or alterations of a building, in advance along with the application for sanction, and in the case of buildings already constructed from the occupiers thereof;]

(4) the [3][x x x] maintenance and cleaning of drains and drainage works, [4][and the construction, maintenance and cleaning of public latrines] water-closets, urinals and similar conveniences :

[5][Provided that it shall be competent for the Corporation to charge such fee as may be prescribed from time to time, from the user of public latrines, water closets, urinals and similar conveniences.]

1. Subs. for the word "Councillor" by Act 17 of 1994.
2. Inserted by Act 6 of 1984, w.e.f. 1-7-1980.
3. The word "construction" omitted by *Ibid.*
4. Subs. by Act 23 of 1985.
5. Added by *Ibid.*

(5) the lighting of public buildings vested in the Corporation, public streets and municipal markets ;

(6) the maintenance of a municipal office and of all public monuments and open spaces and other property vesting in the Corporation ;

(7) the naming or numbering of streets and of public places in the Corporation and the numbering of premises ;

(8) the regulation of offensive and dangerous trades or practices;

(9) the maintenance, charge and regulation of places for the disposal of the dead and the provision of new places for the said purpose and disposing of unclaimed dead bodies;

(10) the construction or acquisition and maintenance of public markets and slaughter houses and the regulation of all markets and slaughter houses;

(11) the construction or acquisition and maintenance of cattle pounds;

(12) public vaccination in accordance with the provisions of [1][the Andhra Pradesh (Telangana Area) Vaccination Act, 1951 (Act XXIV of 1951) ;]

(13) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

(14) the registration of births and deaths ;

(15) the construction, maintenance, alteration and improvement of streets, bridges, sub-ways, culverts, causeways or the like;

(16) the removal of obstructions and projections in or upon streets, bridges and other public places ;

(17) the management and maintenance of all municipal water works and the construction or acquisition of new works necessary for a sufficient supply of water for public and private purposes ;

(18) preventing the spread of infectious diseases ;

(19) the securing or removal of dangerous buildings and places;

(20) the improvement of the City ;

(21) the provision of public parks, gardens, playgrounds and recreation grounds ;

1. Subs. by A.P. Act 9 of 1961.

(22) the fulfilment of any obligation imposed by or under this Act of any other law for the time being in force ;

(23) subject to adequate provision being made for the matters hereinbefore specified the provision of relief to destitute persons in the City in times of famine and scarcity and the establishment and maintenance of relief works in such times.

[1][(24) Planning for economic and social development;

(25) Urban Forestry, protection of the environment and promotion of ecological aspects;

(26) Safeguarding the interests of weaker sections of society including the disabled and mentally retarded;

(27) Promotion of cultural, educational and aesthetic aspects;

(28) Slum improvement and upgradation; and

(29) Urban poverty alleviation.]

Commentary

Scope:— This section lays down the matters for which adequate provisions must be made by the corporation.

Municipal markets:— The A.P. Buildings (Lease Rent and Eviction) Control Act does not apply to the occupants of the premises in a municipal market. They are only licensees. The Commissioner is entitled to vary the charge from time to time.

Occupant of a mulgi in the municipal markets:— A person who is put in occupation of stall, shop, mulgi, etc., in a Municipal Market is a mere licensee and that under Sec. 534 of the Hyderabad Municipal Corporation Act, the Commissioner may from time to time vary the charge which he makes for such occupation. There is no relationship of landlord and tenant- 1969(2) An. W.R. 301.

Naming of Community Hall :-Naming of a community hall by the Corporation on caste basis would offend the secular character of the Constitution and the law. The Municipal Corporation is a statutory authority constituted under Hyderabad Municipal Corporation Act, 1955. It is entrusted with certain public functions and to discharge them it is given vast powers, including power to tax and impose penalties on contraveners of provisions of the Act. Establishment of various offices for providing amenities for its constituents

1. **Added by Act No. 7 of 2008, w.e.f. 26-8-2009 (vide GOMs.No. 532, MA&UD (UBS) Dept., dt. 24-8-2009.**

is one of the prime functions. These public places are not meant for persons belonging to a particular community. All public authorities and statutory authorities shall have to discharge their functions subject to Statute under which they are constituted and above all subject to Constitution of India. Any action which would be contrary to the Constitution especially fundamental rights would face wrath of Articles 14 and 15 of the Constitution of India rendering themselves void. Caste cannot be the basis for construction of community halls, swimming pools, public libraries etc. No doubt, the Constitution is not caste blind, but it does not mean that caste only can be basis for discrimination. Even if the community hall is named after a particular Community, it will be thrown open to all persons belonging to all groups, is no concession at all when such action would be contrary to Articles 14 and 15 of the Constitution of India. Therefore naming of a community hall by the Corporation on caste basis would offend the secular character of the Constitution and the law. *Udayanagar Colony Residents Welfare Association and others vs The District Collector Hyd. and others,* AIR 2003 AP 210

Destruction of unlicensed and unclaimed stray dogs:— The mandatory duty of the Corporation under Section 112 of the Act for preventing the spread of infectious diseases does not include the duty to destroy unlicensed and unclaimed stray dogs. In the instant case Blue Cross, a Voluntary Social Organisation has come forward to assist the Corporation in its battle against the problem of dog biting menace in the twin cities of Hyderabad and Secunderabad and the respondent Corporation has accepted its voluntary services. That was held not a case of sub-delegation. *J. Gopalan v. Municipal Corporation of Hyderabad and Others,* 1996 (1) ALD 1122 = 1996 (1) ALT 600 = 1996 (1) LS 308.

113. Corporation to provide for anti-rabic treatment:— The Corporation shall make payments at such rates and subject to such conditions as the Government may from time to time by general or special order determine, for the maintenance and treatment in any institution which the Government declares by notification in the [1][Andhra Pradesh Gazette] to be suitable for such purpose either within or without the City and other necessary expenses of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institutions :

Provided that the Corporation shall not be liable under this section for the maintenance, treatment and other expenses of any person undergoing anti-rabic treatment as an indigent person in any such institutions as aforesaid, unless such person immediately previous to his admission thereto has been resident in the City for atleast one year and has proceeded to such institutions from the City.

1. Subs. by A.P. Act 5 of 1969.

114. Corporation to provide for maintenance of lunatic asylums:— (1) The Corporation shall make payments at such rates per head as the government, from time to time by general or special order determine, for the maintenance and treatment either in the city or at any asylum, hospital or house, whether within or without the city, which the Government declares by notification to be suitable for such purpose of pauper lunatics not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, resident within, or under any enactment for the time being in force removed from, the city :

Provided that the Corporation shall not be liable under this section for the maintenance and treatment of any lunatic in any such asylum, hospital or house aforesaid, unless such lunatic, previous to his admission thereto, has been resident in the city for at least one year :

Provided further that where an application is made to the High Court under the provisions of Section 88 of the Indian Lunacy Act, 1912, [1][x x x] no order for the payment of the cost of maintenance of the lunatic by the Corporation shall be made without an opportunity being given to the Corporation to show that the lunatic is not pauper and has an estate applicable to his maintenance or that there is a person legally bound and having the means, to maintain him :

Provided also that the rates determined by the Government under this section shall not exceed half the total cost of maintenance and treatment incurred per head on account of the lunatics for whose maintenance and treatment the Corporation shall be liable under this section.

(2) The Officer-in-Charge of any asylum, hospital or house to which lunatics for whose maintenance and treatment the Corporation is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of such persons detained in the asylum, hospital or house and shall furnish a copy thereof to the Corporation.

115. Matters which may be provided for by Corporation at its discretion:— The Corporation may provide from time to time, either wholly or partly, for all or any of the following matters, namely:—

(1) the organisation, maintenance or management of institutions within or without the city for the care of persons who are infirm, sick or incurable,

1. The words "81 of the Hyderabad Lunacy Regulation, 1355 Fasli" omitted by APAO 1957.

or for the care and training of blind, deaf, mute or otherwise disabled persons or of handicapped children ;

(2) the organisation, maintenance or management of maternity and infant welfare homes or centres ;

(3) the provision of milk to expectant or nursing mothers or infants or school children ;

(4) the organisation, maintenance or management of chemical or bacteriological laboratories for the examination or analysis of water, food or drugs, for the detection of disease or for researches connected with public health.

(5) swimming pools, public wash-houses, bathing places and other institutions designed for improvement of public health :

[1][Provided that it shall be competent for the Corporation to charge such fee as may be prescribed, from time to time from the user of the conveniences aforesaid.]

(6) dairies or farms within or without the city for the supply, distribution and processing of milk products for the benefit of the residents of the city ;

(7) the construction and maintenance in public streets or places of drinking fountains for human beings and water troughs for animals;

(8) the planting and maintenance of trees on road sides and elsewhere;

(9) the providing of entertainments in public places or places of public resort ;

(10) the holding of exhibitions, athletics or games ;

(11) the regulation of lodging houses, camping grounds and rest houses in the city ;

(12) the maintenance of an ambulance service ;

(13) the construction, establishment and maintenance of theatres, places of entertainment, rest-houses and other public buildings ;

(14) the organisation or maintenance in times of scarcity of shops or stalls for the sale of necessaries of life ;

1. Added by Act 23 of 1985.

(15) the building or purchase and maintenance of dwellings for municipal officers and servants ;

[1][(16) the grant of loans to the municipal officers and servants for purposes of constructing houses and for purchasing of house sites and vehicles on such terms and subject to such conditions as may be prescribed;]

(17) the organisation, maintenance or management of transport facilities for the conveyance of the public or goods ;

(18) the furtherance of educational objects, and the making of grants to educational institutions ;

(19) the establishment and maintenance or the aiding of libraries, museums and art galleries, botanical or zoological collections and the purchase or constructions of buildings therefor ;

(20) the destruction of vermins, birds or animals causing a danger or nuisance, and the confinement or destruction of stray dogs ;

(21) contributions towards any public fund raised for the relief of human suffering within or without the city ;

(22) the granting of rewards for information which may tend to secure the current registration of vital statistics ;

(23) the acquisition and the maintenance of grazing grounds and the establishment and maintenance of a stud farm ;

(24) establishing and maintaining a farm or factory for the disposal of sewage ;

(25) supplying constructing and maintaining in accordance with the general system approved by the Corporation, receptacles, fittings, pipes and other appliances whatsoever on or for the use of premises for receiving and conducting the sewage thereof into drains under the control of the Corporation ;

(26) granting rewards for information regarding the infringement of any provisions of this Act, or of the rules, bye-laws, regulations or standing orders made thereunder ;

(27) laying out whether in areas previously built upon or not, new streets and acquiring land for that purpose or required for the construction of buildings or curtilages thereof to abut on such street or streets ;

1. Clause (16) subs. by Act 8 of 1982.

(28) the building or purchase and maintenance of suitable dwellings for the poor and working classes ;

(29) the provision of shelter to destitute or homeless persons and any form of poor relief ;

(30) the building or purchase and maintenance of sanitary stables, or byres for horses, ponies, cattle used in hackney carriages or carts or for milch-kine ;

(31) the surveying of buildings or lands ;

(32) taking measures to meet any calamity affecting the public in the city ;

(33) the making of a contribution towards any public ceremony or entertainment in the city ;

(34) the construction, purchase, organisation, maintenance, extension and management of tramways, trackless trams mechanically propelled transport facilities for the conveyance of the public ;

(35) the purchase, maintenance, management and conduct of any undertaking for the supply of electric energy or gas to the public or the subsidising of any such undertaking ;

(36) the acquisition of immovable or movable property for any of the purposes before mentioned including payment of the cost of investigation, surveys or examinations in relation thereto or the construction or adaptation of buildings necessary for such purposes;

(37) preparation and presentation of address to persons of distinction;

(38) maintaining, aiding and suitably accommodating schools for primary education, subject always to the grant of building grants by the Government;

(39) the taking of any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

[1][(40) provide parking places, public landing places, halting places, for vehicles of any description including motor vehicles and levy fees for their use.]

1. Ins. by Act 10 of 1987.

Commentary

Parking Places in Commercial Complex - Levy of fees :- Section 115(40) of the HMC Act casts a duty on the Corporation to provide parking places and levy fees for their use. In view of the definition of public place, all the places to which public have access or public visit are public places and the Corporation has a duty to regulate such parking places. All the commercial complexes are built and operated either expressly or impliedly for the use of public. A person who constructs a commercial complex and expects public and people to come to the place for various activities cannot be permitted to contend that it is a private place. Having invited the public, the builder/owner is bound to take all necessary steps to provide proper security to the people visiting the premises. Therefore, parking place or a common area in a multi-storeyed commercial complex is a public place and nobody can claim absolute right to regulate and levy fees for parking at the parking place. This view is further supported by various provisions of the HMC Act, A. P. Apartments (Promotion of Construction and Ownership) Act, 1987, Municipal Corporation Building Bye-laws, Municipal Corporation of Hyderabad (Layout) Rules, 1965 and Multi-storeyed Building Regulations, 1981. *Ch. Madan Mohan and others* vs *Municipal Corporation of Hyderabad and another,* AIR 2003 AP 393 = 2003 (4) ALD 6.

Lease of Parking Places :-Builders/owners of commercial complexes or owners of apartments in a commercial complex have no absolute right to lease out or licence out parking areas. Such leasing or alienation is prohibited by the Apartments Act as well as various rules and regulations.

However, in case of residential multi-storeyed buildings, it is always permissible for the associations of apartment owners to regulate, without any extra charges, the enjoyment of common areas and common places by arriving at a consensus and conditions to be complied with by the users for availing such facilities. Insofar as multi-storeyed commercial complexes are concerned, the builder/owner under law has impliedly accepted by reason of building permission and other provisions to keep parking places for the use by visitors to the complex and hence builders/owners or their licensees cannot charge any fees. *Ch. Madan Mohan and others* vs *Municipal Corporation of Hyderabad and another,* AIR 2003 AP 393 = 2003 (4) ALD 6.

116. Social and economic measures:— Government may, in consultation with the Corporation and on such terms and conditions as may be specified in the said order, require the Corporation at any time by a notified order to undertake such measures for the improvement of Social and Economic status of the inhabitants of the City as shall be specified in the said order.

Respective Functions of Several Municipal Authorities

117. Functions of the several Municipal Authorities:— (1) The respective functions of the several Municipal authorities shall be such as are specifically provided under this Act or the rules or bye-laws made thereunder.

(2) Except as otherwise expressly provided in this Act, the municipal Government of the City vests in the Corporation.

(3) Subject to the approval or sanction of the Corporation or the Standing Committee and subject also to all other restrictions, and conditions and limitations imposed by this Act or by any other law for the time being in force and whenever it is in this Act expressly so directed, the entire executive power for the purpose of carrying out of the provisions of this Act and of any other law for the time being in force which imposes any duty, or confer any power on the Corporation vests in the Commissioner who shall also:—

(a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act or by any other law for the time being in force ;

(b) specify the duties of, and exercise supervision and control over the acts and the proceedings of all municipal officers and servants other than the Municipal Secretary or Municipal Examiner of Accounts and the municipal officer and servants subordinate to them ;

(c) in any emergency take such immediate action for the service or safety of the public or the protection of the property of the Corporation as the emergency shall appear to him to justify or to require, notwithstanding that such action cannot be taken under this Act without the sanction, approval or authority of some other municipal authority or of the Government :

Provided that the Commissioner shall report forthwith to the Standing Committee and to the Corporation the action he has taken, and his reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred in consequence of such action which is not covered by a current budget grant under the provisions of this Act.

Commentary

Municipal government of city:— Municipal Government is the Corporate Government of a city or a town.

In *Burns vs. Lans* (1949 ALR 817), Dixon. J. observed:

"I take the word Government to signify the established system of political rule, the governing power of the country consisting of the executive and the legislature considered as an organised entity and independent by the persons of whom it consists from time to time."

Commissioner:— The entire executive power vests in the Commissioner. Article 53 of the Constitution laid down that the executive power of the Union shall be vested in the President.

Executive power:— The expression 'executive power' is not defined in this Act.

Wharton's Law Lexicon (AIR 1953 Mad. 41), the expression 'Executive Power' has been explained as follows:

"Executive, that branch of the Government which puts the laws into execution as distinguished from the legislative and judicial branches. The body that deliberates and enacts laws is legislative; the body that Judges and applies the laws in particular cases is judicial; and the body that carries the laws into effect or superintendents the enforcement of them is executive. The executive authority in all monarchies, is vested in the sovereign.

Harold J. Laski in his treatise 'Grammar and Politics' 2nd edition at page 295 observed:

"Since the time of Aristotle, it has been generally agreed that political power is divisible into three broad categories. There is first the legislative power. It enacts the general rules of the Society. It lays down the principles by which the members of the Society must set their course. There is secondly the executive power. It seeks to apply those rules to particular situations; where for instance, an old Age Pension Law has been enacted, it pays out the specific sum to those entitled to receive it. There is thirdly, the judicial power. This determines the manner in which the work of the executive has been fulfilled. It sees to it, that the exercise of executive authority conforms to the general rules laid down by the legislature. It may as in, *Rex v. Secretary of State,* 1923 (2) KB 361 at 377 declare that the particular order issued is in fact *ultra vires.* It settles also the relationship between private citizens, on the one hand, and between the citizens and the Government upon the other, where these give rise to problems which do not admit of solution by agreement".

Executive power without law:— Though the Executive generally carries out the laws made by the Legislature its power is not confined to the execution of laws passed by the Legislature. It has powers conferred by the constitution expressly or impliedly.

The implied powers are those which vest in Government by virtue of what is called its inalienable functions or sovereign powers, eg. Defence, law and order etc., and secondly those which are necessary for the exercise or performance of a general power conferred or duty enjoined by the Constitution or statute. AIR 1959 Cal. 506. Though it is different to define exactly what is executive power but yet it can be defined as residue of governmental functions that remain after legislative and judicial functions are taken away. AIR 1964 SC 648.

Specify duties and exercise supervision:— The Commissioner is vested with the power to specify the duties of all municipal officers and servants other than the Municipal Secretary and Examiner of Accounts. Supervision and control of their Acts is a vast power vested in the Commissioner. By clause (b) of Section 117(3) of this Act the Commissioner has got disciplinary control over officers and servants except the two exempted.

118. Commissioner to exercise powers and perform duties of Corporation under other laws:— (1) Any powers, duties and functions conferred or imposed upon or vested in the Corporation by any other law for the time being in force shall subject to the provisions of such law and to such restrictions, limitations and conditions as the Corporation may impose, be exercised, performed or discharged by the Commissioner.

(2) The Commissioner may, with the approval of the Standing Committee by order in writing, empower any municipal officer to exercise, perform or discharge any such power, duty or function under the control of the Commissioner and subject to his revision and to such conditions and limitations if any, as he may think fit to impose.

119. Municipal Officers may be empowered to exercise certain of the powers etc., of the Commissioner:— (1) [1][x x x] Any of the powers, duties or functions conferred or imposed upon or vested in the Commissioner by or under any of the provisions of this Act may be exercised, performed or discharged, under the control of the Commissioner and subject to his revision and to such conditions, if any, as may be imposed, or as he shall think fit to impose in a manner not inconsistent with the provisions of this Act or rules made thereunder, by any Municipal

1. The words "subject to the provisions of sub-section (2)" omitted by Act 3 of 1994.

Officer whom the Commissioner generally or specially empowers by orders in writing in this behalf, and to the extent to which any municipal officer is so empowered the word "Commissioner" occurring in any provision in this Act shall be deemed to include such officer.

(2) [1][x x x].

Commentary

Delegation of powers by commissioner:— With the prior approval of the Standing Committee the Commissioner is empowered to empower by order in writing any other officers to discharge or exercise any of the duties or powers and to the extent of those duties he will be deemed to be the Commissioner. The leading case is *Himayathnagar Rate Payers Association vs. Commissioner,* (1971) 1 An.WR 78.

What are delegatable:— The Commissioner can delegate Quasi-judicial power. It will be improper on his part to interfere with the delegate in exercise of Quasi-judicial power. The language does not mean that the Commissioner can delegate the power to decide taxation cases which is his duty under the Act and constitute himself after delegation a revisional authority. He can continue to exercise his control or supervisory function but only on its administrative side such as distribution of work etc. He neither can dictate in general or by a specific order as to what should be the decision in a given case entrusted by delegation to the valuation, nor can be Valuation Officers act upon such dictation or surrender their discretion to any one else including the Commissioner.

Merely because the Commissioner has delegated his powers, he is not denuded of his authority in all the cases. He retains to make decisions in relation to matters comprised within the delegation.

Membership of special committee:— From amongst the Members.

Appointment:— By two third of the members present in the meeting.

Delegation:— By a specific resolution delegate powers and indicate sphere of matters and questions for dealing.

Control:— The special committee shall function under instruction from time to time by the corporation. It shall submit report to the corporation.

Dissolutions:— The corporation may dissolve or alter the composition of the special committee.

Chairman:— No member can be chairman of more than one special committee.

1. Omitted by Act 3 of 1994.

Chairman and Deputy Chairman:— Every special committee shall have Chairman and Deputy Chairman from amongst their members. In the absence of Chairman and Deputy Chairman, any member can be chosen to preside over a meeting.

Confirmation:— All proceedings of the sub-committee shall be subject to the confirmation by the Corporation.

Action without confirmation:— In matters of serious inconvenience action can be taken without confirmation if half of the members of the Committee decide. But if no confirmation is accorded the steps shall be taken to implement any orders of the corporation.

Exemption from confirmation:— Where the corporation authorises the special committee to take action to be final, and such action of the special committee is supported by at least one half of members of the special committee confirmation is not necessary.

Delegation of standing committee:—The Standing Committee can delegate any of its functions to special committee and issue instructions for carrying out its directions such resolutions shall be submitted to the corporation.

Power of corporation:— The corporation has power to cancel a resolution of Standing Committee delegating the functions to special committee.

Cessation of membership:— A member of the Special Committee ceases to be its member if he—

(i) absent himself during two successive months from the meetings of such committee except on grounds of illness or other causes to be approved by the committee.

(ii) absent himself from meetings for four successive months from any cause whatever, his seat falls vacant.

Bye-laws:— The corporation is empowered to make bye-laws regarding the constitution and conduct of proceedings of special Committees. He can also revoke the authority of delegatee. If in pursuance of this power he delegates Quasi-judicial power, he must be deemed to have parted with the power. In such a case there will be a complete denudation of power, of course it is subject to revocation. He cannot dictate to the delegatee. 1970(2) ALT 134= 1971(1) An.WR 78.

Approval of Standing Committee:— Once the approval is granted and the powers are delegated, the Standing Committee was not empowered to withdraw the approval, at the time of the grant of the approval it was ofcourse open to the Standing Committee either to grant ordinary approval. But once it is granted the power is exhausted and no question of its withdrawal arises. There is no provision to warrant or justify such a withdrawal of power.

1970(2) ALT 134 = 1971(1) An.W.R. 78. The Bench relied on the judgment of the Supreme Court in the case of *Mohd. Ismail vs. Namey Lal.* AIR 1970 SC 1919. The Commissioner has power to authorise Sanitary Inspector to file complaint. AIR 1964 AP 290.

Authorisation to a Sanitary Inspector:— The institution of legal proceedings in respect of offences committed under the Hyderabad Municipal Corporation Act, 1956 is a power conferred upon or a function vested in the Commissioner under Sec. 647 of the said Act. Under Sec.119 any power or function of the Commissioner specified in the Schedule B can be delegated by him to any of his subordinate officers, with the prior approval of the Standing Committee. Any proceeding launched by a Sanitary Inspector with the authorisation of the commissioner is valid. AIR 1964 AP 290 = 1963 (2) ALT 453.

120. Corporation may call for extracts from proceedings of the Standing Committee, etc.:— The Corporation may at any time call for any extract from any proceedings of the Standing Committee or of any Committee or Sub-Committee constituted under this Act, and call for any return, statement, account or report concerning or connected with any matter with which the Standing Committee or any such Committee or Sub-Committee is empowered by or under this law to deal ; and every such requisition shall be complied with by the Standing Committee or other Committee or Sub-Committee, as the case may be, without unreasonable delay.

121. Corporation may require Commissioner to produce documents and furnish returns, reports, etc.:— (1) The Corporation may at any time require the Commissioner:—

(a) to produce any record, correspondence, plan or other document which is in his possession or under his control as Commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him ;

(b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the Municipal Government of the City ;

(c) to furnish a report by himself or to obtain from any officer subordinate to him and furnish with his own remarks, thereon, a report, upon any subject concerning or connected with the administration of this Act or the Municipal Government of the City.

(2) Except as is hereinafter provided, every such requisition shall be complied with by the Commissioner without unreasonable delay; and it shall be incumbent on every Municipal Officer and servant to obey any order made by the Commissioner in pursuance of any such requisition:

Provided that where on receipt of the requisition as aforesaid, the Commissioner is of the opinion that immediate compliance therewith would be prejudicial to the interests of the Corporation or of the public he shall place the matter before the Mayor and obtain his decision thereon and shall act in accordance with such decision which shall be final.

Commentary

Scope:— This is a very important section in this Act. The Members are given right to ask questions and make proposals regarding matters concerning or connected with the Municipal Government of the City.

Nature of questions:— Concerned or connected with the administration of this Act of the Municipal Government.

Point of order:— A point of order should therefore relate to the interpretation or enforcement of the rules of procedure and conduct of business in the House or conventions or such Articles of the Constitution as regulate the business of the House and must raise question which is within the cognizance of the Speaker. AIR 1969 SC 903. Any member should invite the Speaker's immediate attention to any instance of what he considers a breach of order or transgression of any Law of the House, written or unwritten, which the chair has failed to perceive, and he may also seek the guidance and assistance of the chair in respect of any obscurities of procedure. The test whether a point decides a point of order or not is not whether the chair can give any relief but whether it involves such interpretation or enforcement of the rules etc., and whether it raises a point which the Speaker alone can decide. Indian Constitutional Documents Mukherjee Vol. I Page 26.

Calling attention:— Under Rule 197 of the Lok Sabha Rules, a member may, with the prior permission of the Speaker call the attention of the Minister to a matter of urgent public importance and request the Minister to make a statement.

Question for Information:— The development of Question procedure in Parliament is intimately associated with the constitutional changes that have taken place from time to time in composition functions and powers of the Legislature. With every instalment of constitutional reforms which the British Parliament introduced in India, the scope for asking questions widened. "The first Legislative Council set up under Charter Act of 1853 showed some degree of Independence by asking questions as to, and discussing the propriety of measures of the Executive Government. Debates of Central Legislative Assembly,

Vol. II by L.A. Deb. The Indian Councils Act, 1861 which explicitly circumscribed the functions of the Legislative Council to purely legislative matters, was retrograde in many respects and this led to a demand for reform of the Legislative Council so as to allow its members to elicit information by means of questions. This was conceded under the Indian Councils Act, 1892. Rules were framed under this Act popularly known as Conduct of Business Rules.

Questions barred:— Expression of Opinion, Hypothetical propositions, abstract legal proposition concerning or connected with pending suit or proceeding in any Court of Law. Private character or conduct of a Municipal Officer or servant. Defamatory or imputations against personal character against any person or section of community contravenes any bye-law.

Notice of questions:— Seven clear days notice specifying the question, to be given to the Municipal Secretary.

Disallowance of question:— Mayor can disallow Questions which are barred as above.

Point of order:— Mayor is entitled to decide whether a question is permissible or not.

Answer to questions:— Commissioner shall answer Questions.

Refuse to answer:— Commissioner is not bound to answer any question the answer of which will be detrimental to the interests of the corporation or confidential.

Call attention motions:— Any Member may move a call attention motion about.

1. neglect of any work
2. waste or damage
3. wants of any locality
4. suggestion proposal about improvement which he considers desirable.

Eriskine May in his 'Parliamentary Practice' 9th edition at page 324 deals with questions for oral answer and questions for written answer. Purpose of a question is to obtain information or press for action it should not be limited to giving information, or framed so as to suggest its own answer or convey a particular point of view, and it should not be in effect a short speech - May.

Question which seek an expression of an opinion, or which contain arguments, expressions of opinion, inferences or imputations, unnecessary epithets, or rhetorical, controversial, ironical or offensive expressions are not in order - May.

122. Right to ask questions and make proposals:— (1) Subject to any bye-law made in this behalf under Section 586, a [1][Member] may question the Commissioner who shall answer any question concerning or connected with the administration of this Act or the Municipal Government of the city :

Provided that—

(a) not less than seven clear days' notice in writing specifying the questions has been given to the Municipal Secretary ;

(b) no question shall be asked—

(i) which calls for an expression of the opinion or for the solution of an abstract legal question or of a hypothetical proposition; or

(ii) which concerns or is connected with, either directly or indirectly, any pending suit or proceedings, in any Court of Law or before any Tribunal in any part of the city ; or

(iii) which relates to the character or conduct of any Municipal Officer or servant except in his official or public capacity ; or

(iv) which is or by implication may be, defamatory of or which makes or implies, a charge of a personal character against any person or section of any community ; or

(v) which contravenes any bye-law made in this behalf under Section 586.

(2) The Mayor shall disallow any question which is, in his opinion, in contravention of the provisions of sub-section (1).

(3) If any doubt arises whether any question is or is not within the restrictions imposed by sub-section (1), the Mayor shall decide the point and his decision shall be final.

(4) The Commissioner shall not be bound to answer a question, if in his opinion, it cannot be answered without detriment to the interests of the Corporation or if it asks for information which has been communicated to him in confidence.

(5) Any [1][Member] may call the attention of the Commissioner to any neglect in the execution of the Municipal work, to any waste or

1. Subs. for the word "Councillor" by Act 17 of 1994.

damage to the Municipal property or to the wants of any locality and may suggest in respect thereof any proposal or improvement which he considers desirable.

[1][*Explanation:*— For the purpose of this section, the expression [2][Member] shall include an ex-officio [2][Member].

123. Exercise of powers to be subject to sanction by Corporation of the necessary expenditure:— The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act which will involve expenditure shall, except in any case specified in sub-section (2) of Section 172, be subject to the conditions that—

(a) such expenditure so far as it is to be incurred in the financial year in which such power is exercised or duty performed is provided for under a current budget grant ; and

(b) if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said financial year, the sanction of the Corporation is taken before liability for such expenditure is incurred :

[3][Provided that during any financial year the renewals of previous sanctions or the fresh sanctions for any works, purchases and contractual services, as the case may be, shall not exceed the sum provided in the budget estimates for that financial year.]

Contracts

124. Power of the Commissioner to execute contracts on behalf of the Corporation:— With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect, namely:—

(a) every such contract shall be made on behalf of the Corporation by the Commissioner ;

(b) no such contract, for any purpose which in accordance with any provision of this Act, the Commissioner may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given ;

[4][(c) It shall be competent for the Commissioner to make a contract other than a contract relating to the acquisition of immovable

1. Added by Act No. 24 of 1974.
2. Subs. for the word "Councillor" by Act 17 of 1994.
3. Added by Act No. 3 of 1994.
4. Subs. by Act No. 11 of 1991.

property or any interest therein or any right thereto, not involving an expenditure exceeding rupees twenty lakhs.]

(d) [1][x x x]

(e) the foregoing provisions of this section shall, as far as may be apply to every contract which the Commissioner shall have occasion to make in the execution of this Act ; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

Commentary

Written Agreement:— In the light of the statutory prescription in Section 124 and Section 421(1) of the G.H.M.C. Act, failure on the part of the petitioner to have either entered into a written agreement with the GHMC, or to have obtained prior permission of the Commissioner, G.H.M.C for erection of advertisement hoardings would require High Court refraining from interfering with the impugned proceedings dated 17.3.2010. In case the petitioner makes a written request to the 1st respondent within one week from today seeking reasonable time, (say a week or two), to remove the advertisement hoardings and the traffic signals installed by them, the first respondent shall consider the said request in accordance with law. It was also made clear that in case the petitioner does not make any such request, or in case he fails to remove the advertisement hoardings and the traffic signals within the time, if any, granted by the first respondent, it is open to respondent Nos.1 and 2 to proceed further in accordance with law to have the traffic signals dismantled and the advertisement hoardings removed. *STAN POWER, Hyderabad v. Greater Hyderabad Municipal Corporation, Hyderabad and others,* 2010 (4) ALD 617 = 2010 (4) ALT 763 = AIR 2010 (NOC) 999 (A.P.).

[2][**124-A. Works costing more than twenty lakhs:**— It shall be competent for the Standing Committee to sanction works contract involving an expenditure exceeding rupees twenty lakhs but not exceeding rupees fifty lakhs.

125. Mode of executing contracts:— (1) Every contract entered into by the Commissioner on behalf of the Corporation shall be entered into in such manner and form as would bind the Commissioner if such contracts were on his own behalf, and may in the like manner and form be varied or discharged :

Provided that—

(a) where any such contract, if entered into by the Commissioner, would require to be under seal, the same shall be sealed with the common seal of the Corporation ; and

1. Omitted by A.P. Act 3 of 1994, w.e.f. 01.03.1994.
2. Inserted by Act 11 of 1991.

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding [1][rupees five thousand] shall be in writing and shall be sealed with the common seal of the Corporation in the manner specified in sub-section (2) and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

[1][(2) The common seal of the Corporation which shall remain in the custody of the Commissioner shall be affixed in the presence of [2][the Commissioner or his nominee] to every contract or other instrument required to be under seal, and such contract or instrument shall be signed by the Commissioner or the said two members of the Standing Committee in token of the same being sealed in his or their presence. The signatures of the Commissioner and the said members shall be distinct from the signatures of any witness to the execution of any such contract or instrument :

Provided that any such contract not executed as provided above shall not be binding on the Corporation].

126. Tenders to be invited for contracts involving expenditure exceeding Rs. [3][Five Lakhs]:— (1) Except as is hereinafter otherwise provided the Commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding [4][rupees five lakhs], give notice by advertisement in the local newspapers, inviting tenders for such contract.

(2) The Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice but may accept, subject to the provisions of clause (c) of Section 124, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous :

Provided that the Standing Committee may for reasons which shall be recorded in their proceedings, authorise the Commissioner to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

1. Subs. by Act 2 of 1981, w.e.f. 21.11.1978.
2. Subs. for the words "the Commissioner and two members of the Standing Committee" by Act 3 of 1994.
3. Subs. for the words "three thousand" by Act 2 of 1981, w.e.f. 21.11.1978 and again subs. for "Rs. 1 lakh" by Act 11 of 1991.
4. Subs. for the words "one lakh" by *Ibid.*

127. Security when to be taken for performance of contract:— The Commissioner shall require sufficient security for the due performance of every contract in which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

128. Power of Corporation to determine whether works shall be executed by contract:— Notwithstanding anything contained in this Act, the Corporation may determine either generally for any class of cases or specially for any particular case whether the Commissioner shall execute works by contract or otherwise.

129. Works costing more than Rs. [1][Fifty lakhs]:— Where a project is framed for the execution of any work the estimated cost of which exceeds rupees [1][fifty lakhs],

(a) the Commissioner shall cause a detailed report to be prepared including such estimates and drawing as may be requisite and the Standing Committee shall lay the same before the Corporation;

(b) the Corporation shall consider the report and may reject the project or approve it either in its entirety or subject to modifications;

(c) where the Corporation approve the project, the report, subject to any modifications as aforesaid, shall be submitted to the Government ;

(d) The Government may, after necessary technical scrutiny, sanction the project, either in its entirety or subject to modification ;

(e) where the Government sanctions the project subject to modification, it shall be returned to the Corporation for reconsideration ;

(f) if after reconsideration, the Corporation re-submits the project, the Government may sanction it subject to such modifications as it may deem fit to make and such sanction of the Government shall be final.

[2][**129-A. Pre-qualification tenders to be invited for works costing rupees fifty lakhs or more:—** (1) In respect of any work the estimated cost of which is rupees fifty lakhs or more, the Commissioner shall give

1. Subs. by Act 11 of 1991.
2. Added by Act 22 of 1981, w.e.f. 01.03.1981.

notice by advertisement in the newspapers in the prescribed manner, inviting tenders or applications from persons who satisfy the pre-qualifications specified in such notice.

(2) The Government may appoint, or authorise the Corporations to appoint, a committee, consisting of such members as they or it may deem fit, for the purpose of scrutinising and evaluating the pre-qualifications of the tenderers or applicants whose tenders or applications may be received in pursuance of the notice issued under sub-section (1), and for making its recommendations to the Commissioner as the suitability or otherwise of persons to whom tender schedules may be issued in respect of the work.

(3) The Commissioner shall, after considering the recommendations of the committee, and with the prior approval of the Government, accept any of the tenders or applications so recommended which appears to him, upon a view of all the circumstances to be the most advantageous ; and thereupon issue the tender schedules in respect of the work to the person whose tender or application is so accepted.

(4) The Government may, by notification in the Andhra Pradesh Gazette, make rules for carrying out the purposes of this section, and any rule made under this section may be made so as to have retrospective effect.]

Commentary

This Section was held to be valid by the A.P.High Court in an unreported judgment in W.P. No. 5787/81 and batch, dated 30-9-1981.

Contractor doing 'similar nature' of work:— A contractor who does not do 'similar nature' of work cannot question a pre-qualification notification requiring the performance of 'similar nature of work'. Similar nature must be construed in the light of the nature of the work to be executed. *Syed Moose Quadri vs. Special Officer, MCH,* AIR 1987 AP 6 = 1986 (2) ALT 466.

Sec. 129-A is not repugnant to Indian Contract Act or violative of Articles 14 and 19(1) (g) of the Constitution of India. *M/s. Aga Constructions vs. The Chief Engineer, MCH,* 1981 (2) ALT 54 (NRC) = AIR 1982 AP 70.

CHAPTER IV

Local Government Service and Municipal Officers and Servants — Local Government Service

130. Local Government Service:— (1) There shall be constituted for the purposes of this Act and of any law for the time being in force regulating the powers and duties of other local authorities, a Local

Government Service consisting of officers and servants of a Corporation who hold any of the posts specified in Schedule C which may from time to time be amended by the Government [1][x x x].

(2) Government shall have the power to appoint, dismiss and transfer and to take disciplinary action against officers belonging to the said service and prescribe conditions of their service.

(3) Unless it be otherwise prescribed under sub-section (2) the Hyderabad Civil Service Rules for the time being in force relating to the appointment and conditions of service and all rules for the time being in force relating to the conduct and enquiry into the conduct of Government servants shall apply to officers belonging to the Local Government Service.

Commentary

Scope:— This Section empowers the Government to constitute Local Government service consisting of officers and servants regulating the powers and duties of the Corporations and other Local Authorities who hold posts in Schedule C which may from time to time be amended by Government in consultation with the Corporation.

Similar Section is Sec. 75 in the A.P. Municipalities Act, 1965. Sub-section (2) laid down that the Government shall have power to appoint, dismiss, transfer and to take disciplinary action against officers belonging to the said service.

Service Rules:— Sub-section (3) laid down that the Hyderabad Service Rules and all Rules applicable to Government employees will apply to the officers and servants of the employees of the corporations.

The Rules applicable to Government Servants:

1. The Hyderabad Civil Service Rules,
2. The A.P. Civil Services (Classification, Control and Appeal) Rules,
3. A.P. State and Subordinate Service Rules,
4. A.P. Civil Services (Conduct) Rules,
5. The A.P. Ministerial Service Rules,
6. The A.P. Last Grade Service Rules,

The Government has got power to transfer Sanitary Inspectors from one place to another 1972 (2) An.WR 128.

1. The words "in consultation with the Corporation" omitted by A.P. Act 3 of 1994, w.e.f. 01.03.1994.

The Local Government Service shall cover the officers mentioned in Schedule C of this Act. Section 132 empowers the Government to appoint for the posts mentioned in sub-section (2).

The rest of the employees can be appointed by the Corporation.

Although the Government is entitled to make the appointments under sub-section (1), there is nothing to preclude the Government from appointing employees of the Corporations. AIR 1972 AP 323.

131. Local Government Service Fund:— (1) There shall be constituted a Local Government Service Fund to meet expenditure in respect of salaries, allowances, pensions, provident fund, gratuity and other necessary expenditure payable to the officers and servants of Local Government Service appointed under the provisions of this Act or of any other Law for the time being in force or rules made thereunder or by any order of the Government.

(2) The Corporation shall contribute 12 1/2% of its revenue towards the Local Government Service Fund constituted under sub-section (1) :

Provided that the Government may from time to time by a notification in the [1][Andhra Pradesh Gazette] revise or alter the percentage of the contribution towards the Local Government Service Fund.

132. Power of Government to appoint other officers:— (1) The Government may, in addition to the officers and servants specified in Schedule C appoint for the purpose of this Act and of any law for the time being in force regulating the duties and powers of other local authorities, duly qualified person or persons to be Superintending Engineer, Chief Town Planner, Divisional Engineers, Assistant Engineer, Assistant Town Planning Officers, Architects, Inspecting Officers or other Officers for the whole or any part of the State and may sanction such establishment for the said officers as may be deemed necessary.

(2) The officers and establishment appointed under sub-section (1) shall belong to the Local Government Service and their expenses shall be defrayed from the Local Government Service Fund constituted under Section 131.

(3) The powers and duties of the officers mentioned in sub-section (1) shall be such as may from time to time be determined [2][by the Commissioner].

1. Subs. by A.P. Act 5 of 1969.
2. Subs. for the words "by the Government" by Act 3 of 1994, w.e.f. 01.03.1994.

Commentary

Since the post of Assistant City Planner is not a Corporation post but a Government post, State Government is entitled to make the appointments under Sec. 132(1) of the Act. AIR 1972 A.P. 323.

[1][**132-A. Constitution of a Municipal Corporation Service:—** (1) Notwithstanding anything in this Act or the rules made thereunder, the Government may after consulting all the municipal corporations in the State by notification in the Andhra Pradesh Gazette, constitute any class of officers or employees of the Municipal Corporation in the State of the category of Upper [2][Ward] Clerks and above into a Municipal Corporation Service for the State.

(2) Upon the issue of a notification under sub-section (1), the Government shall have power to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the Municipal Corporation Service thereby constituted and such rules may vest jurisdiction in relation to such service in the Government or in such other authority or authorities as may be prescribed therein.

(3) Nothing in this section shall affect the operation of the Andhra Pradesh (Telangana Area) Local Government Service (Declaration as State Civil Service) Act, 1956 (Act XX of 1956) in so far as it relates to the municipal officers and municipal employees who are declared to be borne on the State Civil Service as declared under Section 3 of the Act.]

City Engineer, Medical Officer of Health, Municipal Examiner of Accounts & Municipal Secretary

133. Appointment of City Engineer, etc.:— The Government shall appoint fit persons to be City Engineer, Medical Officer of Health, Municipal Examiner of the Accounts and Municipal Secretary, for the efficient functioning of the Corporation.

134. Powers and duties of City Engineer and Medical Officer of Health:— The City Engineer and Medical Officer of Health shall perform such duties as they are directed by or under this Act or the

1. Inserted by Act 33 of 1986.
2. Subs. for "Division" by A.P. Act 17 of 1994.

rules or bye-laws made thereunder or as may from time to time be required by the Commissioner [1][x x x].

135. Power and duties of Examiner of Accounts:— The Municipal Examiner of Accounts shall,—

(a) perform such duties as he directed, by or under this Act or rules made thereunder to perform and such other duties with regard to the audit of Accounts of the Municipal Funds as will be required by him [2][by the Commissioner].

(b) specify, subject to such directions as the [3][Commissioner] may, from time to time, give the duties and powers of the Auditors, Assistant Auditors, Clerks and servants immediately subordinate to him ; and

(c) subject to the order of the [3][Commissioner] exercise supervision and control over the acts and proceedings of the said Auditors, Assistant Auditors, Clerks and servants.

136. Powers and duties of Municipal Secretary:— The Municipal Secretary shall be the Secretary of the Corporation and also of the Standing Committee and shall,—

(a) perform such duties as he is directed by or under this Act to perform and such other duties in and with regard to the Corporation and the Standing Committee, [4][as shall be required of him by the Commissioner].

(b) have the custody of all papers and documents connected with the proceedings of :

(i) the Corporation and any Committee appointed by the Corporation under Section 98 ;

(ii) the Standing Committee and any sub-committee thereof ;

(c) specify subject to such directions as the [3][Commissioner] may from time to time give, the duties of the officers and servants immediately subordinate to him ; and

1. The words "or the Standing Committee" omitted by Act 3 of 1994, w.e.f. 01.03.1994.
2. Subs. for the words "by the Corporation or by the Standing Committee" by *Ibid.*
3. Subs. for the words "Standing Committee" by *Ibid.*
4. Subs. for the words "as shall be required of him by those bodies respectively" by *Ibid.*

(d) subject to the orders of the [1][Commissioner] exercise supervision and control over the acts and proceedings of the said officers and servants.

Municipal Officers and Servants

137. Numbers, designations, grades etc., of Municipal Officers and servants:— (1) Subject to the provisions of sub-section (5) the Standing Committee may from time to time determine the number, designations, grades, fees and allowances of officers and servants to be immediately subordinate to the Municipal Examiner of Accounts and Municipal Secretary.

(2) The Commissioner shall from time to time prepare and bring before the Standing Committee statements setting forth the numbers, designations, grades, fees & allowances of officers and servants who should in his opinion be maintained and the amount and nature of the grades, fees and allowances which he proposes should be paid to each.

(3) The Standing Committee shall subject to the provisions of sub-section (5) sanction such statements either as it stands or subject to such modifications as it deems expedient.

(4) In discharging the functions vested in them by sub-sections (1), (2) and (3) the Standing Committee and the Commissioner shall determine the grades, fees and allowances in conformity with the arrangements prevailing and the schedule of rates in vogue in the establishment of the Government.

[2][(5) No new posts, whether permanent or temporary, shall be created,—

(i) [3][without the sanction of the Standing Committee and the Government] in respect of the posts upto and inclusive of an upper division clerk or any equivalent post carrying the same or similar scale of pay ;

(ii) [4][without the sanction of the Corporation and the Government] in respect of the posts upto and inclusive of a superintendent or any equivalent post carrying the same or similar scale of pay;

1. Subs. for the words "Standing Committee" by Act 3 of 1994, w.e.f. 01.03.1994.
2. Subs. by Act 2 of 1981, w.e.f. 16-12-1980.
3. Subs. for the words "without the sanction of the Standing Committee" by Act 3 of 1994, w.e.f. 1-3-1994.
4. Subs. for the words "without sanction of the Corporation" by *Ibid.*

(iii) without the sanction of the Government in respect of all other posts ;

(6) [1][x x x]

Commentary

Scope:— Sections 137 to 144 deal with the officers and servants of the Corporation. These officers and servants are different from the officers of the Local Government Service in Sec. 130.

Appointment:— Section 139 lays down that appointments shall be made in accordance with rules. In the absence of rules under Section 139, the Hyderabad Civil Service Rules and all rules for conduct and enquiry into the conduct of Government Servants will apply. Thus by Section 140 the Service rules are made applicable. These Rules besides the Hyderabad Civil Service Rules are the same that are applicable to officers under Section 130 of this Act.

The post of Assistant City Planner is not a Corporation post but a Government post and hence State Government is entitled to make appointments under Sec. 132 (1) of the Act. AIR 1972 A.P. 323.

The Standing Committee:— The Standing Committee subject to the sanction of the Corporation or subject to the sanction of the Government are empowered to create posts, determine the number, designations, grades, fees and allowance of officers and servants.

Parity of Rates:— Sub-Section (4) of Sec. 137 laid down the principle of parity of rates with those in vogue in the Government.

Disciplinary Action:— Sec. 141 deals with disciplinary action.

Penalty	Officer Empowered to impose	Class of employee
Censure withholding of increments or promotion including stoppage at efficiency bar	Commissioner	Employees appointed by the Corporation or the Standing Committee
Fine recovery of any loss to the Corporation Censure withholding of increments or promotion including stoppage at efficiency bar,	Municipal Examiner of Accounts.	Employees sub-ordinate to him

1. Sub-section (6) and Explanation omitted by Act 2 of 1981, w.e.f. 16.12.1980.

Fine Recovery from salary of the whole or part of any pecuniary loss occurred to the Corporation	Municipal Secretary	Employees sub-ordinate to him

These powers are vested in the Commissioner, Municipal Examiner of Accounts and Municipal Secretary in Clauses (c) and (d) of sub-section (1) of this section. This power is unrelated to the fact whether they happen to be the appointing authorities in fact.

Dismissal, Removal from service, and suspension are other punishments which can be imposed by the appointing authority. Section 138 was omitted by Act No. 2 of 1981 while Section 139 was amended empowering the Government prescribing rules naming appointing authorities to various class of posts.

Hierarchy of Authorities:— Corporation Standing Committee Commissioner.

This is the order of subordination as per the proviso to sub-section (4) of Sec. 141 i.e. for purposes of appeals against punishments.

Procedure for Imposing penalties:— The procedure laid down in Hyderabad Civil Service Rules is made applicable. Now the A.P. Civil Services (Classification, Control and Appeal) Rules 1991 will apply.

Procedure:— The procedure is broadly divided into the following steps:

1. Communication of charges,
2. Opportunity for submitting explanation.
3. Enquiry,
4. Proposal of punishment and show cause notice,
5. Imposing punishment.

Appeal:— Appeal lies within three months from the date of receipt of the order to the immediate superior authority. The appellate authority has power to set aside the punishments and impose a lesser punishment besides the other powers to interfere as it deems fit and just.

Remedy of the Municipal Employee:— Dismissal by the Municipality without reasonable opportunity for defence hearing is void. Employee is entitled to declaration. The rule imposes mandatory obligation AIR 1973 SC 855. In this Case Chief Justice Ray speaking for the Court observed:

"The Courts keep the State and the public authorities within the limits of their statutory powers. Where a State or public authority dismisses an employee in violation of the mandatory procedural requirements or on grounds

which are not sanctioned or supported by Statute, the Courts may exercise jurisdiction to declare the act of dismissal to be a nullity. Such implication of public employment is thus distinguished from private employment in pure cases of master and servant."

Suspension Pending Enquiry:— A suspension order cannot be retrospective. It takes effect only from the day it is passed. AIR 1959 MP 404. Suspension pending enquiry is not a punishment. No opportunity need be given before suspending an employee AIR 1958 A.P. 35.

Subsistence Allowance:— In this Act no provision is made for payment during suspension pending enquiry. But Section 140 made the Hyderabad Civil Service Rules applicable to employees of the Corporation. Rule 225 of the Hyderabad Civil Service Rules lays down as follows:

"225 (1) A Government servant under suspension shall be entitled to the following payments, namely—

(i) In case of a commissioned officer of the Indian Medical Department or a warrant officer in Civil employ who is liable to revert to military duty, the pay and allowances to which he would have been entitled had he been suspended while in military Government.

(ii) In case of any other Government:—

(a) a subsistence allowance equal to the leave salary which the Government servant would have drawn if he had been on leave on half average pay or on half pay and in addition, dearness allowance if admissible on the basis of such leave salary:

Provided that where the period of suspension exceeds twelve months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of first twelve months as follows:-

(i) The amount of subsistence may be increased by suitable amount not exceeding 50 per cent of the subsistence allowance admissible during the period of the first twelve months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant.

(ii) The amount of subsistence allowance may be reduced by suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first twelve months, if in the opinion of the said authority, the period of suspension has been

prolonged due to reasons, to be recorded in writing directly attributable to the Government Servant;

(iii) The rate of dearness allowance will be based on the increased or, as the case may be, the decreased amount of subsistence allowance admissible under clauses (i) and (ii) above.

(b) any other compensatory allowance admissible from time to time on the basis of pay of which the Government Servant was in receipt on the date of suspension :

Provided that the Government Servant shall not be entitled to the compensatory allowances unless the said authority is satisfied that the Government servant continues to meet the expenditure for which they are granted.

(2) No payment under sub-rule (1) shall be made unless the Government Servant furnishes a certificate that he is not engaged in any employment, business, profession or vacation.

Fundamental Rule 54 and the Hyderabad Service Rules are almost in *pari materia* with each other.

138. [1][x x x]

139. Conditions of service and manner of making appointments:— The appointment of Municipal Officers and servants [2][shall be made by such authority in such manner] and subject to such conditions of service as may be prescribed.

Commentary

Government has power to transfer Sanitary Inspector from place to place. 1972 An.WR 128 (Under A.P. Dist. Municipalities Act - Section 75).

140. Application of the Hyderabad Civil Service Rules, Manual and certain other rules:— Unless otherwise prescribed under Section 139, the Hyderabad Civil Service Rules for the time being in force relating to the appointment and conditions of service and all rules for the time being in force relating to the conduct and enquiry into the conduct of Government servants shall apply to the Municipal Officers and servants:

[3][Provided that in the case of posts carrying such scale of pay as may, from time to time, by notification be specified by the Government, the appointing authority shall be the Commissioner.]

1. Omitted by Act 2 of 1981, w.e.f. 16.12.1980.
2. Subs. by *Ibid.*
3. Added by Act 3 of 1994, w.e.f. 01.03.1994.

141. Power of suspension, punishment and dismissal in whom to vest:— (1) An appointing authority may, subject to the provisions of this Act, impose any of the penalties specified in sub-section (2) on a Municipal Officer or servant if such authority is satisfied that such officer or servant is guilty of a breach of rules made and order issued under this Act or of discipline or of carelessness or neglect of duty or of other misconduct :

[1][Provided that—

(a) no Municipal Officer or servant shall be dismissed or removed by an authority subordinate to that by which he was appointed ;

(b) any Municipal Officer or servant may be placed under suspension pending taking of proceedings under this section, by such authority subordinate to the appointing authority as may be prescribed;]

(c) [2][x x x]

(d) [2][x x x]

(2) Penalties which may be imposed under this section are the following viz.

(a) Censure, (b) withholding of increments or promotions including stoppage at an efficiency bar, (c) reduction to a lower rank in the seniority list or to a lower post, (d) fine, (e) recovery from salary of the whole or part of any pecuniary loss caused to the Corporation, (f) suspension, (g) removal of Municipal Officer or servant which does not disqualify from future employment, (h) dismissal of Municipal Officer and servant which ordinarily disqualifies from future employment.

(3) No penalty specified in sub-section (2) shall be imposed on any Municipal Officer or servant by any authority unless proceedings are taken in accordance with the provisions of the Hyderabad Civil Service (Classification, Control and Appeal) Rules.

(4) Subject to the [1][Proviso to sub-section (1)] any Municipal Officer or servant, on whom any penalty specified in sub-section (2) is imposed by any authority other than the Corporation, may within three months of the communication to him of the order of imposition of the penalty, appeal to the authority immediately superior to the authority

1. Subs. by Act 2 of 1981, w.e.f. 16.12.1980.
2. Omitted by Act 3 of 1994, w.e.f. 01.03.1994.

imposing the penalty and the appellate authority may, after obtaining the remarks of the authority which imposes the penalty, either confirm the orders passed or substitute for it such orders as it considers just including an order for the imposition of some lesser penalty, and effect shall forthwith be given to any order passed by the appellate authority which shall be conclusive:

[1][Provided that for the purpose of this sub-section the Corporation shall be the authority immediately superior to the Commissioner.]

Commentary

Power of Government to interfere:— Under the powers of control in Chapter XXI of the Act, the Government is certainly entitled to take action in accordance with Sec. 679-A of the Act and cancel the resolution of the Standing Committee. 1991 (2) An. WR 25 (NRC).

[2]**[142. Leave of absence:—** Leave of absence to any Municipal employee by whomsoever appointed, may be granted by the Commissioner, subject to the rules applicable to him.]

143. Appointment during absence of an Officer:— The appointment of a person to act in the place of a Municipal Officer or servant absent on leave may be made when necessary subject to the aforesaid rules by the authority granting the leave.

144. Disqualification of Municipal Officers and servants:— (1) Any person who is directly or indirectly by himself or his partner, or if he belongs to a Joint Hindu Family by any member of the family, has any share or interest in any contract or employment with, by or on behalf of the Corporation other than as a Municipal Officer or servant shall be disqualified for being a Municipal Officer or servant.

(2) Any Municipal Officer or servant who shall acquire by himself or his partner any share or interest in any contract or employment as aforesaid shall cease to be a Municipal Officer or servant and his office shall become vacant.

Explanation:— Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the Corporation as in clause (h) of Section 22 it is permissible for a [3][Member] to have without his being thereby disqualified for being a [3][Member].

1. Subs. by Act 3 of 1994, w.e.f. 01.03.1994.
2. Subs. by *Ibid.*
3. Subs. for "Councillor" by Act 17 of 1994.

CHAPTER V
Municipal Property
Acquisition of Property

145. Power of Corporation as to acquisition of property:— (1) The Corporation shall, for the purposes of this Act have power to acquire and hold movable and immovable property or any interest therein whether within or without the limits of the City.

[1][(2) Any immovable property which may be transferred to the Corporation by the Government shall be held by it, subject to such conditions as may be imposed by the Government and shall be applied to such purposes as the Government may impose or specify when the transfer is made.

(3) It shall be competent for the Government to resume any land transferred to the Corporation by the Government with or without a condition for resumption whether before or after the commencement of the Andhra Pradesh Municipal Laws (Amendment) Act, 1991 for utilisation by the State Government or the Central Government or any authority under their control.]

Commentary

Due process of Law:— The contention that due process of law cannot be interpreted as filing of a civil suit is not acceptable. Due process of law should be read as the law relating to the issue as laid down in special enactments and the parties need not approach the Common Law Courts for everything. The activities of the Municipal Corporation of Hyderabad are governed by the provisions of the Municipal Corporation of Hyderabad Act and the rules framed thereunder. As such it was held to be open to the Municipal Corporation of Hyderabad to proceed under the provisions of the Municipal Corporation of Hyderabad Act and the rules made thereunder. In the instant case an earlier suit filed by the petitioner herein ended in a compromise wherein the Municipal Corporation of Hyderabad gave a specific undertaking that without resorting to the due process of law the petitioner will not be evicted. *Afzal Ahmed Khan v. Estate Officer, Municipal Corporation of Hyderabad,* 1999 (4) ALD 115.

146. Acquisition of immovable property by agreement:— (1) Whenever it is provided by this Act that the Commissioner may acquire, or whenever it is necessary or expedient for any purpose of this Act

1. Subs. by Act 11 of 1991, w.e.f. 06.12.1990.

that the Commissioner shall acquire, any immovable property, such property may be acquired by the Commissioner on behalf of the Corporation by agreement on such terms at such rates or prices not exceeding such maxima as shall be approved by the Standing Committee, either generally for any class of cases or specially in a particular case.

(2) And whenever, under any provision of this Act, the Commissioner is authorised to agree to pay the whole or any portion of the expenses of acquiring any immovable property, he shall do so on such terms and at rates or prices not exceeding such maxima as shall be approved by the Standing Committee as aforesaid.

(3) Subject to the provisions of this Act, it shall be lawful for the Commissioner on behalf of Corporation to agree with the owner of any land or of any interest in land needed by the Corporation for the purposes of any Scheme under Chapter XIII or with the owner of any right which may have been created by legislative enactment over any street forming part of the land so needed, for the purchase of such land or of any interest in such land or for compensating the owner of any such right in respect of any deprivation thereof or interference therewith.

(4) No contract for the acquisition of any immovable property or of any interest therein or any right thereto or the payment of any compensation under sub-sections (1), (2) or (3) shall be valid, if the price or compensation to be paid for such property or interest or right exceeds rupees five thousand unless and until such contract has been approved by the Corporation.

(5) Every contract or other instrument relating to the acquisition of immovable property or any interest therein or any right thereto shall be executed by Commissioner, shall have the common seal of the Corporation affixed thereto in the presence of [1][two officers nominated by the Commissioner] and shall also have the signature of the said two members, in the manner provided in Section 125.

(6) No contract for the acquisition of immovable property or any interest therein or any right thereto not executed as provided in sub-section (4) shall be binding on the Corporation.

1. Subs. for the words "two members of the Standing Committee" by Act 3 of 1994, w.e.f. 01.03.1994.

(7) The foregoing provisions of this section which apply to an original contract relating to the acquisition of immovable property, or any interest therein, or any right thereto, shall be deemed to apply also to any variation or discharge of such contract.

Commentary

Acquisition of private land:— The Municipal Corporation cannot high-handedly take possession of private land without following the procedure prescribed either under Sec.146 or under Sec.147 of the Act. *T.S. Devakaranamma and another v. State of Andhra Pradesh and others,* 2000 (3) ALD 407=AIR 2000 AP 358=2000 (2) LS 149. See also *Ushodaya Publications, Hyderabad vs. Commissioner, MCH, Hyd,* 2001 (3) ALD 173 (DB).

The plans that come within the ambit of Sec. 437 of the Act should conform to the Building and Zonal Regulations. No portion of the land or structures can be taken over for road widening by any local authority without mutual agreement in writing or without initiating the proceedings under the Land Acquisition Act. Such a principle is not applicable to cases where roads and open spaces towards parks are directed to be left over in accordance with the lay out rules, and that a person in such cases is bound to leave such roads and open spaces without demanding for any compensation. *BOC India Ltd. v. Municipal Corporation of Hyderabad,* 1996 (2) ALD 38 = 1996 (1) ALT 185 = 1996 (1) APLJ 162 = 1996 (1) LS 200.

147. Procedure when immovable property cannot be acquired by agreement:— (1) Whenever the Commissioner is unable to acquire any immovable property under the last preceding section by agreement, the Government may, in their discretion, upon the application of the Commissioner, made with the approval of the Standing Committee and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation [1][in accordance with the provisions of the Land Acquisition Act, 1894 as amended from time to time as if such property were land needed for a public purpose within the meaning of the provisions of the said Act.]

(2) The amount of compensation awarded and all other charges incurred in acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the Commissioner and thereupon the said property shall vest in the Corporation.

1. Subs. by A.P. Act 14 of 1989.

Commentary

Scope:— Sections 145 to 147 deal with acquisition of property by the Corporation. There is no such power in a Municipality under the A.P. Municipalities Act, 1965. The Corporation can acquire property by agreement, purchase, and by transfer by Government.

The Government can acquire any immovable property for the Corporation.

Acquisition of private land:— The Municipal Corporation cannot high-handedly take possession of private land without following the procedure prescribed either under Sec.146 or under Sec.147 of the Act. *T.S. Devakaranamma and another v. State of Andhra Pradesh and others,* 2000 (3) ALD 407=AIR 2000 AP 358=2000 (2) LS 149. See also *Ushodaya Publications, Hyderabad vs. Commissioner, MCH, Hyd,* 2001 (3) ALD 173 (DB).

Disposal of Property

148. Disposal of property and interests therein:— (1) Subject to the provisions of Section 124, the Commissioner may dispose of by sale or exchange any movable property belonging to the Corporation the value of which does not exceed [1][rupees twenty five thousand] in each instance, or grant for any term not exceeding twelve months a lease of any immovable property belonging to the Corporation or lease or concession of any right of fishing or grazing or of gathering and taking fruit and the like :

Provided that every such disposal, lease or concession made or granted by the Commissioner shall be reported to the Standing Committee within fifteen days.

(2) With the sanction of the Standing Committee, the Commissioner may dispose of, by sale or exchange any movable property belonging to the Corporation [2][the value of which exceeds rupees twenty five thousand but does not exceed such sum as may be specified by the Government by notification, from time to time] in each instance, or grant for any term not exceeding three years a lease of any immovable property belonging to the Corporation or a lease or concession of any such right as aforesaid.

1. Subs. for the words "rupees five hundred" by Act 3 of 1994, w.e.f. 01.03.1994.
2. Subs. for the words "the value of which does not exceed rupees five thousand" by *Ibid.*

[1][(3) [2][In cases not covered by sub-section (1) or sub-section (2)] the Commissioner] shall not lease, sell or otherwise dispose of any movable or immovable property belonging to the Corporation without the previous sanction of the Corporation and of the Government.]

(4) The sanction of the Standing Committee under sub-section (2) [3][or the previous sanction of the Corporation and of the Government] under sub-section (3) may be given either generally or for any class of cases or specially for any particular case.

(5) The Commissioner may lend or let out on hire any movable property belonging to the Corporation on such conditions and for such periods as may be specified in regulations made by the Standing Committee in that behalf.

Commentary

Sec. 148 (3) and (4) — Transfer of a site belonging to the Municipal Corporation by Special Officer for construction of a private school - Not invalid *Brij Raj Pershad vs. Rama Seethamma and others* (Chennakesav Reddi and Ramachandra Raju. JJ) AIR 1983 A.P. 118.

Power of Commissioner:— Power of Commissioner to sell property is subject to sanction of corporation and Government. *Dr. C. Jayashree vs. The Commissioner, M.C.H.,* AIR 1994 AP 312.

Right of renewal:— Once a right of renewal is provided, it can be said that the lease is for more than three years. In such cases not only the previous sanction of the Standing Committee but also the previous sanction of the Government is necessary. Section 679-A empowers the Government to *suo motu* suspend the resolution passed by the Municipality. In the instant case, the decision making process itself was defective and the decision as such was not challenged. Decision making provision was held always subject to judicial scrutiny. *Dasari Sree Rama Murthy v. Vijayawada Municipal Corporation and another,* 2000 (4) ALD 390 = 2000 (4) ALT 305.

Alienation of parks, playgrounds, etc.:— The power under Sec. 148 to alienate movable or immovable property subject to the conditions mentioned therein is not available in respect of the lands which are reserved for playgrounds, roads, parks etc. in the sanctioned layout. Such land cannot belong to the Municipal Corporation within the meaning of that section. *Kalasagaram, Secunderabad Cultural Association v. State of Andhra Pradesh and Ors.,* 1997 (6) ALD 277.

1. Subs. by Act 4 of 1993, w.e.f. 06.11.1992.
2. Subs. for "the Commissioner" by Act 3 of 1994, w.e.f. 01.03.1994.
3. Subs. by Act 4 of 1993, w.e.f. 06.11.1992.

See also *Chinawaltair Colony House Owners Welfare Association* vs *Commissioner, Visakhapatnam Municipal Corporation and others*, AIR 2002 AP 175.

State Government's Power:— Section 148 of the Act empowers the Corporation to sell its own property whether movable or immovable only with the previous sanction of the Government. Hence the Government by implication was held to have always the power to withdraw the sanction for selling of such property before it is sold. *Dr. C. Jayasree v. Commissioner, Municipal Corporation of Hyderabad and Ors.,* 1996 (3) ALD 468 (DB).

Doctrine of Public Trust - Parks :-Mahapalika (Municipal Corporation) is the trustee of the parks and the doctrine of public trust, which was applicable in India as held by this Court in *M. C. Mehta* vs *Kamal Nath* ((1997) 1 SCC 388) (known as Span case) is applicable to the park in question. The Mahapalika, therefore, could only manage the park and could not alienate it or convert it into something different from the park. The park was held by the Mahapalika on trust for the citizens. *M. I. Builders Pvt. Ltd.* vs *Radhey Shyam Sahu and Others,* AIR 1999 SC 2468 = 1996 (6) SCC 464.

Demolition :-Where a park was given to private builder for construction of an under ground commercial complex, the Hon'ble Supreme Court while declaring the said act as illegal ordered the underground shopping complex to be dismantled and demolished and on these places the park shall be restored to its original shape. *M. I. Builders Pvt. Ltd.* vs *Radhey Shyam Sahu and Others,* AIR 1999 SC 2468 = 1996 (6) SCC 464.

Public Auction — Exceptions:— A welfare State as the owner of public property has no such freedom while disposing of the public property or leasing out the same. All its attempts must be to augment more revenue out of the said properties to carry on welfare activities. This can be achieved only by putting the properties for public auction. Exception to the same is it can dispose of its properties for any constitutionally recognised public purpose and to achieve the goals set out in Part IV of the Constitution. The power of discretion of Commissioner or Standing Committee in granting lease must be confined and structured by rational, relevant, non-discriminatory standard or norms and it should not be arbitrary. If it departs from such standards or norms, the action would be liable to struck down. The power which is vested in the Commissioner to lease out the property otherwise than by open auction with the prior sanction of the Standing Committee under Section 148(2) will be only to lease out the property in exceptional cases as referred above i.e., to encourage small scale industries, to encourage self employment or societies which require concession to advance social objects ; but when he wants to lease out the business premises for private individuals it shall be leased out only by way of public auction but not otherwise. It must follow as a necessary corollary that Commissioner/Standing Committee

cannot act in a manner which would benefit a private party at the cost of Municipal Corporation. *Darsi Sree Rama Murthy vs. Vijayawada Municipal Corporation and another*, 2000 (4) ALD 390 at 400.

CHAPTER VI
Borrowing Powers

149. Powers to borrow from Central or State Government or ıer persons:— The Corporation may, from time to time borrow or ɔorrow and take up at interest from the Central or the State Government vith the sanction of the Government, from any other person, any sum ɛssary for the purpose of—

(a) defraying any costs, charges or expenses incurred or to be incurred by them in the execution of this Act.

(b) discharging any loan contracted under this Act or any other loan or debt for the repayment of which they are liable ;

(c) making good any deficit in budget estimate, framed under Section 184 ;

(d) generally, carrying out the purposes of this Act.

150. Provisions applicable to any new loan contracted with Central or State Government:— If any new loan shall be contracted by the Corporation under this Act with the Central or the State Government, the same shall be subject to such terms and conditions as regards the period and manner of repayment, security and the rate of interest, as may be fixed by the Central Government, or as the case may be, by the State Government.

151. Mortgage of taxes or immovable property:— (1) The Corporation may borrow or re-borrow any such sum as aforesaid from any person other than the Central or the State Government on the security of any immovable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorised to levy for the purposes of this Act or of all or any of those securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person by or on behalf of whom such sum is advanced, any such immovable property or tax or the said undertaking.

152. Provisions as to exercise of borrowing powers:— The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely:—

(a) money shall not be borrowed for the execution of any work other than a permanent work including under this expression any work of which the cost ought, in the opinion of the Government, to be spread over a term of years ;

(b) the money may be borrowed for such time, not exceeding sixty years, as the Corporation, with the sanction of the Government determine in each case ;

(c) the Corporation shall either pay off the money so borrowed, within the period sanctioned, by equal annual instalments of principal or of, principal and interest, or in such other manner as may be approved by the Government or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities, such sum as will, with accumulations in the way of compound interest, be sufficient, after payment of all expenses; to pay off the moneys so borrowed within the period sanctioned or within such other period as may be approved by the Government.

(d) the Corporation may at any time apply the whole or any part of sinking fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established :

Provided that the Corporation pay into the fund each time that interest which would have been received by them in respect of the sinking fund or the part of the sinking fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received ;

(e) the investment every year of any sum set apart as portion of the principal of a sinking fund shall be made within fifteen days after the day on which the second half yearly payment of interest is due by the Corporation in respect of the loan for the repayment of which such sinking fund is established ; and the reinvestment of any sum received by the Corporation on account of interest on moneys appertaining to a sinking fund already invested, and

the investment of any sum payable into the fund under Clause (d) as the equivalent of interest which the Corporation would have received, if the sinking fund or a part thereof had not been applied in any manner authorised by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be :

Provided that during the year in which the loan for repayment of which a sinking fund has been established is due for repayment, the sum to be set apart as portion of the principal of such sinking fund and the sum received on account of interest on moneys forming part of such sinking fund may be retained by the Corporation in such form as they think fit ;

(f) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not unless sanctioned by the Government, extend beyond the unexpired portion of the period for which the original loan was sanctioned and shall in no case be extended beyond the period of sixty years from the date of the original loan.

153. Investment of sinking fund, and surplus moneys in debentures issued by the Corporation:— (1) In respect of any sinking fund which by this Act the Corporations are directed or empowered to invest in public securities, and in respect of any surplus money which by this Act the Commissioner on behalf of the Corporation is empowered to invest in like securities, it shall be lawful for the Corporation to reserve and set apart for the purpose of any such investment any debentures issued or to be issued on account of any loan for which the sanction of the Government shall have been duly obtained under Section 149, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures direct to and in the name of the Municipal Commissioner, for the city or on behalf of the Corporation shall not operate to extinguish or cancel debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation or to the Commissioner on behalf of the Corporation of any debenture issued by the Corporation for the improvement of the

City shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the extent as if held by, or transferred, assigned or endorsed to any other person.

154. Annual examination of sinking funds:— (1) All sinking funds established under this Act shall be subject to annual examination by the Accountant General [1][x x x] who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The amount which should be at the credit of a sinking fund shall be calculated on the basis on the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

(3) The securities belonging to a sinking fund shall be valued for the purposes of this section at their current market value, except in the case of debentures issued under this Act which shall always be valued at par, provided that the Corporation shall make good immediately any loss which may accrue on the actual sale of such debentures at the time of the repayment of the loan.

(4) The Corporation shall forthwith pay into any sinking fund any amount which the Accountant-General [1][x x x] may certify to be deficient, unless the Government specially sanctions a gradual readjustment.

(5) If the cash and the value of the securities at the credit of any sinking fund are in excess of the amount which should be at its credit, the Accountant-General, [1][x x x] shall certify the amount of such excess sum and the Corporation may thereupon transfer the excess sum to the municipal fund.

(6) If any dispute arises as to the accuracy of any certificate made by the Accountant-General, [1][x x x] under sub-section (4) or (5) the Corporation may, after making the payment or transfer, as the case may be, refer the matter to the Government whose decision shall be final.

1. The word "Hyderabad" omitted by APAO 1957.

155. Corporation may take advances from banks and grant mortgages:— (1) Notwithstanding anything contained in Sections 149, 151 and 152 the Corporation may, with the previous sanction of the Government, and for the purpose of discharging any liability take from any bank or banks credit on a cash account to be opened and kept with such bank or banks in the name of the Corporation, for a sum not exceeding in the aggregate rupees fifteen lakhs on the security of all or any of the taxes which the Corporations are authorised to levy for the purpose of this Act.

(2) The Corporation may, also with the previous sanction of the Government and subject to the provisions of this Act, mortgage any lands or property vesting or revesting or belonging to the Corporation in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon.

156. Corporation to have power to borrow from banks against Government promissory notes or securities:— Notwithstanding anything contained in Sections 149 and 152, the Corporation may also borrow for the purpose of this Act, from any bank or banks in which under Section 178 the surplus moneys at the credit of the municipal fund may be deposited, against any Government promissory notes or other securities in which for the time being the cash balance of the Corporation may be invested.

157. Form of security:— (1) Every mortgage authorised to be made under this chapter other than a mortgage made under Section 155 shall be by debenture in the form contained in Schedule D or in such other form as the Corporation, with the consent of the Government shall, from time to time determine.

(2) Every debenture issued under this Act shall be transferable by endorsement.

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

158. Issue of duplicate securities:— (1) When a debenture issued under this Act relating to the Municipal Government is alleged to have

been lost, stolen or destroyed either wholly or in part and a person claims to be the person to whom but for the loss, theft or destruction, it would be payable, he may, on application to the Commissioner, and on producing proof to his satisfaction of the loss, theft or destruction and of the justice of the claim, obtain from him an order—

(a) if the debentures alleged to have been lost, stolen or destroyed is payable more than six years after the date of publication of the notification referred to in sub-section (2).

(i) for the payment of interest in respect of the debenture pending the issue of duplicate debenture ; and

(ii) for the issue of a duplicate debenture payable to the applicant ; or

(b) if the debenture alleged to have been lost, stolen or destroyed is payable not more than six years after the date of publication of the notification referred to in sub-section (2).

(i) for the payment of interest in respect of the debenture, without the issue of a duplicate debenture ; and

(ii) for the payment to the applicant for the principal sum due in respect of the debenture on or after the date of which the payment becomes due.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification of the loss, theft or destruction of the debenture and after the expiration of such period as may be determined by the Corporation, nor until the applicant has given such indemnity as may be required by the Corporation against the claims of all persons deriving title under the debenture lost, stolen or destroyed.

(3) A list of the debentures in respect of which an order is passed under sub-section (1) shall be published in the [1][Andhra Pradesh Gazette].

(4) If at any time before the Corporation becomes discharged under the provisions of Section 162 from liability in respect of any debenture the whole of which is alleged to have been lost, stolen or destroyed, such debenture is found, any order passed in respect thereof under this section shall be cancelled.

1. Subs. by Act 5 of 1969.

159. Renewal of debentures:— Subject to the provisions of Section 160, a person claiming to be entitled to a debenture issued under this Act may on applying to the Commissioner and on satisfying him of the justice of his claim and delivering debenture receipted in such manner and paying such fee as may be determined by the Commissioner obtain a renewed debenture payable to the person applying.

160. Renewal of debentures in cases of dispute as to title:— (1) Where there is a dispute as to the title to a debenture issued under this Act in respect of which an application for renewal has been made, the Commissioner may—

(a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such debenture, issue a renewed debenture in favour of such party ; or

(b) refuse to renew the debenture until such a decision has been obtained ; or

(c) after such inquiry as is hereinafter provided and on consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such debenture and may, after the expiration of three months from the date of such declaration, issue a renewed debenture in favour of such party in accordance with the provisions of Section 159 unless within that period he has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such debenture.

Explanation:— For the purpose of this sub-section the expression 'final decision' means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(2) For the purposes of the inquiry referred to in Clause (c) of sub-section (1) the Commissioner may himself record or may request the Chief City Magistrate or the District Magistrate as the case may be to record or cause to be recorded, the whole or any part of such evidence as the parties may produce. The Chief City Magistrate or the District Magistrate to whom such request has been made, may himself record the evidence or may direct any Magistrate subordinate to him to record the evidence and shall forward the record of such evidence to the Commissioner.

(3) The Commissioner or any Magistrate acting under this section may, if he thinks fit, record the evidence on oath.

161. Liability in respect of debenture renewed:— (1) When a renewed debenture has been issued under Section 159 in favour of any person, the debenture so issued shall be deemed to constitute a new contract between the Corporation and such person and all persons deriving the title thereafter through him.

(2) No such renewal shall affect the rights as against the Corporation of any other person to the debenture so renewed.

162. Discharge in certain cases:— When a duplicate debenture has been issued under Section 158, or when a renewed debenture has been issued under Section 159 or Section 160, or when the principal sum due on a debenture in respect of which an order has been made under Section 158, for the payment of the principal sum without the issue of a duplicate debenture has been paid on or after the date on which such payment became due, the Corporation shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued, or in respect of which such payment has been made, as the case may be—

(a) in the case of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of Section 158 or from the date of the payment of interest on the original debenture, whichever date is later ;

(b) in the case of a renewed debenture after the lapse of six years from the date of the issue thereof ; and

(c) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-sec. (3) of Section 158.

163. Indemnity:— Notwithstanding anything in Section 159 or 160, the Commissioner may in any case arising under either of those sections—

(1) issue a renewed debenture upon receiving such indemnity in favour of the Corporation and the Commissioner as he shall think fit against the claims of all persons claiming under the original debenture ; or

(2) refuse to issue a renewed debenture unless such indemnity is given.

164. Right of survivors of joint payees of securities:— (1) Notwithstanding anything in Section 45 of the Indian Contract Act, 1872, when any debenture issued under this Act is payable to two or more persons jointly and either or any of them dies, the debenture shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased persons may have against the survivor or survivors in respect of the debenture jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred or occurs before or after this section comes into force.

165. Power of one or two or more joint holders to grant receipts:— Notwithstanding anything in Section 45 of the Indian Contract Act, 1872, when two or more persons are joint holders of any debenture issued under this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture unless notice to the contrary has been given to the Commissioner by any other joint holders.

166. Issue of stock certificates:— (1) The Standing Committee at its discretion may at the time of issue or at any time during the currency of any debenture or security under this Act, upon the application of the subscriber for, or holder of any such debenture or security, issued to him in lieu of the debenture or security deliverable to or held by him, a certificate in the nature of a stock certificate in respect of the loan to which such debenture or security relates, which shall be in such form as the Corporation with the previous consent of the Government shall from time to time determine, and all the provisions as to interest or dividend on such debentures or securities shall, so far as may be, apply to the interest on the stock certificate.

(2) The repayment of the principal sum mentioned in a stock certificate issued under sub-section (1) in lieu of debenture or any other security, not being a debenture issued under this Act in renewal of such a debenture, and the interest payable thereon shall be deemed to be secured by a mortgage of a proportion of all the taxes which may be levied under this Act in the same manner and to the same extent as if

a debenture for the same sum has been issued in the form contained in Schedule D to this Act.

(3) The Standing Committee shall upon the Application of the holder of a stock certificate convert the same into debentures or securities of the loan to which it relates.

(4) The Corporation may from time to time make, alter or rescind bye-laws regulating—

(a) the amounts for which stock certificates may be issued ;

(b) the fees to be levied in respect of the issue of stock certificates;

(c) the form of keeping a register of the holders of stock ;

(d) the mode in which payment of interest to holders of stock is to be made, recorded and acknowledged ;

(e) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock ;

(f) the circumstances and manner in which duplicate stock certificate may be issued and the fees to be levied or the indemnity to be required on any such issue ;

(g) generally the measures to be adopted for carrying out the object of this section.

(5) No bye-law or alteration or rescission of a bye-law shall have effect until the same shall have been approved by the Government and such approval shall have been published in the [1][Andhra Pradesh Gazette.]

167. Annual statement to be prepared by the Commissioner:— (1) The Commissioner shall, at the end of each year prepare a statement showing—

(a) the loans borrowed in previous years for which the Corporation is liable and which have not been completely repaid before the commencement of the year with particulars of the amount outstanding at the commencement of the year; the date of borrowing and the annual loan charges ;

(b) the loans borrowed by the Corporation in the year with particulars as to the amount and the date of borrowing and the annual loan charges ;

1. Subs. by Act No. 5 of 1969.

(c) in the case of every loan for which a sinking fund is maintained, the amount of accumulation in the sinking fund at the close of the year showing separately the amount paid to the credit of the fund in the year ;

(d) the loans repaid in the year and in the case of the loans repaid in instalments or by annual drawings, the amount repaid in the year, and the balance due at the close of the year ;

(e) The particulars of securities in which the sinking funds have been invested or reserved therefor.

(2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the [1][Andhra Pradesh Gazette] and copy of such statement shall be sent to the Government and to the Accountant-General [2][x x x].

168. Attachment of Municipal fund for recovery of money borrowed from Government:— (1) If any money borrowed by the Corporation from the Government, whether before or after the commencement of this Act or any interest or costs due in respect thereof, be not repaid according to the conditions of the loan, the Government may attach the municipal fund or any part thereof.

(2) After such attachment, no person except an officer appointed in this behalf by the Government shall in any way deal with the attached fund ; but such officer may do all acts in respect thereof which any municipal authority, officer or servant might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the arrears and all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the fund attached was previously charged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the fund before any part of the proceeds is applied to the satisfaction of the debt due to the Government.

1. Subs. by A.P. Act 5 of 1969.
2. The word "Hyderabad" omitted by APAO 1957.

Commentary

Sections 149 to 168 deal with the borrowing power of the Corporation. The Municipality under the Municipalities Act has no such powers. This power is similar to the borrowing power of the Central and State Governments under Articles 292 and 293 of the Constitution of India respectively.

Annual Statement:— A statement under Section 167 is different from the budget. This is statement of borrowings, payments and outstanding loans. The Government has power to attach the Municipal fund for repayment of a loan.

CHAPTER VII
Revenue and Expenditure
The Municipal Fund

169. Constitution of Municipal Fund:— (1) Subject to the provisions of this Act and the rules and bye-laws—

(a) all moneys received by or on behalf of the Corporation under the provisions of this Act or of any other law for the time being in force, or under any contract ;

(b) all proceeds of the disposal of property by or on behalf of the Corporation ;

(c) all rents accruing from any property of the Corporation ;

(d) all moneys raised by any tax levied for the purposes of this Act ;

(e) all fees and fines payable and levied under this Act or under any rule, bye-law or standing order in force thereunder ;

(f) all moneys received by way of compensation or for compounding offences under the provisions of this Act ;

(g) all moneys received by or on behalf of the Corporation from the Government or public bodies, private bodies or private individuals by way of grant or gift or deposit, subject however, to the conditions, if any, attached to such grant, gift or deposit, and

(h) all interest and profits arising from any investment of, or from any transaction in connection with any money belonging to the Corporation,

shall be credited to a fund which shall be called 'the Municipal Fund' and which shall be held by the Corporation in trust for the purposes of this Act, subject to the provisions therein contained.

(2) The Municipal Fund constituted under sub-section (1) shall include the accumulated balances at the credit of the Corporation immediately before coming into force of this Act.

Commentary

The Municipal Fund:— Section 125 of the Municipalities Act deals with The Municipal fund. For a Municipality, the Municipal Fund consists of all monies received by the Municipality. For a Corporation, the Municipal Fund consists of:

1. all monies received by the Corporation,

2. all proceeds of the disposal of property by or on behalf of the Corporation,

3. all rents on the property of the Corporation,

4. taxes,

5. fees and fines collected,

6. compensation for compounding offences,

7. monies received from Government or public bodies, or private individuals as grant, gift or deposit,

8. interests and profits from transaction or interest by the Corporation,

9. accumulated fund in the Corporation standing to the credit before the commencement of this Act.

The resources for the Corporation are greater to pool up the fund than the Municipality. Article 266 of the Constitution lays down the 'Consolidated Fund' of Centre and States. The expenditure charged to the Municipal Fund is laid down in Section 17.

170. Commissioner to receive payments on account of the Municipal Fund and to lodge them in a bank:— All moneys payable to the credit of the Municipal Fund shall be received by the Commissioner and shall be forthwith paid into [1][the State Bank of Hyderabad] to the credit of an account which shall be styled "the account of the Municipal Fund of the City of .....

1. Subs. for the words "the Hyderabad State Bank" by APAO, 1957.

171. How the fund shall be drawn against:— (1) Subject to the provisions of Section 678 no payment shall be made by the Bank aforesaid out of the Municipal Fund except on a cheque signed by two persons in the manner specified below, namely—

[1][(a) by either the Commissioner, Additional Commissioner, Deputy Commissioner, Accounts Officer-cum-Financial Advisor or any other Officer authorised by the Government];

(b) by either the Examiner of Accounts or in his absence by the Officer immediately subordinate to him.

(2) Payment of any sum due by the Corporation in excess of rupees one hundred shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payment of any sum due by the Corporation, not exceeding rupees one hundred in amount, may be made by the Commissioner in cash, cheque for sums not in excess of rupees one thousand each, signed as aforesaid, being drawn from time to time to cover such payments.

172. Only sums covered by a budget grant to be expended from Municipal Fund:— Except as hereinafter provided, no payment of any sum shall be made by the Commissioner out of the Municipal Fund, unless the expenditure of the same is covered by a current budget grant, and sufficient balance of such budget grant is still available, notwithstanding any reduction or transfer thereof which may have been made under Section 191 or Section 192.

(2) Exceptions:— The following items shall be exempted from the prohibition, imposed by sub-section (1), namely:—

(a) sums of which the expenditure has been sanctioned by the Standing Committee under Section 190 ;

(b) temporary payment under Section 176 for works urgently required in the public service ;

(c) refunds of taxes and other moneys which the Commissioner is by or under this Act authorised to make ;

(d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the Municipal Fund by mistake ;

1. Subs. by Act 3 of 1994, w.e.f. 01.03.1994.

(e) sums which the Commissioner is by sub-section (2) of Section 293, Sections 398 and 406, sub-section (2) of Section 522, sub-section (4) of Section 556, Section 648 and clause (b) of sub-section (2) of Section 667 required or empowered to pay by way of compensation ;

(f) sums payable in any of the circumstances mentioned in clause (f) of Section 174 ;

(g) expenses incurred by the Commissioner in the exercise of the powers conferred upon him by Section 565 ;

(h) costs incurred by the Commissioner under clause (c) of sub-section (3) of Section 117.

(3) In sub-section (1) "budget grant" means a budget within the meaning of that term as defined in Section 188 and includes any sum by which such budget grant may at any time be increased by a transfer under sub-section (1) of Section 191.

173. Procedure when money not covered by a budget grant is expended under Clauses (e), (f), (g) or (h) of Section 172:— Whenever any sum is expended by the Commissioner under Clauses (e), (f), (g) or (h) of sub-section (2) of Section 172, he shall forthwith communicate the circumstances to the Standing Committee, which shall take such action under sub-section (2) of Section 191 or recommend to the Corporation to take, under Section 189 or under sub-section (1) of Section 191, such action as shall in the circumstances appear proper and expedient for covering the amount of the additional expenditure.

174. Purpose for which the Municipal Fund is to be applied:— The moneys from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act or of any other law for the time being in force inclusive of—

(a) the expenses of every election held under this Act ;

(b) the contributions required to be made under sub-section (2) of Section 131 ;

(c) the salaries and other allowances of all municipal officers, servants and all contributions to provident funds, pensions, gratuities

payable under the provisions of this Act or the bye-laws or of the statement framed under this Act for the time being in force ;

(d) all expenses and costs incurred by the Commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation;

(e) any sum chargeable under Section 196 ;

(f) every sum payable—

(i) under Section 664 or sub-section (1) of Section 678 to the Government ;

(ii) under a decree or order of a Civil or Criminal Court passed against the Corporation or against the Commissioner, Deputy Commissioner or Assistant Commissioner, in their capacities as such ;

(iii) under a compromise of any suit or other legal proceeding or claim effected under Section 674 ;

(g) contributions to public institutions ;

(h) conveyance allowance to Mayor and the [1][Member] of the Corporation for attending any meeting of the Corporation or Committee appointed under this Act.

175. Municipal Fund where to be expended:— Expenditure by the Corporation out of the Municipal Fund shall save as otherwise provided by this Act, be made within the city only, but may, by a resolution of the Corporation supported by not less than half the total number of [1][Members], be made outside the city for any of the purposes of this Act.

176. Temporary payments from the Municipal Fund for works urgently required for public service:— (1) On the written requisition of a Secretary to the Government, the Commissioner may at any time undertake the execution of any work certified by such Secretary to be urgently required in the public service and for this purpose may temporarily make payments from the Municipal Fund, so far as the same can be

1. Subs. for the word "Councillor/Councillors" by Act 17 of 1994.

made without unduly interfering with the regular working of the Municipal Government. The cost of all works so executed and of the establishment engaged in executing the same shall be paid by the Government and credited to the Municipal Fund.

(2) On receipt of any requisition under sub-section (1), the Commissioner shall forthwith forward a copy thereof to the Corporation, together with a report of steps taken by him in pursuance of the same.

Special Funds

177. Constitution of Special Funds:— The Corporation may constitute such special funds as may be prescribed and such other funds as may be necessary for the purposes of this Act. The constitution and disposal of such funds shall be effected in the manner prescribed.

Disposal of Balances

178. Investment of surplus money:— (1) Surplus moneys at the credit of the Municipal Fund which cannot be immediately or at an early date be applied to the purposes of this Act or of any loan raised thereunder may be, from time to time, deposited at interest in the [1][State Bank of Hyderabad] or be invested in public securities.

(2) All such moneys which are required to be kept readily available for application to purposes of this Act and all such surplus money which cannot in the opinion of the Commissioner and Standing Committee be deposited or invested in the manner specified under sub-section (1) may be deposited at such bank or banks in the City which the Corporation may, subject to the approval of the Government from time to time select for the purpose.

(3) All such deposits and investments shall be made by the Commissioner on behalf of the Corporation with the sanction of Standing Committee, and with the like sanction, the Commissioner may at any time withdraw any deposit so made or dispose of any securities and redeposit or reinvest the money so withdrawn or the proceeds of the disposal of such securities ; but no order for making any deposit or investment, withdrawal or disposal under this section shall have any validity unless the same be in writing, signed by two persons in the manner specified in sub-section (1) of Section 171 for signing of cheques.

1. Subs. for the words "Hyderabad State Bank" by APAO, 1957.

(4) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund.

179. Accounts to be kept in forms specified by Standing Committee:— Subject to the provisions of this Act, accounts of the receipt and expenditure of the Corporation shall be kept in such manner and in such forms as the Standing Committee shall from time to time specify.

180. Preparation of Annual Administration Report and Statement of Accounts:— (1) The Commissioner shall, as soon as may be after each first day of April, cause to be prepared a detailed report of the municipal administration of the city during the previous financial year, together with a statement showing the amounts of the receipts and disbursements credited and debited to the Municipal Fund during the said year and the balance at the credit of the Fund at the close of the said year and shall submit the same to the Standing Committee.

(2) The Commissioner shall incorporate with the said report and statement—

(a) report for the same period from each head of a department subordinate to him ;

(b) the account of balances due on loans than last published under Section 167.

(3) After examination and review of the report and statement by the Standing Committee, a printed copy of such report and statement together with a copy of the Committee's review shall be forwarded to the usual or last known local place of abode of each [1][Member] by such date as the Standing Committee may from time to time, specify and copies thereof, shall be placed for sale at the Chief Municipal Office at such price as the Commissioner may fix.

181. Report and statement to be laid before the Assembly:— (1) The Commissioner shall forward a copy of each of the report and statement prepared by him under Section 180 together with a copy of the Committee's review to the [2][Local Administration Department] for the purpose of being laid before the Legislative Assembly of the State.

1. Subs. for the word "Councillor" by Act 17 of 1994.
2. Subs. for the words "Local Government" by APAO, 1957.

(2) On receipt of such report and statement the Secretary to Government, [1][Local Administration Department] shall with such comments, if any, as he may deem necessary to make thereon take steps to cause the said report and statement to be laid without delay before the Legislative Assembly.

182. Estimates of income and expenditure to be prepared annually by Commissioner:— The Commissioner shall on or before each tenth day of November, cause to be prepared and lay before the Standing Committee, in such form as the said Committee shall from time to time approve:—

(a) an estimate of the expenditure which must or should in his opinion, be incurred by the Corporation in the next ensuing financial year ;

(b) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the next ensuing financial year ;

(c) an estimate of the Corporation's receipt and income for the next ensuing financial year other than from taxation ;

(d) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the provisions of this Act in the next ensuing financial year.

183. Classification of budget heads:— The expenditure side of a budget estimate shall be classified under major heads, minor heads, subordinate heads and primary units:—

(a) 'Major head' means the principal head of accounts corresponding to the different services under which expenditure is classified in the budget estimate, and may be divided into two or more heads ;

(b) 'Minor head' means the head of accounts immediately subordinate to a major head under which each major head is classified in and may be further sub-divided into two or more subordinate heads ;

1. Subs. for the words "Local Government" by APAO, 1957.

(c) 'Subordinate head' means the head of accounts immediately subordinate to a minor head under which each minor head is classified and may be further sub-divided into two or more primary units ;

(d) 'Primary unit' means the ultimate group or groups into which individual items of expenditure in the budget estimates are arranged.

184. Budget estimates to be prepared by the Standing Committee:— (1) The Standing Committee shall on or as soon as may be after each tenth day of November consider the estimates and proposals of the Commissioner after having obtained from the Commissioner such further detailed information, if any, as they shall think fit to require and having regard to the requirements of this Act shall frame therefrom subject to such modifications and additions therein or thereto as they consider them fit a budget estimate of the income and expenditure of the Corporation for the next financial year.

(2) The budget estimate of a Standing Committee shall—

(a) propose with reference to the provisions of Chapter VIII the levy of municipal tax at such rates and in the case of octroi on such articles they shall think fit ;

(b) provide for the payment, as they fall due of all sums and of all instalments of principal and interest for which the Corporation may be liable under this Act ;

(c) allow for the appropriation of any special funds of the sum estimated by the Corporation, revised as it thinks proper ;

(d) provide any funds it considers from the balances of any special funds maintained under Section 177 ;

(e) allow for a cash balance at the end of the said year exclusive of the balances, if any, in any special fund constituted, under Section 177, of a sum prescribed in this behalf.

(3) The Commissioner shall cause the budget estimates as finally approved by the Standing Committee to be printed and shall, not later than the 15th day of December, forward a printed copy thereof to the usual or last known local place of abode of each [1][Member].

1. Subs. for the word "Councillor" by Act 17 of 1994.

185. Consideration of Budget estimate by Corporation:— At a meeting of Corporation which shall be called for some day in January, not later than the tenth, the budget estimate, prepared by the Standing Committee with the report of the Standing Committee thereon shall be laid before the Corporation and they shall proceed to consider the same.

186. Fixing of rates of taxes:— The Corporation shall, on or before the twentieth day of February, after considering the Standing Committee's proposals in this behalf, determine, subject to the limitations and conditions provided in Chapter VIII, the rates at which municipal taxes referred to in Section 197 shall be levied in the next ensuing financial year.

187. Final adoption of budget estimates:— Subject to the requirements of Section 186, the Corporation may refer the budget estimate back to the Standing Committee for further consideration, or adopt the budget estimates or any revised budget estimates submitted to them as they stand or subject to such alterations as they deem expedient:

Provided that the budget estimates finally adopted by the Corporation shall fully provide for each of the matters specified in clauses (b), (c) and (e) of sub-section (2) of Section 184.

188. Budget grant defined:— The total sum entered under a major head on the expenditure side which has been adopted by the Corporation shall be termed a 'budget grant'.

189. Corporation may increase amount of budget grants and make additional grants:— (1) On the recommendation of the Standing Committee, the Corporation may, from time to time during a financial year increase the amount of any budget grant, or make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year shall be reduced below the prescribed sum under clause (e) of sub-section (2) of Section 184.

(2) Such increased or additional budget grants shall be deemed to be included in the budget estimates adopted by the Corporation for the year in which they are made.

190. Unexpended budget grants:— If the whole budget grant or any portion thereof remains unexpended at the close of the year in the

budget estimate for which such grant was included and if the amount thereof has not been taken into account in the opening balance of the Municipal Fund, the Standing Committee may sanction the expenditure of such budget grant or such unexpended portion thereof, as the case may be during the next two following years for the completion according to the original intention or sanction, of the purpose or object for which the budget grant was made, but not upon any other purpose or object.

191. Reductions or transfer:— (1) Subject to the provisions of sub-section (1) of Section 189, the Corporation may, on the recommendation of the Standing Committee, from time to time, during a financial year sanction the transfer of any amount from one budget grant to another.

(2) The Standing Committee may, at any time during a financial year—

(a) reduce the amount of a budget grant ;

(b) sanction the transfer of any amount within a budget grant from one minor head to another or from a subordinate head under one minor head to a subordinate head under another minor head; or

(c) sanction the transfer of any amount exceeding rupees five thousand within a minor head from one subordinate head to another or from one primary unit to another.

(3) The Commissioner may, at any time during a financial year, sanction the transfer of any amount not exceeding [1][rupees five lakhs] within a minor head from one subordinate head to another or from one primary unit to another, if such transfer does not involve a recurring liability:

Provided that every transfer of an amount exceeding [2][rupees fifty thousand] made under sub-section (3) shall be reported forthwith by the Commissioner to the Standing Committee and that the said Committee may pass with regard thereto such order as they may think fit ; and it shall be incumbent on the Commissioner to give effect to such order.

(4) When making any transfer under sub-sections (1), (2) and (3) due regard shall be had to all the requirements of this Act.

1. Subs. for the words "rupees five thousand" by Act 3 of 1994.
2. Subs. for the words "rupees five hundred" by *Ibid.*

(5) If any such reduction as is referred to in clause (a) of sub-section (2) exceeds rupees five hundred, the Corporation may pass with regard thereto such order as they may think fit, and it shall be incumbent on the Standing Committee and the Commissioner to give effect to such order.

192. Readjustment of income and expenditure to be made by the Corporation during the course of financial year whenever necessary:— (1) If it shall at any time during any financial year appear to the Corporation, upon the representation of the Standing Committee, that notwithstanding any reduction of budget grants that may have been made under Section 191, the income of the Municipal Fund during the said year will not suffice to meet the expenditure sanctioned in the budget estimates of the said year as so reduced and to leave at the close of the year a cash balance of not less than the prescribed sum in the case of the Municipal Fund, it shall be incumbent on the Corporation to sanction forthwith any measure which shall be necessary for proportioning the year's income to the expenditure.

(2) For the purposes of sub-section (1) the Corporation may diminish the sanctioned expenditure of the year so far as it may be possible so to do with due regard to the provisions of this Act.

193. Weekly scrutiny of accounts by Examiner of Accounts and scrutiny of accounts by the Standing Committee:— (1) The Municipal Examiner of Accounts shall conduct a weekly examination and audit of the municipal accounts and shall report thereon to the Standing Committee which may also from time to time and for such period as it thinks fit conduct independently an examination and audit of the municipal accounts.

(2) For the purposes of sub-section (1) the Standing Committee and the Municipal Examiner of Accounts shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the Commissioner shall forthwith furnish to the Standing Committee or the Municipal Examiner of Accounts any explanation concerning receipt and disbursements which they may call for.

194. Duties and Powers of the Municipal Examiner of Accounts:— The Municipal Examiner of Accounts in addition to any other duties or powers imposed or conferred upon him under this Act shall perform the duties and may exercise the powers specified in Schedule E.

195. Report by Examiner of Accounts:— (1) The Municipal Examiner of Accounts shall—

(a) report to the Standing Committee any material impropriety or irregularity which he may at any time observe in the expenditure or in the recovery of money due to the Corporation or in the municipal accounts ;

(b) furnish to the Standing Committee such information as the said Committee may, from time to time require concerning the progress of the audit.

(2) The Standing Committee shall cause to be laid before the Corporation every report made by the Municipal Examiner of Accounts to the Standing Committee and every statement of the views of the Municipal Examiner of Accounts on any matter affecting the performance and exercise of the duties and powers assigned to him under this Act which the Municipal Examiner of Accounts may require the Standing Committee to place before the Corporation, together with a report stating what orders, if any, have been passed by the Standing Committee upon such report or statement and the Corporation may take such action in regard to the matters aforesaid as the Corporation may deem necessary.

(3) As soon as may be after commencement of each financial year the Municipal Examiner of Accounts shall deliver to the Standing Committee a report upon the whole of the municipal accounts for the previous financial year.

(4) The Commissioner shall cause the said report to be printed and a copy thereof forwarded to each Member along with the printed copy of Administration Report and Statement of Accounts referred to in Section 180.

[1][**196. Audit of Accounts:—** The Accounts of the Municipal Corporation shall be audited by the Director of State Audit, or by any officer nominated by him and a certificate of the accounts as audited shall be issued by the end of October every year duly making a copy thereof to the Government and also to the Accountant-General:

Provided that the Government may, at the time, for reasons to be recorded in writing appoint an Auditor for the purpose of making a special audit of the accounts and to report to the Government thereon.

1. Subs. by A.P. Act 3 of 1994, w.e.f. 01.03.1994.

Commentary

Payments out of Municipal Fund:— Under Section 84 of City of Nagpur Corporation Act no payment can be made out of the Municipal Fund unless the expenditure is covered by the budget. In this Act Section 172 lays down the restriction subject to certain exemptions. What the said section lays down is only a prohibition of an expenditure which the budget does not provide. It affects actual expenditure and not resolution sanctioning expenses for the sending of delegation abroad. AIR 1963 SC 697. If the commissioner at a meeting not only authorises the expenditure but also authorises a particular person or particular committee to incur the expenditure, this will not be an invalid authorisation as far as the expenditure is concerned. AIR 1966 Pat. 6.

Revenue and Expenditure:— The whole scheme of Revenue and Expenditure in this Act is analogous to the provisions of the Constitution of India.

The Municipal Examiner for Accounts shall report to the Standing Committee about the audit. The Government have power to have a special audit.

[1][**196-A. Finance Commission:—** (1) The Finance Commission constituted by the Governor in pursuance of Article 243-I of the Constitution shall also review the financial position of the Corporation and make recommendations to the Government as to,—

(a) the principles which should govern—

(i) the distribution between the State and the Corporation of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this part and the allocation between the Corporation of their respective shares of such proceeds ;

(ii) the determination of the taxes, tolls and fees which may be assigned to, appropriated by the Corporation ;

(iii) the grants-in-aid to the Corporation from the Consolidated Fund of the State ;

(b) the measures needed to improve the financial position of the Corporation ;

(c) any other matter referred to the Finance Commission by the Government in the interests of sound finances of the Corporation.

1. Inserted by A.P. Act 17 of 1994.

(2) The Government shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly of the State.]

CHAPTER VIII
Municipal Taxation

197. Taxation to be imposed under this Act:— (1) (i) For the purposes of this Act, the Corporation shall impose the following taxes, namely:—

(a) taxes on lands and buildings ;

(b) octroi ;

(c) taxes on vehicles ;

(d) taxes on animals and boats ;

(e) [1][x x x]

(f) taxes on advertisements other than advertisements published in the newspapers ;

(g) a tax on transfer of immovable property.

(ii) In addition to the taxes specified in clause (i) the Corporation may for the purposes of this Act and subject to the provisions thereof also impose any of the following taxes:—

(a) taxes on entertainments ;

(b) [2][x x x]

(2) The Corporation may impose any tax other than those specified under sub-section (1) subject to the previous sanction of the Government.

(3) The taxes specified in sub-sections (1) and (2) shall be assessed and levied in accordance with the provisions of this Act and rules made thereunder.

Commentary

Scope:— Sections 197 to 281 contain provisions relating taxation, and collection of taxes by the Municipal Corporation.

1. Omitted by A.P. Act 38 of 1961, w.e.f. 01.04.1961.
2. Omitted by A.P. Act 22 of 1987.

Taxing Power and Police Power:— Dillon in his treatise on "Municipal Corporations" 5th edition, Vol. IV at page 2040 observed that "power to tax is not included in the police power in the American Municipal Law". It has been held in the case of *Nagar Mahapalika, Varanasi vs. Durga Das Bhattacharya,* AIR 1968 SC 1119 that the police and taxing powers of the Legislature though co-existing, are distinct powers. Broadly speaking the distinction is that the taxing power is exercised for raising the revenues and is subject to certain designated constitutional limitations, while the police power is exercised for the promotion of the public welfare by means of the regulation of dangerous or potentially dangerous business, occupations or activities, and is not subject to the constitutional restrictions applicable to the taxing power. It may consequently be said that if the primary purposes of the statute or ordinance exacting an imposition of some kind is to raise revenue, it represents an exercise of taxing power, while if the primary purpose of such an enactment is the regulation of some particular occupation, calling or activity it is an exercise of police power, even if it incidentally produces revenue.

Power of taxation:— The history of Municipal Acts in India indicates that for nearly a century or more power of taxation has been delegated to municipal bodies. In some Acts all taxes delegated to municipal bodies are compulsory while in other Acts all taxes so delegated are optional and while in some cases some taxes are compulsory and some taxes are optional as in the Delhi Municipal Corporation Act, 1957. In some cases maximum limits are provided for some taxes and not for others and in some cases no maximum is provided though there are restrictions and safeguards within which the municipal bodies should act. In all cases however there has been a large area of delegation of taxing power for local purposes to local bodies subject to the Control by Government or to such other procedural safeguards as the Legislature considers necessary in the matter of imposition of taxes. According to own history also there is a wide area of delegation in the matter of imposition of taxes to local bodies subject to controls & safeguards of various kinds which partake of the nature of guidance in the matter of fixing rates for local taxation. AIR 1968 SC 1232. Local Authorities do not act as Legislature when they impose a tax but as the agent of the State Legislature. This power and the extent of these powers must be found in the Statute which creates them and endows them with such powers. AIR 1966 SC 1502. The power to tax and consequently the taxation itself would be presumed to be for public good and would not be subjected to any judicial review of scrutiny on that account. *Atiabari Tea Co. Ltd. vs. State of Assam,* AIR 1961 SC 232.

Delegation of power:— In all statutes dealing with local administration, the Municipal authorities have inevitably to be delegated the power of taxation. Such power is a necessary adjunct to a system of local self Government.

Whether such delegation is excessive and amounts to abdication of an essential legislative function has to be considered from—

(1) the scheme of the statute ;

(2) the objects of the statute ; and

(3) the provisions of the statute. AIR 1971 SC 2100.

Validity of the tax:— The validity of the tax depends upon the existence of power to tax in respect of the subject. AIR 1964 SC 370. If the corporation fixes rates which are unreasonable there is Control in the Court to strike down (173). Is fixation of rates an essential legislative function? In the case *Pandit Banarsi Das Bharat vs. State of M.P.,* AIR 1958 SC 909 it was held that fixation of rates of taxes is not an essential legislative function, and it can be delegated to a non-legislative authority with proper guidance and control. In *Mampton, J. and E vs. United States,* 276 US 394 = (1927) 72 Law.Ed. 624. The power conferred by a statute on the president to make an increase or decrease in the rate of customs duty was upheld. Thus the delay action will not be bad on the ground of excessive delegation or a delegation of essential legislative power. In the Bombay Provincial Municipal Corporation Act, 1949 no provision was made for the maximum rate leviable by the Corporation or on guide lines. In *Gulabchand Bapalal Modi vs. Municipal Corporation of Ahmedabad,* AIR 1971 SC 2100. The Act was challenged on the grounds of excessive delegation or delegation of essential legislative function. The Supreme Court rejected the contention. The Bombay District Municipal Act, 1901 gave power to levy 'any tax'. In *Western India Theatres Ltd. vs. Corporation of City of Poona,* AIR 1959 SC 586, it was challenged as abdication of essential legislative function. The Supreme Court enunciated the principle thus ;

"Although the power of delegation is constituent element of the legislative power, it is well settled that a legislature cannot delegate its essential legislative function in any case, before it can delegate any subsidiary on powers to ancilliary delegate proper guidance in implementing the same. The contention was rejected.

Tax and Fee:— Lathan C.J. in *Mathews vs. Chicory Marketing Board,* 60 CLR 263 at 276 laid down the characteristics of tax which are universally accepted. They are :

(1) It is compulsory exaction of money imposed under statutory power without the tax payer's consent and the payment is enforced by law. 1933 AC 168.

(2) It is an imposition made for public purpose without reference to any special benefit to be conferred on the payer. There is no element of *quid pro quo.*

(3) It is a part of the common burden.

Fee:— Fee is generally defined to be a charge for a special service rendered to individual by some Governmental agency. The amount of fee levied is supposed to be based on the expenses incurred by the Government in rendering service though in many cases, the costs are arbitrarily assessed. In the case of the *Commissioner, Hindu Religious Endowments vs. Lakshmindra Thirtha Swamiar of Sirur Mutt,* AIR 1954 SC 282, the distinction between tax and fee was considered.

Two elements are thus essential in order that a payment may be regarded as fee. In the first place, it must be levied in consideration of certain services the individuals accepted either willingly or unwillingly. But this by itself is not enough to make the imposition of a fee, if the payments demanded for rendering of such services are not set apart or specially appropriated for the purpose, but are merged in the general revenue of the state to be spent for general public purpose. AIR 1954 SC 400.

Taxes which may be Imposed by Municipal Corporation:— Municipalities Acts or Municipal Corporation Acts in India enumerate the various taxes which can be levied as follows :

(1) Property tax.

(2) Tax on vehicles and animals.

(3) Octroi.

(4) Tax on trades, callings, professions etc.

(5) Tax on dogs.

(6) Theatre tax.

(7) Toll on animals and vehicles.

(8) Conservancy and scavenging tax.

(9) Terminal tax.

(10) Pilgrims tax.

(11) Tax on advertisements.

(12) Lighting tax.

(13) Sanitary cess.

Municipal Corporations in India are empowered by the State statutes to levy various taxes in order to perform several duties imposed upon them and to meet their expenses. They are of two kinds as obligatory taxes and optional taxes.

Obligatory taxes are (1) Property tax (2) Octroi, and (3) Profession tax.

Optional taxes are (1) Rates on land revenues (2) Tax on consumption and sale of electricity, and (3) Toll tax.

Tax in this Act:— Obligatory taxes.

(1) Taxes on land and buildings.

(2) Octroi.

(3) Taxes on vehicles.

(4) Taxes on animals and boats.

(5) Taxes on professions, trades, callings and employments.

(6) Taxes on advertisement other than those published in newspapers.

(7) Tax on transfer of immovable property.

Optional Taxes:— (1) Tax on entertainments.

(2) Any other tax subject to the previous sanction of the Government.

Rate of Taxes:— Tax shall not be less than 15 per cent and more than 30 per cent of the rateable value of the property.

Buildings exempted from General Tax:— (1) Buildings used for disposal of dead persons.

(2) Buildings or lands used for public worship or for charitable or educational purpose.

(3) Buildings or lands vesting in the Corporation or Central Government.

(4) Buildings or lands belonging to the State Government, used for public purpose.

Certain buildings were constructed by the corporation and allotted to individuals on hire purchase agreement. Till full payment is made the ownership is with corporation only. The allottees are liable to pay property tax on those buildings. 1969 (2) An.W.R. 44.

Places of public worship:— Nandanavanam where flowers are grown for the exclusive use of the temple would be exempt from tax. 1960 (2) MLJ 332. Where only a certain place is used as a place of worship while the substantial portion is used as a dispensary, it is not exempt from tax. AIR 1959 Cal. 361. The shops and stalls in a temple are liable to pay tax. AIR 1942 Mad. 658. A bhajanamandiram occasionally let out for marriage is not exempt. AIR 1943 Mad. 518.

Charitable purpose:— In *Municipal Council vs. T.T. Devasthanam,* AIR 1974 SC 51. Goswami, J. held that the choultry of the T.T. Devasthanam is used for charitable purpose and hence is exempted from property tax.

Educational purpose:— The word 'used' means used primarily by the person who is primarily liable to pay tax or in other words the owner. Hence

a person who leased the house cannot claim exemption from tax even though the building is used for educational purposes. AIR 1941 Mad. 877. Where a school has a large area of vacant site and a portion of it was leased on to a shepherd it held that the portion of the land was not an appurtenance and is not entitled for exemption. 1940 (1) MLJ 15 (NRC). Exemption from levy can be obtained only at the time of levy but not after it is levied. AIR 1943 Mad. 377. Four rooms belonging to choultry are leased out to business institution. They utilised for charitable purposes. *A. Ganga Raju vs. Municipal Council, Palacole,* AIR 1976 AP 312.

Taxes which may be imposed by Hyderabad Municipal Corporation:— Section 197 of HMC Act enumerates the various taxes which can be levied by the Corporation. This section is the source of power vested in the Municipal Corporation for imposing the taxes mentioned therein.

Section 197 sets out certain items for taxation by the Corporation. The taxes, so levied, are to be utilised for the purposes of the Act. Therefore, there is a clear directive about the purpose & limit of the tax. Moreover, the items on which taxes may be imposed, are also specified. Thus, the legislature has fixed:—

(a) The purpose of the taxation

(b) the objects of the taxation, and

(c) the limits of the taxation.

Section 197 is a valid delegation by the legislature. *Saurashtra Iron Foundry and Steel Works (Pvt.) Ltd. vs. Bhavnagar Nagarpalika,* AIR 1970 Guj. 53 (DB).

Optional taxes:— Section 197(2) of HMC Act gives power to Corporation any tax other than those specified in sub-section (1) of Section 197, subject to the previous sanction of the Government. However on items specified in sub-section (1)(i) of Section 197, the Corporation shall impose taxes.

Primary responsibility and liability to pay property tax:-- Section 204 of HMC Act, 1955 enumerates primarily responsibility and liability for payment of property tax.

Occupier, meaning of:— The word "occupier" used in Section 204 of HMC Act is defined in Section 2(36) of the Act.

Section 2(36) 'occupier' includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the land or building in respect of which such rent is paid or is payable.

(b) a rent-free tenant.

(c) licensee in occupation of any land or building, and

(d) any person who is liable to pay to the owner damages for the use and occupation of any land or building.

The above definition does not apply to the owner of property. 1969(2) An.WR 467.

198. Notice regarding levy of taxes:— (1) Before the Corporation passes any resolution imposing a tax specified in sub-section (1) of Section 197 for the first time or at a new rate it shall direct the Commissioner to publish a notice in the Andhra Pradesh Gazette and in the local newspaper of its intention to do so and fix a reasonable period not being less than one month, from the date of publication of such notice in the Andhra Pradesh Gazette for submission of objections. The Corporation may, after considering the objections, if any, received within the period specified, determined by resolution to levy the tax. Such resolution shall specify the rate at which, the date from which and the period of levy if any, for which, such tax shall be levied.

(2) When the Corporation shall have determined to levy any tax for the first time or at a new rate, the Commissioner shall publish a notice in the manner laid down in sub-section (1) specifying the date from which, the rate at which, and the period of levy, if any, for which, such tax shall be levied :

Provided that if the Corporation is indebted to the Government, the rates of the taxes already levied shall not be reduced without the sanction of the Government.

Commentary

New tax-notice:— In the case of notice of levy of taxes, published under Section 198 of the Act or inviting objections in this regard will be necessary only in the case of new tax and not for revision of tax. *S.B.H. Co-operative Bank Officers' Welfare Association v. Government of A.P.,* 1997 (2) ALT 62 (DB).

Levy of Municipal Tax - retrospectively :-Municipal tax cannot be levied with retrospective effect unless expressly authorised by the Act. Where the Municipal Corporation collected the tax for the previous year fixing the rental value, it cannot revise the tax for the previous year and levy the revised tax. It would amount to collecting the tax twice over for the same period. *Valluri Basavaiah Chowdary and Brothers vs Vijayawada Municipal Corporation,* 2002 (1) ALD 276.

199. Property taxes of what to consist and at what rate leviable:— (1) The following taxes shall subject to exceptions, limitations and conditions herein provided be levied on buildings and lands in the City and shall hereinafter be referred to as property taxes, namely:—

(a) a general tax ;

(b) a water tax ;

(c) a drainage tax ;

(d) a lighting tax ;

(e) a conservancy tax ;

(2) Save as otherwise provided in this Act these taxes shall be levied at such percentages of their rateable value as may be fixed by the Corporation :

Provided that the aggregate of the percentages so fixed shall not in the case of any land or building be less than 15 per cent or greater than 30 per cent.

Commentary

Drainage betterment charges as condition precedent illegal:— As the Municipal Corporation is empowered to collect drainage tax under the head property tax under Section 119 a statutory liability is also cast on the corporation to construct, maintain and cleanses the drains under Section 112(4) of the Act. In the absence of any specific provision in the corporation Act and the rules made thereunder to levy drainage betterment charges as a condition precedent for grant of building permits the impugned circular levying such a charge has no legal basis. 1983 (2) ALT 1.

Conservancy tax :-Section 489 does not contemplate or empower the Commissioner to levy and collect any amounts towards administrative charges for lifting, transporting and dumping the waste in dumping yards. Such Charges are in the nature of 'conservancy tax', if allowed, would amounts to levy and collection for the second time - once as property tax, and again in the present form. *Laxmi Lodge, Warangal and others vs Government of A.P. and another,* 2002 (6) ALD 605 = 2003 (1) ALT 30 = 2002 (3) LS 389.

200. Water tax on what premises levied:— Subject to the provisions of Section 227 the water tax shall be levied only in respect of premises,—

(a) to which private water supply is furnished from, or which are connected by means of communication pipes with, any [1][Board Water Works] ; or

(b) which are situated in a portion of the city in which the Commissioner has given public notice that sufficient water is available from [1][Board Water Works] for furnishing a reasonable supply to all premises in the said portion.

201. Conservancy tax on what premises to be levied:— (1) The conservancy tax shall be levied only in respect of premises—

(a) situated in any portion of the city in which public notice has been given by the Commissioner that the collection, removal and disposal of all excrementitious and polluted matter from privies, urinals and cesspools will be undertaken by municipal agency;

(b) in which, wherever situate, there is a privy, water closet, cesspool, urinals, bathing place or cooking place connected by a drain with a [2][Board sewer] :

Provided that the said tax shall not be levied in respect of any premises situated in any portion of the city specified in clause (a), in or upon which, in the opinion of the Commissioner, no such matter as aforesaid accumulates or is deposited.

(2) Premises in respect of which the Commissioner has directed that a separate water-closet, privy or urinal need not be provided shall be deemed to be liable to the levy of conservancy tax, if, but for such direction, the tax would be leviable in respect thereof.

202. General tax on what premises to be levied:— (1) The general tax shall be levied in respect of all buildings and lands in the city except—

(a) buildings and lands solely used for purposes connected with the disposal of the dead ;

1. Subs. for the words "Municipal Water Works" by Act 6 of 1982. The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.
2. Subs. for the words "Municipal drain" by *Ibid.* The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.

(b) buildings and lands or portions thereof solely occupied and used for public worship or for a charitable [1][x x x] purpose;

[2][(bb) educational institutions upto 10th class, the buildings, of which are donated by charitable institutions or philanthropists, or which are depending on the grant-in-aid by the Government for the maintenance and such other educational institutions which are not running purely on commercial lines, but serving the cause of primary education which the Government may consider from time to time ;]

(c) buildings and lands vesting in the [3][Central Government or the] Corporation ;

(d) buildings and lands vesting in the [4][x x x] State Government used solely for public purposes and not used or intended to be used for purposes of profit in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the [4][x x x] State Government as the case may be.

[3][(2) The following buildings and lands or portions thereof shall not be deemed to be solely occupied and used for public worship or for a charitable or educational purposes within the meaning of clause (b) of sub-section (1), namely:—

(a) buildings or lands or portions thereof in which any trade or business is carried on ; and

(b) buildings or lands or portions thereof in respect of which rent is derived, whether such rent is or is not applied solely to religious or charitable or educational purposes].

[5][(3)] Where any portion of any building or land is exempt from the general tax by reason of its being solely occupied and used for public worship or for a charitable or educational purpose, such portion shall be deemed to be a separate property for the purpose of municipal taxation.

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1. The words "or educational" omitted by A.P. Act 20 of 1989, w.e.f. 01.11.1990.
2. Added by *Ibid.*
3. Inserted by Act 43 of 1956.
4. The words "Central Government or the" omitted by *Ibid.*
5. Sub-section (2) renumbered as sub-section (3) by Act 43 of 1956.

Commentary

Where house was constructed by Corporation and was allotted on hire purchase, it is exempt from general tax but not from other kinds of property tax. 1972 (2) ALT 18.

Educational Institution:— Where the contention of the petitioner is that it is an educational institution and it is exempt from tax, directions were given to petitioner to file fresh revision urging all the points that are available to it in law including those raised in the writ petition. *Dayanand Bhavan Samithi v. Commissioner, Municipal Corporation, Hyderabad,* 1997 (1) An.W.R. 436 = 1996 AIHC 3904 (A.P.).

A society running colleges cannot claim exemption from property tax under Section 202 (1)(bb) of the Act. *A.V. Education Society, Gaganmahal, Hyderabad vs Municipal Corporation of Hyderabad, Hyderabad, rep. by its Commissioner and another, 2006 (6) ALT 289 (D.B.) = 2006 (3) ALD 657 = 2006 (1) LS 444.*

[1][**202-A. Exemption of Property Tax:—** (1) The Government may exempt any residential building occupied by the owner from the property tax where the annual rental value of the same does not exceed rupees six hundred.

(2) In respect of every house constructed for the urban poor, the Corporation shall collect an amount of rupees two for every half year towards property tax.]

203. Payment to be made to Corporation in lieu of general tax by the [2][x x x] State Government, as the case may be:— (1) The [2][x x x] State Government (as the case may be) shall pay to the Corporation annually in lieu of the general tax from which buildings and lands vesting in the said Governments respectively are exempted by clause (d) of sub-section (1) of Section 202, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and land in the city vesting in the [2][x x x] State Government in respect of which, but for the said exemption, general tax would be leviable from the [2][x x x] State Government as the case may be, shall be fixed by a person, from time to time appointed in this behalf by the State Government with the concurrence of the Corporation. The said value shall be fixed by the said person, with a general regard to the provisions contained in this Act and the rules made thereunder concerning the valuation of property assessable to property taxes, at such amount as he shall deem to be fair and reasonable. The

1. Inserted by Act 20 of 1989, w.e.f. 01.11.1990.
2. The words "Central Government or" by Act 43 of 1956.

decision of the person so appointed shall hold good for a term of five years, subject only to proportionate, variation. If in the meantime the number of extent of the buildings and lands vesting in the [1][x x x] State Government in the city materially increases or decreases.

(3) The sum to be paid annually to the Corporation by the [1][x x x] the State Government, as the case may be, shall be the amount which would be payable by an ordinary owner of buildings or lands in the city on account of the general tax, on a rateable value of same amount as that fixed under sub-section (2).

[2][(4) The Government may impose a suitable cut in the amounts of grants as the case may be the compensation to be released in respect of corporation whose tax collection is less than eighty-five per cent of the demand of each year.]

Liability of Property Taxes

204. Primary responsibility for property taxes on whom to rest:— (1) Property taxes shall be leviable primarily from the actual occupier of the premises upon which the said taxes are assessed if such occupier holds the said premises immediately from the Government or from the Corporation.

(2) Otherwise the said taxes shall be primarily leviable as follows, namely:—

(a) if the premises are let, from the lessor ;

(b) if the premises are sub-let, from the superior lessor ; and

(c) if the premises are unlet, from the person in whom the right to let the same, vests.

(3) But if any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or his legal representative, whether the premises be in the occupation of the said tenant or of his legal representative, or of sub-tenant.

205. Apportionment of responsibility for property tax when the premises assessed are let or sub-let:— (1) If any premises to any property tax are let, and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of the last preceding section, the said tax is leviable, the said person shall

1. The words "Central Government or" omitted by Act 43 of 1956.
2. Added by Act 20 of 1989, w.e.f. 01.11.1990.

be entitled to receive from his tenant the difference between the amount of the property tax levied from him, and the amount which would be leviable from him if the said taxes were calculated on the amount of rent payable to him.

(2) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant, by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section from which tenant or sub-tenant and the amount of property tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives, and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.

206. Person primarily liable for Property Tax entitled to credit, if he is a rent payer:— If any person who is primarily liable for the payment of any property tax himself pays rent to another person other than the Government or the Corporation in respect of the premises upon which such tax is assessed he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said tax if the amount of the rent payable by him were the rateable value of the said premises.

Notice of transfer, etc., of Premises Assessable to Property Tax

207. Notice to be given to the Commissioner of all transfers of title of persons primarily liable to payments of property tax:— (1) Whenever the title of any person primarily liable for the payment of property taxes on any premises, to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall, within three months from the date of the execution of the instrument of transfer, or its registration, if it be registered, or effecting the transfer if no instrument be executed, give notice of such transfer, in writing, to the Commissioner.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give notice of such transfer to Commissioner within one year from the death of the deceased.

208. Form of notice:— (1) The notice to be given under the last preceding section shall be in the Forms 1 and 2, as the case may be, of Schedule F and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the Commissioner may, if he thinks it necessary require the production, of the instrument of transfer, if any or of a copy thereof obtained under Section 57 of the Registration Act, 1908 (Central Act 16 of 1908) or any evidence acceptable to the Commissioner on the point of the title of the deceased person being transferred to him as heir or otherwise.

(3) No such notice shall be deemed to be validly given unless the property taxes due at the date of notice in respect of the premises to which it relates have been paid and unless such fee as may from time to time be fixed by the Standing Committee for the acceptance of such notice has been paid.

209. Liability for payment of property taxes to continue in the absence of any notice of transfer:— (1) Every person primarily liable for the payment of a property tax on any premises who transfers his title to or over such premises without giving notice of such transfer to the Commissioner as aforesaid, shall in addition to any other liability which he incurs through such neglect, continue to be liable for the payment of all property taxes from time to time payable in respect of the said premises until he gives such notice, or until the transfer shall have been recorded in the Commissioner's book.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said property taxes, or to affect the prior claim of the Commissioner on the premises conferred by Section 238 for the recovery of the property taxes due thereupon.

210. Notice to be given to the Commissioner of the erection of a new building, etc.:— (1) When any building is newly erected or re-erected, or when any building which has been vacant is re-occupied, the person primarily liable for the property taxes assessed on the building shall within fifteen days give notice thereof, in writing, to the Commissioner.

(2) The said period of fifteen days shall be counted from the date of the completion or of the occupation, whichever first occurs, of the building which has been newly erected or re-erected and in the case of a building which has been vacant, from the date of the re-occupation thereof.

211. Notice to be given to the Commissioner of demolition or removal of a building:— (1) When any building or any portion of a building, which is liable to the payment of a property tax, is demolished or removed, otherwise than by order of the Commissioner, the person primarily liable for the payment of the said tax shall give notice thereof, in writing, to the Commissioner.

(2) Until such notice is given the person aforesaid shall continue to be liable to pay every such property tax as he would have been liable to pay in respect of such building if the same or any portion thereof, had not been demolished or removed :

Provided that nothing in this section shall apply to a building or any portion thereof which has fallen down or been burnt down.

Valuation of Property Assessable to Property Taxes

212. Rateable value how to be determined:— [1][(1)(a) The annual rental value of lands and buildings shall be deemed to be the gross annual rent at which they may reasonably be expected to be let from month to month or from year to year with reference to its location, type of construction, plinth area, age of the building, nature of use to which it is put and such other criteria as may be prescribed ;

(b) the annual rental value of lands and buildings shall be deemed to be the gross annual rent at which they may reasonably be expected to let from month to month or from year to year, less a deduction at the rate of 10% for buildings aged upto 25 years ; and 20% for the buildings aged above 25 years ; of that portion of such gross annual rent which is attributable to the buildings, apart from their sites and adjacent lands occupied as an appurtenance thereto and the said deduction shall be in lieu of all allowances for repairs or on any other account whatsoever:

Provided that a rebate of 40 per cent of the annual rental value shall be allowed in respect of the residential buildings occupied by the owner inclusive of the deduction permissible elsewhere.

1. Sub-sections (1) and (2) subs. by A.P. Act 20 of 1989, w.e.f. 01.11.1990.

(2) Any vacant land not exceeding three times the plinth area of the building including its site or a vacant land to the extent of one thousand square metres, whichever is less shall be deemed to be adjacent premises occupied as an appurtenant to the building, and assessed to tax in accordance with the provisions of this section and the area, if any, in excess of the said limit shall be deemed to be land not occupied by or adjacent and appurtenant to such building [1][and the tax shall be levied thereon at 0.50 per cent of the estimated capital value of the land.]]

[2][Provided that in the case of above vacant lands where garbage is being dumped and unhygienic conditions are prevailing a penalty of 0.25% of the capital value shall be levied till the garbage is lifted and unhygienic conditions ceases:]

(3) All plant and machinery contained or situate in or upon any building or land and belonging to any of the classes specified from time to time by public notice by the Commissioner with the approval of the Corporation, shall be deemed to form part of such building or land for the purpose of fixing the rateable value thereof under sub-section (1).

(4) A statement setting out clearly the class of plant and machinery specified under sub-section (3) and describing in detail what plant and machinery falls within each such class shall be prepared by the Commissioner under the direction of the Standing Committee and shall be open to inspection at all reasonable hours by members of the public at the Chief Office of the Municipal Corporation.

(5) Printed copies of the statement prepared under sub-section (3) shall be kept at the Chief Office of the Municipal Corporation for sale at such price as the Commissioner may fix.

Commentary

Rateable value:— The rateable value is the annual rent for which such building or land is expected to be let minus a sum equal to per cent in lieu of all allowances for repairs or any other account whatever.

Furniture:— Rent for furniture if any cannot be taken into consideration. 1970 (2) ALT 34 = 1971 (1) An.WR 134.

Buildings occupied by owner:— In determining the rateable value, in case of buildings occupied by the owner, the principles of fair rent in A.P.

1. Subs. by Act 24 of 2002, w.e.f. 23.12.2002.
2. Added by Act 24 of 2002, w.e.f. 23.12.2002.

Buildings (Lease, Rent Control and Eviction) Act must be kept in view. The rental value must be fixed on the basis of Fair Rent under that Act if that Act applies. 1970 (2) ALT 134 = 1971 (1) An.WR 134.

Hypothetical rent:— Annual rent for which such building or land might reasonably expected to let is an expression contained in the Municipalities Act also. The rental value is to be determined irrespective of the fact whether such land or such building is actually used occupied or not. AIR 1953 Cal. 428. The dictionary meaning of the word, 'to let' is grant, use for rent or hire'. It implied that the rent which the landlord might realise if the house was let, is the basis for fixing the annual value of the building. The criterion, therefore, is the rent realisable by the land and not the value of the holding in the hands of the tenant. AIR 1882 QB 703. The word 'reasonably' is not capable of precise definition. "Reasonable" signifies 'in accordance with the reason'. In the ultimate analysis it is a question of fact. Lopes L.J. in *Surith vs. Church Warrens of Birmingham*, AIR 1882 QB 703 observed—

"It is not the amount which the landlord ultimately receives. But the test is the rent which the tenant may reasonably be expected to give."

The leading case is *Guntur Municipal Council vs. Guntur Town Rate Payers Association,* AIR 1971 SC 353, wherein the Supreme Court held :

(1) Section 82(2) of the District Municipalities Act makes provision for the fixation of annual value according to the rent at which lands and buildings may reasonably be expected to be let from month to month or year to year less the specified deduction.

(2) The test essentially is what rent the premises can lawfully fetch if let out to a hypothetical tenant.

Thus the Municipality is not free to assess any arbitrary value and has to look to, and bound by, the fair or the standard rent which would be payable for a particular premises under the Rent Act in force during the year of assessment.

(3) No distinction can be made between—

(a) buildings the fair rent of which has been actually fixed by the Rent Controller ; and

(b) Those in respect of which no such rent has been fixed.

(4) The landlord cannot lawfully expect to get more rent than the fair rent which is payable in accordance with the principles laid down in the Municipalities Acts.

The assessment or valuation must take into account the measure of fair rent which is payable in accordance as determinable under the Act.

(5) Where the Rent Controller has not fixed the fair rent, the Municipal authorities will have to arrive at their own figure of fair rent, but this can be done without any difficulty by keeping in view the principles laid down in Section 4 of the Rent Act for the determination of fair rent.

(6) The assessment of valuation for the purpose of tax must be made in accordance with and in the light of the Rent Act which would be enforced during the period of assessment.

The principles apply to the Municipal Corporation Act also. Validity of imposition of Tax on plant and machinery.

The entry in List II of the Seventh Schedule of the Constitution is entry 49.

"Tax on land and buildings"

Thus this entry does not give power to the State Legislature to levy tax on plant and machinery contained in or situate on the building even though the machinery and plant is there for the use of the building for a particular purpose. AIR 1967 S.C. 180.

Taxation on the basis of floor area:— The Kerala Buildings Tax Act No. 19 of 1961 provided for taxation of buildings on the basis of the floor area. In *State of Kerala vs. Hajikutty K Naha,* AIR 1969 S.C. 378, the Supreme Court struck down the Act. By fixing valuation computed on the floor area of the building the Municipality would be fixing arbitrarily the annual letting value which bears no relation to annual rental value which a tenant may reasonably pay such a tax on the basis of floor area levied by the Municipal Corporation of Ahmedabad was struck down by the Supreme Court.

Surcharge and Property Tax:— The Andhra Pradesh Urban Areas (Surcharge on Property Tax) Act, 1958 provides for the charge of surcharge on the Property Tax from 1st April, 1958. *In Anantha Kondayya Setty vs. Commissioner Kurnool Municipality,* AIR 1963 AP 379, regarding the character and levy of surcharge, it was observed:

"The surcharge here is an additional tax on the buildings. It cannot be regarded as tax on tax. On the other hand, it partakes the same character as the property tax to which the building is subject. The Act only permits an increase in the property tax at the rate specified...The subject-matter of tax remains the building itself... Article 271 of the Constitution clearly establishes that the surcharge is only an increase in... taxes leviable under a particular enhancement i.e., it is an extra charge of tax. As the surcharge is held to be a tax or an increase in tax, if the procedure of levying tax is not followed the levy and demand of surcharge would be invalid. AIR 1968 A.P. 194.

Students Hostel:—A hostel which caters to the need of students paying a nominal rent is exempt from property tax under this Act. The corporation cannot recover arrears of tax beyond three years by issuing a destraint warrant. 1975 (2) APLJ 66 (SN). This judgment was upheld in appeal by the Division Bench. 1978 (1) ALT 52 (NRC). Rents derived from building for charitable purpose is not exempt from tax, 1975 ALT 166 (NRC).

Hyderabad Race Club is entitled for tax exemption. 1972 (1) APLJ 16 (SN).

Building leased out by the Government for running a hotel-cum-guest house is not exempt from tax. 1975 (1) APLJ 8 (SN).

Annual rateable value of the building can be fixed on the basis of the monthly rent under the A.P. Building (Lease, Rent Control and Eviction) Act. 1973 (2) APLJ 25 (SN).

Nizam's Buildings:— The Central PWD method of fixing annual rental value at one per cent of the capital value for the palatial buildings of the late Nizam is not unreasonable. 1977 (2) APLJ 14 (SN).

Where lease of vacant land by owner to a factory was for a period of 99 years on monthly rent and lessee had constructed factory and office on open land, it was held that gross annual rental value has to be fixed on basis of probable rent the building and other structures on the land leased would fetch but not on rent of vacant land. 1990 (1) An. W.R. 172.

Sub-sections (5) and (4) are *ultra vires* - Section 212 (3) of the Hyderabad Municipal Corporation Act, 1955 in so far it permits property tax to be levied on plant and machinery is *ultra vires* of the powers of the State Legislature. Sub-section (4) also is *ultra vires* on the ground of excessive delegation 1986 (2) ALT 371 = 1986 (2) APLJ 452.

How rateable value is to be determined:— In the *Himayathnagar Rate Payers Association vs. Municipal Corporation of Hyderabad,* (1971 (1) An. W.R. 78) Ekboti, J speaking for the Bench observed:

"We must then turn to the question as to how the rateable value is to be determined by the commissioner or his delegate valuation officer. It is not in doubt that the basis is not the capital value but is the annual value of the building or the land. Cases where tenants are occupying the buildings or lands do not present any difficulty. The actual rent paid by the tenant forms the basis of determining the rental value. In case of dispute as to what rent is paid, it is evident that the commissioner will have to enquire and determine it. It is to be remembered that as long as fair rent is not determined under the Rent Act, the rent paid would be presumed to be fair rent and the same can be taken as basis."

Building covered by Rent Control Act :- The procedure prescribed under Section 212 of the Act has to be adopted only when the property is covered either under the Rent Control Act or when it is not possible to know the actual rent being paid by the tenant, if it is tenant occupied, and the gross annual rent at which the building may reasonably be expected to get from month to month or from year to year with reference to its location, type of construction, plinth area, age of the building, nature of use to which it is put and such other criteria as may be prescribed. If the actual rent being paid by the tenant is known and if the Corporation is of the view that the building is fetching a reasonable rent, the Corporation is entitled to adopt the actual rent for the purpose of determining the annual ratable value to assess the building for the property tax. *T. Seshagiri Rao vs Municipal Corporation of Hyderabad,* 2003 (6) ALD (NOC) 143.

Actual rent is known :- If the actual rent being paid by the tenant is known and if the Corporation is of the view that the building is fetching a reasonable rent, the Corporation is entitled to adopt the actual rent for the purpose of determining the annual ratable value to assess the building for the property tax. *T. Seshagiri Rao vs Municipal Corporation of Hyderabad,* 2003 (6) ALD (NOC) 143.

Commissioner's Power:— Even if the Commissioner may determine the rental value, such determination is not subject to any review of the Committee, which has no power to exercise over the Commissioner in the matter. The exemption made under G.O.Ms.No.636, GA (Accommodation-A) Department, dated December 29, 1983 suspends only temporarily the application of the Act to such buildings but it can be revoked at any time by the Government. It does not amount to a legislative bar for the applicability of the Rent Control Act. The Commissioner before making the determination has to issue notice, hear the assessee and then determine the rateable value. *S.B.H. Co-op. Bank Officers Welfare Association, Hyderabad and others v. Govt. of A.P. rep. by its Chief Secretary, General Administration Department, Hyderabad and others,* 1997 (2) ALT 62 (DB).

Fair rent under Rent Control Act:— Fair rent fixed under the Rent Control Act, is not binding on the Commissioner. *Commissioner vs. Griha Yajamanula Samakhya*, AIR 2001 SC 2046.

213. Commissioner may call for information or returns from owner or occupier or enter and inspect assessable premises:— (1) To enable the determination of the rateable value of any building or land and the person primarily liable for the payment of any property tax leviable in respect thereof the Commissioner may require the owner or occupier of such building or land, or of any portion thereof, to furnish him, within

such reasonable period as the Commissioner specifies in this behalf, with information or with a written return signed by such owner or occupier—

(a) as to the name and place of abode of the owner or occupier, or of both the owner and occupier of such building or land; and

(b) as to the dimensions of such building or land, or of portion thereof, and the rent, if any, obtained for such building, or land, or any portion thereof.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) The Commissioner may also for the purposes aforesaid make an inspection of any such building or land.

Commentary

The enquiry contemplated under this section cannot mean to be one sided. If there is a statement by the alleged tenant, it cannot be used without giving opportunity to the landlord before the assessment order is issued. 1971 APHN 27.

Assessment Book

214. Assessment book what to contain:— The Commissioner shall keep a book, to be called 'the assessment book' in which shall be entered every financial year—

(a) a list of all buildings and lands in the City distinguishing each either by name or number, as he shall think fit ;

(b) the rateable value of each such building and land, determined in accordance with the foregoing provisions of this Act ;

(c) the name if ascertained of the person primarily liable for the payment of the property taxes, in respect of each such building or land ;

(d) if any such building or land is not liable to be assessed to the general tax, the reason of such non-liability ;

(e) when the rates of the property taxes to be levied for the year have been duly fixed by the Corporation and the period fixed by public notice, as hereinafter provided, for the receipt of

complaints against the amount of rateable value entered in any portion of the assessment book, has expired and in the case of any such entry which is complained against, when such complaint has been disposed of in accordance with the provisions hereinafter contained, the amount at which each building or land entered in such portion of the assessment book is assessed to each of the property taxes, if any, leviable thereon ;

(f) if, under Section 227 or 228, a charge is made for water supplied to any building or land by measurement of the water tax or water charge, for any building or land is fixed at a special rate, the particulars and amount of such charge, composition or rate ;

(g) such other details, if any, as the Commissioner from time to time thinks fit to direct.

215. The assessment book to be made separately for each ward and in parts, if necessary:— (1) Each of the wards into which the City is for the time being devided by the Corporation for efficient administration of Municipal Government, shall have a separate assessment book called 'Ward Assessment Book', and each ward assessment book may, if the Commissioner thinks fit, be divided into two or more parts for such purposes and with such several designations as the Commissioner shall determine.

(2) The Ward Assessment Books and their respective parts, if any, shall collectively constitute the Assessment Book.

216. Treatment of property which is let to two or more persons in separate occupancies:— (1) When any building or land is let to two or more persons holding in severally, the Commissioner may, for the purpose of assessing such building or land to the property taxes, either treat the whole thereof as one property, or, with the written consent of the owner of such building or land, treat each several holdings therein or any two or more of such several holdings together, or each floor at flat, as a separate property.

(2) When the Commissioner had determined to treat all the several holdings comprised within any one building or land repeated under this section as one property, he may subject to any general conditions which may, from time to time, be specified by the Standing Committee in this

behalf, at any time not later than seven days before first day on any half-year or quarter-year, as the case may be, for which an instalment of general tax shall be leviable in respect of the said property, sanction a drawback of one-fifth part of the general tax so leviable.

(3) Every person who applies for a drawback under sub-section (2) shall furnish to Commissioner full and correct information regarding the property in respect of which the claim for drawback is made and the several holdings comprised therein in such form and in such particulars as may be required by the Commissioner in accordance with general conditions specified in this behalf by the Committee.

217. Person primarily liable for property taxes how to be designated, if his name cannot be ascertained:— (1) When the name of the person primarily liable for the payment of property taxes in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the Assessment Book and in any notice which it may be necessary to serve upon the said person under this Act, 'the holder' of such premises, without further description.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining the person primarily liable as aforesaid the person in occupation shall himself be liable, until such information is obtained for all property taxes leviable on the premises of which he is in occupation.

218. Public notice to be given when valuation of property in any ward has been completed:— (1) When the entries required by clauses (a), (b), (c) and (d) of Section 214 have been completed, as far as practicable, in a ward Assessment Book, the Commissioner shall give public notice thereof and of the place where the ward Assessment Book or a copy of it, may be inspected.

(2) Such public notice shall be published in the [1][Andhra Pradesh Gazette] and in the local daily newspapers and also by posting placards in conspicuous places throughout the ward.

219. Assessment Book to be open to Inspection:— (1) Every person who reasonably claims to be the owner or occupier of some premises entered in the Assessment Book or the agent of any such owner

1. Subs. by A.P. Act 5 of 1969.

or occupier shall be permitted, free of charge, to inspect and to take extracts from any portion of the said book which relates to the said premises.

(2) Any person not entitled under sub-section (1) to inspect and take extracts from any portion of the Assessment Book free of charge shall be permitted to do so on payment of such fee as shall from time to time be determined in this behalf by the Commissioner, with the approval of the Standing Committee.

220. Time for filing complaints against valuations to be publicly announced:— (1) The Commissioner shall, at the time and in the manner provided in Section 218, give public notice of a day, not being less than twenty-one days from the publication of such notice, on or before which complaints against the amount of rateable value entered in the ward assessment book will be received in his office.

(2) In every case in which any premises have for the first time been entered in the Assessment Book as liable to the payment of property taxes, or in which the rateable value of any premises liable to such payment has been increased, the Commissioner shall, as soon as conveniently may be after the issue of the public notice under sub-section (1), give a special written notice to the owner or occupier of the said premises specifying the nature of such entry and informing him that any complaint against the same will be received in his office at any time within fifteen days from the service of the special notice.

[1][(3) Notwithstanding anything contained in this Act and the rules made thereunder, where a building is constructed, or reconstructed, or some structures are raised unauthorisedly, it shall be competent to the assessing authority to levy property tax on such building or structure with a penalty of [2][twenty per cent] on the amount of tax levied till such unauthorised construction is demolished or regularised. A separate receipt for the penalty levied and collected shall be issued.]

Commentary

Special notice under Section 220(2):— A special notice as contemplated under sub-section (2) of Section 220 is in addition to the public notice. The reason appears to be that the person, who is fastened with the liability under demand must be given an opportunity of being heard. If the premises is

1. Added by Act 3 of 1994, w.e.f. 01.03.1994.
2. **Subs. for "ten per cent" by Act No. 9 of 2008, w.r.e.f. 15.12.2007.**

in the occupation of the owner, the owner alone should be served with the notice under Section 220(2). If some other person is in occupation along with the owner, the owner must be served with the notice. Where the occupier is holding the premises pursuant to the document of lease or under other valid document under which he is alone liable to pay the tax, the service of notice on the occupier would be a valid notice. *M.S.C. Construction Company Private Limited, rep. by its Managing Director, M.S. Chandraiah, Hyderabad v. Municipal Corporation of Hyderabad rep. by its Commissioner, Hyderabad and another,* 1995 (2) ALT 615.

Unauthorised Construction - Demolition :-The provisions of Section 220(3) of the Hyderabad Municipal Corporation Act empowers the Hyderabad Municipal Corporation to assess and collect taxes even in relation to the buildings constructed unauthorisedly. The Municipal Corporation of Hyderabad has the power to take action under the Municipal Corporation of Hyderabad Act for demolition of unauthorised constructions of buildings, irrespective of title of the person over such land on which such buildings have been constructed. Even in cases where a person has a valid title over the land, construction of building thereon can only commence after prior approval of the Municipal Corporation. *Shivabagh Welfare Association, Hyd.* vs *Commissioner and Special Officer, Municipal Corporation of Hyderabad, and others,* 2002 (2) ALD 552.

Where the matter is remanded :- Where the appellate authority remands the matter to the assessing authority to give an opportunity of hearing to the appellant before fixing the assessment, compliance of Section 220 in regard to time of 21 days is not applicable. *P.R. Nappini vs Deputy Commissioner, Circle No.5, Municipal Corporation of Hyderabad,* 2003 (5) ALD 760 = 2003 (6) ALT 458.

Unauthorised construction - assessment and collection of taxes :- Merely because the Corporation has assessed the building and is collecting taxes, it does not mean that the Corporation has acquiesced to waive its right to initiate action for removal of the illegal and unauthorized constructions. Where a building is constructed or re-constructed or some structures are raised unauthorisedly, it is competent for the assessing authority to levy property tax on such illegal constructions with a penalty of ten percent on the amount of tax levied till such unauthorized constructions are demolished or regularized. In other words, so long as the unauthorized constructions continue to remain undemolished or uncured, it is competent for the assessing authority to assess such illegal constructions and impose penalty of ten per cent on the tax levied. *Arvind L. Abhyankar and etc. vs Municipal Corporation of Hyderabad by its Commissioner and etc.,* AIR 2003 AP 94 = 2002 (5) ALD 736 = 2003 (1) ALT 336.

221. Time and manner of filing complaints against valuation:— (1) Every complaint against the amount of any rateable value entered in the assessment book shall be made by written application to the

Commissioner, which shall be left at his office on or before the day fixed in this behalf in the public or special notice aforesaid.

[1][Provided that the Commissioner may waive any delay in making the complaint under Section 220 or 221 in case such complaint is made in the same financial year explaining the delay to the satisfaction of the Commissioner.]

(2) Every such application shall set forth briefly but fully the grounds on which the valuation is complained against.

222. Notice to complainants of day fixed for investigating their complaints:— The Commissioner shall cause all complaints so received to be registered in a book to be kept for this purpose and shall give notice in writing, to each complainant, of the day, time and place when and where at his complaint shall be investigated.

223. Hearing of complaint:— (1) At the time and place so fixed, the Commissioner shall investigate and dispose of the complaint in the presence of the complainant, if he shall appear, and if not, in his absence.

(2) For reasonable cause to be recorded, the Commissioner may, from time to time, adjourn the investigation.

(3) When the complaint is disposed of, the result thereof shall be noted in the book of complaints kept under Section 222 and necessary amendments, if any shall be made in accordance with such result, in the Assessment Book.

Commentary

Communication of the order:— It is implicit in sub-section (3) of Section 223 of the Act that the result of disposal of the complaint shall be communicated to the complainant. The mere fact that there is no specific requirement under that sub-section does not absolve the Commissioner of that responsibility. On disposal of the complaint, the Commissioner is bound to communicate the result of the complaint to the complainant by a reasoned order since Section 228 of the Act entitles him (i.e. the complainant) to challenge that order in appeal. *S. Shakuntala and Another v. Additional Commissioner, MCH and Another,* 1996 (2) ALD 283 (DB) = 1996 (2) ALT 723 (DB) = 1996 (1) APLJ 460 = 1996 AIHC 3539.

224. Authentication of ward assessment books when all complaints have been disposed of:— (1) When the complaints, if any, have been disposed of and the entries required by clause (e) of Section

1. Added by Act 3 of 1994, w.e.f. 01.03.1994.

214 have been completed in the ward assessment book, the said book shall be authenticated by the Commissioner, who shall certify, under his signature, that except in the cases, if any, in which amendments have been made as shown therein, no valid objection has been made to rateable values entered in the said book.

(2) Thereupon, the said ward assessment book subject to such alterations as may thereafter be made therein under the provisions of the next following section shall be accepted as conclusive evidence of the amount of each property tax leviable on each building and land, in the ward, in the financial year to which the book relates.

225. Assessment book may be amended by the Commissioner during the financial year:— (1) Subject to the provisions of sub-section (2) the Commissioner may upon the representation of any person concerned or upon any other information at any time during the financial year to which the assessment book relates amend the same—

(a) by inserting therein the name of any person whose name ought to be so inserted or any premises previously omitted;

(b) by striking out the name of any person not liable to the property tax ;

(c) by increasing or reducing the amount of any rateable value and of the assessment based thereupon ;

(d) by altering the assessment on any land or building which has been erroneously valued or assessed through fraud, accident or mistake ;

(e) by inserting or altering an entry in respect of any building erected, re-erected, altered, added to or reconstructed in whole or in part after the preparation of the assessment book ;

(f) by making or cancelling any entry exempting with the approval of the Standing Committee any premises from liability to any property tax.

(2) Where any amendment is made under sub-section (1) which has the effect of imposing on any person any liability for the payment of property taxes which would not be incurred but for such amendment or which has the effect of increasing the rateable value of any premises as stated in the assessment book, a special written notice as provided in

sub-section (2) of Section 220 shall be given by the Commissioner, and as far as may be, the procedure laid down in Sections 221, 222 and 223 shall be followed.

(3) Every such amendment shall be deemed to have been made, for the purpose of determining the liability of exemption of the person concerned in accordance with the altered entry, from the earliest day in the current financial year when the circumstances justifying the amendment existed.

226. New assessment book need not be prepared every financial year:— (1) It shall not be necessary to prepare a new assessment book every financial year, subject to the provisions of sub-section (3), the Commissioner may adopt the entries in the last preceding year's book with such alterations as he thinks fit, as the entries for each new financial year.

(2) Public notice shall however be given, in accordance with Sections 218 and 220 every year and the provisions of the said sections and of Sections 221 to 225 both inclusive, shall be applicable each year.

(3) A new assessment book shall be prepared at least once in every [1][five] years.

[2][(4) The corporation shall take into consideration the rent component of cost of living index prevailing at the time of preparation of new assessment books :

Provided that where the value of the land on which buildings constructed for purposes of choultry, hotels, lodges and cinema theatres increases and the income on the property does not increase the average rental value shall be fixed with reference to the income of the property.]

Commentary

Scope:—Sections 214 to 226 deal with the assessment books, maintenance and preparation of assessment books, complaints against assessment and correction of the same. These provisions are identical to Rules 2 to 16 of the Taxation and Finance Rules under the A.P. Municipalities Act, 1965.

Assessment Book:— All the Municipal Acts in India provide for the preparation of an assessment book to be kept at the Municipal Office. It contains the particulars prescribed by law. Section 156 of the Bombay

1. Subs. for the words "four" by A.P. Act 20 of 1989, w.e.f. 01.11.1990.
2. Added by *Ibid.*

Municipal Corporation Act, 1888 is identical to this section. Rule 10(1) of the Taxation Rules in Chapter 8 of Schedule A of the Bombay Municipal Corporation Act provides that the assessment book may, if the commissioner thinks fit, be made in separate books called "ward assessment books" one for each of the wards into which the city is divided for the purpose of elections. The ward assessment books and the respective parts constitute the assessment books. Section 215 in this Act also contemplates `ward assessment books'. This departure is necessary as the corporations may think fit to have ward assessment books to suit their needs. AIR 1971 SC 2100.

Public Notice:- Notice to individuals by special written notices under Section 220(2) compelled with publication in Official Gazette and in the local dailies is a sufficient publication. The duty to give notice is in substance and effect complied with. 1971 (1) An.W.R. 78=1970(2) ALT 134. Parting placards under Section 218 is not mandatory. Assessment books are open to inspection.

Time for Objections to be announced:—The commissioner shall publish notice fixing a day not less than twenty one days from the date of publication for filing objections to the entries in the assessment books. This notice is to be issued to individuals inviting objections.

Lodging of Complaints and Disposal:—In an enquiry those affected by the action of the authority have a right to be heard fully and fairly. It is obligatory on the part of the commissioner or his delegate to intimate the rate payer as to why the commissioner proposes to enhance the rental value. The rate payer then has a right to meet such case. The Tribunal is bound to make enquiry, that is to say record evidence adduced in such enquiry and then write a reasoned order at the end of the enquiry.

In all cases where they do not give any clue which would warrant erroneous increase in the rateable value, orders cannot be sustained and have necessarily to be quashed. *The Hyderabad Rate Payers Association vs. Government of A.P.,* 1970 (2) APLJ 38(SN).

Tax on slab basis:—The tax is fixed with reference to the annual letting value of the building according to law. Where groups or slabs are constituted for levying the different rates of taxes on the basis of annual rental value, there is no unreasonable classification in such formation of groups or slabs. The properties vary and their rental value differs because of various circumstances. In these circumstances if buildings are classified on rental basis, there is no vice of discrimination in it. Such classification is reasonable. Fixation of different rates of tax to different slabs or groups is neither arbitrary nor can it be said to be inconsistent with Article 14 of the Constitution of India. 1970 (2) ALT 134.

Enhancement of tax :-Enhancement of tax without assigning reasons opposed to very nature of exercise of quasi-judicial powers. On submission of explanation to a notice, proposing revision, the competent authority is required to hear the aggrieved parties, under Section 223 of the Act. Revision without assigning any single reason. The same is opposed to the very nature of exercise of *quasi-judicial* powers. *P. Damodar Rao vs Municipal Corporation of Hyderabad, Hyd.,* 2005 (1) ALD 799 = 2005 (1) ALT 192.

Notice of Hearing:—The Commissioner shall fix a date of hearing and issue notice to the objectors.

Hearing:—Sec. 223 laid down that there must be oral hearing by the commissioner. He can grant adjournments also. The result shall be noted in the book. AIR 1969 All. 393.

Amendment of Entries in Assessment Book:— The Commissioner is given power to amend the assessment book under Sec. 225, of mistakes. But if the rateable value is to be amended the procedure of notice and hearing is to be followed, otherwise the tax on the amended rateable value will be invalid. AIR 1969 All. 393. But it is not necessary to give notice to tax payer before fixing the rate of tax. AIR 1965 SC 1321. Where the assessment list is not prepared according to law the taxation cannot be saved under any other provision in the Act. *Corporation of Calcutta vs. Chandoolal Bhai Chand Modi*, AIR 1953 Cal. 773. The valuation which cannot be sustained either—

(1) being wrong on legal objections, or

(2) for a procedural defect as listed under law. 1978 (1) ALT 231.

Levy of property tax by Vijayawada Municipality as per the orders of the Government in G.O.Ms.No. 749 MA, dated 11-9-1966 is bad. 1978 (1) ALT 231.

Distress Warrant for Collection of Tax:—Distress warrant cannot be enforced for collection of property tax beyond the period of three years, the period prescribed under Article 113 of the Limitation Act, 1963. 1974 APHN 252. See also 1976 ALT 55 = 1976 (2) APLJ 41.

Tax as per judgment of the Civil Court:—The provisions of Sections 220 and 221 are attracted only where there is an initial proposal tentatively made by the corporation proposing to fix the rental value and objected to by the petitioner. But when once the tentative proposals and the petitioners objections terminated in an appeal before a judicial authority under Section 282 of the Act resulting in a final order determining authoritatively the rental value of the building there is no meaning or sense in saying that the corporation must once again go through the same procedure. The scheme of the Act

is that a tax payer should have an opportunity to represent his case to the Municipal Corporation and he should have a further right of appeal to an independent judicial authority against the decision of the corporation. Therefore both the corporation and the rate payer shall be bound by the decision. 1979(2) ALT 4.

Disposal of the complaint:— Section 223 requires that the complaint filed by a house-owner shall be investigated and disposed of in his presence. The dismissal of a complaint on a day not notified to the complainant is therefore, not in accordance with the requirements of the said section. 1978(1) ALT 224.

Limitation for appeal how caused:— If this complaint is disposed of in the presence of the party then it would be for the party to apply for a copy of the order. If and when he filed an appeal he would also be entitled to the benefit of Sec. 12 of the Limitation Act. 1977 ALT 196.

Special Provisions concerning the water and conservancy taxes

227. [1][x x x]

228. [1][x x x]

Authors' Note:— Sections 227 & 228 though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Sections 227 & 228 are given hereunder.

227. A charge by measurement or a periodical lump payment may be substituted for the water tax:— *(1) The Commissioner may—*

(a) in such cases as, the Standing Committee shall generally approve, instead of levying the water tax in respect of any premises liable thereto charge for the water supplied to such premises by measurement at such rate as shall from time to time be determined by the said Committee in this behalf or by the size of the water connection with the municipal main and the purpose for which the water is supplied as such rates as shall from time to time be determined by the Corporation and the charge so made shall hereafter be referred to as "water charges";

(b) in such cases as the Standing Committee shall generally approve, compound with any person for the supply of water to any premises for a renewable term of one or more years not exceeding five, on payment of a fixed periodical sum in lieu of the water tax or water charges which would otherwise be leviable from such persons in respect of the said premises.

1. Omitted by Act 6 of 1982.

(2) The Standing Committee may, for the cases in which the Commissioner levies water charges under clause (a) of sub-section (1) from time to time specify such conditions as it shall think fit as to the use of the water and as to the charge to be paid for water consumed whilst a matter is out of order or under repair; and for the cases in which a composition is made under clause (b) of the said sub-section the said Committee may specify such conditions as to the use of the water as it shall think fit :

Provided that no condition specified under this sub-section shall be inconsistent with this Act or the rules or bye-laws made thereunder.

(3) A person who is required to pay water charges or with whom a fixed periodical sum has been compounded as aforesaid shall not be liable for payment of the water tax, but any sum payable by him on account of water shall, if not paid when it becomes due, be recoverable by the Commissioner as if it were an arrears of water tax.

Commentary

Effect of Act 6 of 1982:— Section 7(1) of the Visakhapatnam Municipal Corporation Act read with Ss. 352 and 227 of the Hyderabad Municipal Corporation Act empowers the respondent Corporation to collect water charges at such rates as may be determined by it from time to time. The provisions of Hyderabad Municipal Corporations Act, which were in force by the date of commencement of the Visakhapatnam Municipal Corporation Act will apply *mutatis mutandis* as if the same form part of the Visakhapatnam Municipal Corporation Act, notwithstanding the subsequent repeal of these provisions in 1982. Ss. 227 and 352 of the erstwhile Hyderabad Municipal Corporation Act would continue to be in force in so far as the Visakhapatnam Municipal Corporation Act is concerned. *Citizen's Welfare Association and Ors. v. Municipal Corporation of Visakhapatnam and Anr.*, 1996 (3) ALD 327 (DB).

228. Government to be charged for water by measurement:— *If, in respect of premises used solely for public purposes and not used or intended to be used for purposes of profit or for residential, charitable or religious purposes, water tax would be leviable under this Act from the Government, the Commissioner, in lieu of levying such tax, shall charge for the water supplied to such premises, by measurement at such rate as shall be determined by the Standing Committee in this behalf not exceeding the minimum rate at the time being charged under clause (a) of sub-section (1) of Section 227 to any other person and such charge shall be recoverable as provided in sub-section (3) of the said section.*

[1][**229. Supply of water at public drinking fountain, etc., not to be taxed:—** No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking fountain, tank, reservoir, cistern, pump, well, duct, standpipe or other work used for the gratuitous supply of water to the inhabitants of the city and vesting in the Board:

1. Subs. by Act 6 of 1982.

Provided that water taken by any of the inhabitants from any such work shall be used only for personal or domestic purposes and not for the purpose of business or sale and shall not, except with the written permission of the Water Supply Engineer, be carried in any vehicle.]

Authors' Note:— Section 229 though substituted by Act No. 6 of 1982 the old Section continued to be in force in so far as other Municipal Corporations are concerned. The substitution is restricted to the Municipal Corporation of Hyderabad. And hence Section 229 as it stood prior to amendment is given hereunder.

229. Supply of water at public drinking fountain, etc., not to be taxed:— *No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking fountain, tank, reservoir, cistern, pump, well, duct, stand pipe or other work used for the gratuitous supply of water to the inhabitants of the city and vesting in the Corporation :*

Provided that the water in or from any such work shall be limited to purpose provided under sub-section (2) of Section 350.

230. Conservancy tax may be fixed at special rates in certain cases:— (1) The Commissioner may fix the conservancy tax to be paid in respect of any hotel, club, stable or other large premises at such special rates as shall be generally approved by the Standing Committee in this behalf, whether the service in respect of which such tax is leviable be performed by human labour or by substituted means or appliances.

(2) In the case of premises used solely for public purposes and not used or intended to be used for purposes of profit or for residential or charitable or religious purpose in respect of which the conservancy tax is payable by the Government, the Commissioner shall fix the said tax at a special rate approved as aforesaid.

(3) In any such case the amount of the conservancy tax shall be fixed with reference to the cost or probable cost of the collection, removal and disposal of excrementitious and polluted matter from the premises by the agency of the municipal conservancy staff.

Commentary

Special Conservancy Tax:— The Corporation has to make out before it seeks to levy special conservancy tax for a particular premises under this section, that the corporation is rendering additional service apart from the one which is expected it to render because of the collection of the conservancy

tax under Section 199 of the Act. The imposition of such tax has necessarily to be corrected with the cost either actual or probable involved in collecting, removing and disposing of the polluted matters from the premises which are sought to be taxed. The section thus postulates first by the levy of additional taxation on individual premises if it satisfies the requirements of Section 230, and secondly, the tax which can be levied on such premises has to be correlated with the additional cost involved in collecting, removing and disposing of the polluted matter from the premises.

231. Water tax or conservancy tax paid by any person may be recovered by him from the occupier of the premises for which it is paid:— (1) Any person who has paid to the Commissioner any water tax or conservancy tax in respect of any premises shall, if he was not himself in occupation of the said premises, during the period for which he has made such payment and subject to any agreement or contract, to the contrary, be entitled to receive the amount of the said payment from the person if any, in actual occupation of the said premises for the said period.

(2) For the recovery of the said amount from the person aforesaid, the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same.

Refund of Property Taxes for Vacancies

232. Refund of property taxes:— When any building or land or any portion of any premises which the Commissioner has treated under Section 216 as a separate property has been vacant for not less than ninety days the Commissioner shall, subject to the provisions hereinafter contained, refund the property taxes, if any, to a maximum of one half of the amount paid in respect of such taxes for the number of days that such vacancy lasted.

233. Vacancies for the purposes of Section 232:— For the purpose of Section 232:—

(a) premises shall be deemed to be vacant only if they are unoccupied and unproductive of rent ;

(b) premises shall be deemed to be productive of rent if let to a tenant having a continuing right of occupation thereof, whether they are actually occupied by such tenant or not;

(c) premises furnished or reserved by the owner for his own occupation whenever required shall be deemed to be occupied, whether they are actually occupied by the owner or not ;

(d) premises used or intended to be used for the purpose of any industry which is seasonal in character shall not be deemed to be vacant merely on account of their being unoccupied and unproductive of rent during such period or periods of the year in which seasonal operations are normally suspended ;

(e) a vacancy which has continued during the whole of the month of February shall be deemed to have continued for not less than thirty consecutive days.

Commentary

Vacancy Remission:— The vacancy for the purposes of refund or remission of tax on building is mentioned in this section. Unoccupied and unproductive of rent are the only situations to which vacancy applies.

234. Refund not claimable unless notice of vacancy is given to the Commissioner:— (1) No refund of any property tax shall be claimable from the Commissioner as aforesaid, unless notice in writing of the vacancy shall have been given by the person liable for the tax, or his agent, to the Commissioner.

(2) No refund shall be paid by the Commissioner for any period previous to the day of the delivery of such notice.

(3) When a vacancy continues from one half year or quarter-year, as the case may be in respect of which property taxes are, under Section 264 recoverable, into the next following half year or quarter-year as the case may be, no refund of any property tax shall be claimable from the Commissioner as aforesaid on account of such continued vacancy, unless notice thereof shall be given to the Commissioner as aforesaid within thirty days from the commencement of the said next following half year or quarter year, as the case may be.

Commentary

There is nothing in the definition of building in Section 2(3) of the Hyderabad Municipal Corporation Act, 1955 to exclude a portion of a building. Therefore vacancy remission applies to portions of a building also. *Ratnam vs. Corporation of Madras,* AIR 1973 Mad. 465.

235. Refund of water tax inadmissible unless application for stopping water supply has been made:— No refund of water tax shall be claimable except from such time as a written application shall have been made to the [1][water supply engineer] to stop the water supply to the vacant premises.

236. Refund of general tax inadmissible when drawback has been sanctioned:— No refund of general tax shall be claimable in any case in which the Commissioner has sanctioned a drawback under sub-section (2) of Section 216.

237. Applications for refund and how to be made:— It shall be in the discretion of the Commissioner to disallow any claim for refund of any property tax unless application therefor is made to him in writing within thirty days after the expiry of the half-year or quarter-year, as the case may be, to which the claim relates accompanied by the bill presented to the applicant under Section 266 for the amount of the tax from which the refund is claimed.

238. Property tax, a first charge on property and movables:— The property tax on buildings and lands shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge upon the said buildings or land and upon the movable property, if any, found within or upon such building or lands and belonging to the person liable to such tax.

[2][Provided that all the taxes and dues to the Corporation including the property tax payable to the Corporation shall be liable to be recovered as if they were arrears of land revenue].

Commentary

Limitation:— Article 113 of the Limitation Act, 1963 is applicable. The power of the Commissioner for the recovery of money by distress warrants is permissible only to the arrears within the limitation period. 1969 (2) An.W.R. 467.

Time barred taxes:— Tax legally recoverable alone can be recovered under the Revenue Recovery Act. Hence the mere fact that the tax can be recovered by invoking the provisions of A.P. Revenue Recovery Act will

1. Subs. for the word "Commissioner" by Act 6 of 1982.
2. Added by A.P. Act 3 of 1994, w.e.f. 01.03.1994.

not entitle the Corporation to recover taxes which are time barred. *Cooper v. Municipal Commissioner of Hyderabad,* 1997 (3) ALD 771 = 1997 (5) ALT 466 (DB) = 1997 (2) APLJ 80.

Recovery under Revenue Recovery Act :-Article 113 of the Limitation Act, 1963 governs the field providing three years limitation period for initiating proceedings to recover the amount due from the date when the right to sue accrues. The Municipal Corporation is not entitled to recover arrears of property tax by way of distraint after the expiry of three years from the date when the tax becomes due. The Municipal Corporation can take recourse to the provisions contemplated under Section 278 of the Hyderabad Municipal Corporation Act. *V.K. Roy vs Commissioner, Municipal Corporation of Hyderabad and another,* 2002 (4) ALD 711 (DB).

Tax on vehicles and animals

239. Tax on vehicles, boats and animals:— (1) Except as hereinafter provided, a tax at rates in the maxima and minima whereof are specified in Schedule G shall be levied on vehicles, boats and animals which are kept for use in the city for the conveyance of passengers or goods in the case of vehicles and boats, and for riding, racing draught or burden in the case of animals.

Explanation:— A vehicle, boat or animal kept outside the limits of the city but regularly used within such limits shall be deemed to be kept for use in the city.

(2) The corporation shall from year to year, in accordance with Section 186 determine the rates at which such tax shall be levied.

240. Exemption from the tax:— (1) The tax leviable under Section 239 shall not be levied in respect of—

(a) vehicles, boats and animals belonging to the corporation ;

(b) vehicles, boats and animals vesting in the State to be used or intended to be used solely for public purposes and not used or intended to be used for purposes of profit ;

(c) vehicles and boats intended exclusively for the conveyance free of charge of the injured, sick or dead ;

(d) children's perambulators and tricycles ;

(2) If any question arises under clause (b) of sub-section (1) whether any vehicle, boat or animal vesting in the State is or is not used or intended to be used for purposes of profit, such question shall be determined by the Government, whose decision shall be final.

241. Livery stable keepers and others may be compounded with:— The commissioner may, with the approval of the standing committee, compound with and livery stable keeper or other person keeping vehicles or horses or bullocks for hire or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lumpsum for any period not exceeding one year at a time in lieu of the taxes leviable under Section 239 which such livery stable-keeper or other person or dealer would otherwise be liable to pay.

242. Vehicles and animal tax book to be kept:— (1) The Commissioner shall keep a book, in which shall be entered from time to time—

(a) a list of the persons liable to pay tax under Section 239 ;

(b) a specification of the vehicles and animals in respect of which the said persons are, respectively, liable to the said tax ;

(c) the amount of tax payable by each such person and the period for which it is payable ;

(d) the particulars of every composition made under Section 241.

(2) Any person whose name is entered in the said book or the agent of any such person, shall be permitted, free of charge, to inspect and take extracts from the said book in respect of such person.

(3) Any person not entitled under sub-section (2) to inspect and take extracts from the said book free of charge, shall be permitted to do so on payment of such fee as may from time to time be specified in this behalf by the Commissioner, with the approval of the Standing Committee.

243. Returns may be called for, from owners of premises and persons supposed to be liable to the tax:— (1) In order that the said list may be prepared the Commissioner may require—

(a) the owner of any premises let to or occupied by more than one person owning or having possession or control of vehicles

and animals to furnish him with a written return, signed by such owner, of the name and address of each of the said persons, and of the animals and vehicles owned by or in the possession or under the control of each of the said persons kept upon such owners premises ;

(b) any person supposed to be liable to the payment of any tax on a vehicle or animal to furnish him with a written return, signed by such person and containing such information concerning the vehicles and animals, if any, owned by or in the possession or under the control of such person as the Commissioner shall deem necessary.

(2) Every person on whom any such requisition is made shall be bound to comply with the same, within such reasonable period as the commissioner specifies in this behalf, whether such person be liable to the payment of any such tax or not, and to make a true return to the best of his knowledge or belief.

244. Notice to be given to Commissioner by a person who becomes owner or possessed of a vehicle or animal in respect of which liability arises etc.:— (1) Every person who becomes the owner or obtains possession or control of any vehicle or animal in respect of which the said tax is leviable shall give notice in writing to the Commissioner within fifteen days after he has become the owner or has obtained possession or control of such vehicle or animal of the fact that he has become the owner or has obtained possession or control of such vehicle or animal, as the case may be.

(2) Every person who ceases to own or have possession or control of any vehicle or animal in respect of which the said tax is leviable shall give notice in writing to the Commissioner of the fact that he has ceased to own or have possession or control of such vehicles or animals. Such person shall, in addition to any other penalty to which he may be liable, continue to be liable for the payment of the said tax leviable from time to time in respect of such vehicle or animal until he gives such notice:

Provided that nothing herein contained shall be held to diminish the liability to pay the said tax or the person who becomes the owner or obtains possession or control of such vehicles or animals or affect the prior claim of the Commissioner on such vehicle or animal for the recovery of any tax due in respect thereof.

245. Powers to inspect stable, garage, etc., and summon persons liable to tax:— (1) The Commissioner may make an inspection of any stable, garage or coach-house or any place wherein he may have reason to believe that a vehicle, boat or animal liable to a tax under this Act is kept.

(2) The Commissioner may if he has reasons to believe that any person has in his possession or under his control a vehicle, boat or animal liable to tax under this Act, by written summons require the attendance before him of such person or any servant of any such person and may examine such person or servant as to the number and description of vehicles, boats and animals owned by or in the possession or under the control of such person and every person so summoned shall be bound to attend before the Commissioner and to give true information to the best of his knowledge or belief as to the said matters.

Commentary

Power to levy fees on shorts and slides advertisements:—Rule 9 of the rules regarding publicity of advertisements is therefore, *ultra vires* for the reason that the Municipal Corporation purported to sub-delegate the power of the Municipal Commissioners to enhance rates and fees. 1971 (2) ALT 289=1972 (1) An.W.R. 113.

246. Refund of tax on vehicles and animals when and to what extent obtainable:— If the tax leviable on any vehicle or animal in respect of any quarter has been paid and if during such quarter such vehicle or animal ceases to be kept within the city, or is destroyed, or is otherwise rendered unfit for use or if such vehicle has been under repairs or if such animal has been kept in any institution for the reception of infirm or disused animals or is certified by a Veterinary Surgeon to have become unfit for use and has not been used, the person who paid the tax leviable on such vehicle or animal shall, subject to the provision hereinafter contained, and on the Commissioner or any Officer authorized by him, being satisfied in this behalf, be entitled to receive back from the Commissioner, if the period in such quarter for which such vehicle or animal has not been kept in the city or has not been used, on account of such vehicle or animal being destroyed, or rendered unfit for use or on account of such vehicle being under repairs or such animals being kept in any institution for the reception of infirm or disused animals or such animals having been certified by a Veterinary Surgeon to have become unfit for use, is—

(a) not less than eighty days, the full amount of the tax paid;

(b) not less than sixty days, two-thirds of the tax paid ;

(c) not less than thirty days, one-third of the tax paid :

Provided that no refund of the tax shall be granted if such period is less than thirty days.

247. Refund not claimable unless notice is given to the Commissioner:— (1) No refund of the tax shall be claimable from the Commissioner under Section 246 unless notice in writing of the occurrence of the circumstances giving rise to such claim has been given to the Commissioner by the person who paid the tax or his agent.

(2) If such notice is not received by the Commissioner within three days of the occurrence or commencement of the circumstances as aforesaid, the period previous to the date of the receipt of the notice shall be excluded in computing the period of eighty, sixty and thirty days, referred to in Section 246 for the purposes of granting any refund.

(3) It shall be in the discretion of the Commissioner to disallow any claim for refund of the tax, unless application claiming such refund is made to him in writing before the expiry of 15 days after the end of the quarter to which the claim relates and is accompanied by the bill presented to the applicant under Section 266 for the amount of the tax from which the refund is claimed.

Dogs

248. Tax on dogs:— (1) A tax not exceeding [1][rupees ten per annum] shall be levied on every dog kept within the city and not under the age of six months.

(2) Every person who owns or is in charge of any dog on which a tax is leviable under sub-section (1) shall be liable for such tax.

(3)(a) Every person who owns or is incharge of any dog shall, before the first day of May in each financial year, forward to the Commissioner a return signed by him containing his name and address and the age of such dog.

(b) Every person who after the first day of May in any financial year becomes the owner or takes charge of any dog, shall within one week from the date on which he becomes the owner or takes charge of the dog, forward to the Commissioner a like return, signed by him.

1. Subs. for the words "rupees five per annum" by Act 3 of 1994.

(4) The tax shall be payable for every financial year in advance on the first day of May :

Provided that—

(i) in respect of a dog which attains the age of six months after the first day of May, the tax shall be payable immediately after the expiry of one week from the day on which the dog attains such age, and

(ii) in cases in which a person becomes the owner or takes charge of any dog, not under age of six months, after the first day of May, the tax shall be payable immediately after the expiry of one week from the day on which he becomes the owner or takes charge of such dog :

Provided further that the tax shall not be payable more than once for the financial year in respect of any dog.

(5) The Commissioner shall maintain a register showing the persons liable to pay the tax under this section.

249. Licence and number ticket for and disposal of dogs:— (1) When the owner or person incharge of any dog has paid the tax leviable on and the price fixed for the number tickets for such dog, the Commissioner shall—

(a) grant him a licence for the keeping by him of such dog during the financial year for which he had paid the tax ; and

(b) provide him with a number ticket, the number of which shall be specified in such licence.

(2) The owner or person incharge of any dog so licensed shall at all times cause the said number ticket to be kept attached to the collar or otherwise suspended from the neck of the dog.

(3) Any dog which has no number ticket so attached or suspended—

(i) shall be presumed to be a dog in respect of which no licence has been granted, and

(ii) may be seized by the police or by any officer duly authorised by the Commissioner in this behalf, and detained until the tax due, if any, has been paid.

(4) If any person, within three days from the date of such seizure, satisfies the commissioner that he is the owner or person incharge of such dog, the Commissioner shall order it to be delivered to such person on payment of the tax if any, due and the costs incurred by the Commissioner by reason of its detention.

(5) If, within the said three days, no person satisfies the Commissioner that he is the owner or person incharge of the dog, the Commissioner may cause the dog either—

(a) to be destroyed, or

(b) to be sold and the proceeds of the sale, after deducting therefrom the said tax and costs (together with the costs of sale) to be paid to any person who within six months from the date of such sale, establishes to the satisfaction of the Commissioner, his claim to such proceeds.

Commentary

Destruction of unlicensed and unclaimed stray dogs:— The mandatory duty of the Corporation under Section 112 of the Act for preventing the spread of infectious diseases does not include the duty to destroy unlicensed and unclaimed stray dogs. In the instant case Blue Cross, a Voluntary Social Organisation has come forward to assist the Corporation in its battle against the problem of dog biting menace in the twin cities of Hyderabad and Secunderabad and the respondent Corporation has accepted its voluntary services. That was held not a case of sub-delegation. *J. Gopalan v. Municipal Corporation of Hyderabad and Others,* 1996 (1) ALD 1122 = 1996 (1) ALT 600 = 1996 (1) LS 308.

250. Protection of persons acting in good faith:— No suit, prosecution or other legal proceedings shall be instituted against any person in respect of any act done in good faith in the pursuance of provisions of sub-sections (3), (4) and (5) of Section 249.

251. Certain sections not to apply:— Nothing contained in Sections from 239 to 244, 246, 247, 265 and the second sentence of sub-section (2) of Section 266 shall apply in respect of the tax leviable under Section 248.

Octroi

252. Octroi at what rates and on what articles leviable:— Except as hereinafter provided, octroi, at rates not exceeding those respectively specified in Schedule H shall be levied in respect of the several articles mentioned in the said schedule or of so many of them as the Corporation shall from year to year, in accordance with Section 186, determine when the said articles are imported from any place into the city.

Commentary

Brief history of Octroi:— The word 'octroi' comes from the word 'octroyer' which means to grant in its original use means 'an import' or a toll, or a 'town duty' on goods brought into town. At first octrois were collected at ports but being highly productive, towns began to collect them by creating 'octroi' limits. They came to be known as 'town duties' according to Benhler's treatise on 'Public Finance' 3rd edition at page 426. Grice in his 'National and Local Finance' says that they were known as 'ingate tolls' because they were collected at toll-gates or baviers. In Seligman's Encyclopaedia of Social Sciences, Vol. IX at page 57 'Octroi' is described as—

"As compared with the facilities of the National Government, the possibilities of raising revenue by local bodies are limited. All forms of indirect taxation are practically closed to local authorities. They are unable to levy customs duties although they may collect the so called `Octroi's, that is duties, levied on goods entering town".

Entry 52 of List II of the Constitution of India deals with "Taxes on the entry of the goods into a local area for consumption, use or sale therein". The Municipality or Corporation has power to levy duty on articles brought into its limits as mentioned in the schedule.

Brought within the Limits:—In the words 'brought within the limits of the Municipality', there is an element of pause or repose, and they mean that animals or goods on which octroi is levied must be conveyed from another place and come to rest within the limits. Thus goods or animals in transit which merely pass through the Municipal limits, even though are used within those Municipal limits cannot be said to have been brought within the limits of such a Municipality for purposes of consumption. AIR 1969 MP 1 (FB).

Consumption:— The word consumption in its primary sense means the act of consuming and in ordinary parlance, means the use of an article in a way which destroys, wants or uses up the article. But, in some legal contexts the word has wider meaning. It is not necessary that by the act of consumption, the commodity must be destroyed or used up. AIR 1963 S.C. 906.

Use:— The word use carries a very wide meaning. In *Shell-Max B.P, Ltd. vs. Clayton,* 1955 (3) All ER 102 at 117, the meaning of this word was explained as contained in Johnson's Dictionary "to employ to any purpose". Therefore the word `use' is generally meant to convey the meaning `to employ for or apply to a given purpose'. As the word `use' is used along with the word consumption, it must be taken to mean other than consumption.

Therein:—The word 'therein' does not mean that all the acts of consumption must take place in the area of the Municipality. It is sufficient if the goods are brought inside the area to be delivered to the ultimate consumer in that area. AIR 1963 S.C. 906. Coconuts are not liable to octroi duty. AIR 1960 A.P. 234. Levy of octroi does not contravene Article 304 of the Constitution of India. 1970(1) APLJ 306 (F.B.=1970 (2) ALT 202. Absolute Alcohol is not liable to octroi duty. ILR (1960) 1 AP 42.

Beverages in item (n) of schedule embraces within its connotation "Toddy" and "Sendhi". 1960 (1) An. WR 72.

'Edible' Coconuts:—Coconuts will not come under "all kinds of foods and drinks not provided for" mentioned in entry 'O' schedule H of Section 252. Hence the levy of octroi duty on coconuts imported into Municipal Limits of Hyderabad is illegal. 1971 (1) APLJ 306 (FB).

'Octroi duty' falls under entry 52 of list II but not entry 53 list I. AIR 1960 A.P. 234.

253. Table of rates of Octroi to be affixed on certain places:— The Commissioner shall cause tables of Octroi for the time being leviable, specifying the rates at which and the articles on which the same are leviable to be printed in the [1][Andhra Pradesh Gazette] and local daily newspapers and to be affixed in a conspicuous position at every place at which the same Octroi is levied.

254. Exemption of articles belonging to Government from Octroi and refund of Octroi on articles becoming property of Government:— (1) No Octroi shall be leviable on any article which, at the time of its importation, is certified by an officer empowered by the Government in this behalf to be the property of the State, to be used or intended to be used solely for public purposes and not to be used or intended to be used for purposes of profit.

(2) If any article on which octroi is payable is imported under a written declaration signed by the importer that such article is being imported for the purposes of fulfilling a specified contract with the Government or

1. Subs. by A.P. Act 5 of 1969.

otherwise for the use of the Government the amount if any of the octroi paid thereon shall be refunded in full on production, at any time within six months after importation, of a certificate signed by an officer empowered by the Government in this behalf stating that the article so imported has become the property of the State, is used or intended to be used solely for a public purpose and is not used or intended to be used for purposes of profit.

255. Exemption of articles imported for immediate exportations:— Any article imported into the city for the purpose of immediate exportation may at the option of the importer be exempted from the levy of octroi if such article is conveyed direct from the place of import, to the place of export by such routes within such time, under such supervision and on payment of such fees therefore as shall be determined by the Standing Committee.

256. Refund of octroi on export:— (1) When any article upon which octroi has been paid shall be exported from the city, the full amount of the octroi so paid shall, subject to the provisions hereinafter contained, be refunded.

(2) Such refunds shall be paid under such bye-laws as shall from time to time be framed in this behalf.

257. [1][x x x].

258. Entertainment tax:— The entertainment tax shall be levied on all payments for admission to a theatre, cinema, carnival or to any other place of entertainment, at rates the maxima and minima whereof are specified in Schedule J.

Commentary

Entertainment Tax:— This tax is leviable on payments for admission to a theatre, cinema, or to any other place of entertainment performance or show. The A.P. Municipalities Act does not contain a similar provision.

Exemption of Exhibition Club:— In the *Hyderabad Municipal Corporation vs. Exhibition Society, Hyderabad,* 1963 (1) An. W.R. 22. Chandrasekhar Sastry, J. held that the Exhibition Society is entitled for exemption of this tax on its tickets for admission as it is negligible.

1. Omitted by 2nd Schedule of A.P. Act 22 of 1987.

259. Exemption from entertainment tax:— The entertainment tax shall not be leviable in respect of any entertainment, performance or show—

(a) for admission to which no charge or only a nominal charge, as may be prescribed, is made ;

(b) which is not open to the general public on payment ;

(c) the proceeds of which are intended to be utilised for a public, educational, cultural or charitable purpose.

260. Returns by persons in charge of entertainment:— It shall be the duty of every proprietor, manager or person incharge of any entertainment to submit to the Commissioner such returns duly signed at such intervals, in such form and containing such information for the purpose of levy of the entertainment tax, as may be prescribed.

261. Tax on transfer of property:— (1) The tax on transfer of property (hereinafter referred to as transfer tax) shall be levied—

(a) in the form of a surcharge on the duty imposed by the [1][Indian Stamp Act, 1899] on every instrument of the description specified below which relates to immovable property situate within the City ; and

(b) [1][at such rate as may be fixed by the Government, not exceeding five per centum] on the amount specified below against each instrument:—

Description of instrument	Taxable Amount
[1][(i) Sale of immovable property	The amount or value of the consideration for the sale, as set-forth in the instrument or the market value of such property, whichever is higher.
(ii) Exchange of immovable property	The value of the property or the greater value, as set-forth in the instrument or the market value of such property, whichever is higher.

1. Subs. by Act 10 of 1976, w.e.f. 16.08.1975.

(iii) Gift of the immovable property	The value of the property as set-forth in the instrument or the market value of such property, whichever is higher.]
(iv) Mortgage of immovable property	The amount secured by the mortgage, as set-forth in the instrument.

(2) All the provisions of the [1][Indian Stamp Act, 1899] and rules made thereunder shall *mutatis mutandis* apply to the said tax as they apply in relation to the duty chargeable under that Act.

(3) No registering authority shall accept any instrument for registration unless the amount of transfer tax is paid in cash.

(4) Every registering authority shall maintain an account of the transfer tax paid in respect of each instrument registered by him and a separate account showing the amount of the consideration, [2][the market value of the property] or the amount secured by a mortgage as the case may be.

(5) The transfer tax collected under this Act shall be credited to the Municipal Fund. In the absence of an agreement to the contrary the transfer tax shall be paid by the person who is primarily liable for payment of the stamp duty in respect of the instrument executed.

Commentary

Scope:—This section empowers the corporation to levy tax on transfer of property situate in the city which is known as surcharge. This section is analogous to Section 120 of the A.P. Municipalities Act, 1965. This is called transfer tax.

Sale of superstructure of the Cinema:— Theatre and machinery fixed therein excluding the site on which the theatre was constructed which belonged to a third party. The surcharge on transfer is payable. AIR 1973 A.P. 48 (FB)=1972 (2) ALT 318. Section 98(h) of the Madras City Municipal Corporation Act, 1919 contained the same power to levy tax on transfers. The word 'Surcharge' implies an excess or additional burden or amount of money charges. AIR 1960 Mad. 543.

1. Subs. by Act 10 of 1976, w.e.f. 16.08.1975.
2. Inserted by *Ibid.*

Applicability of provision of Indian Stamp Act:—Sub-section (2) laid down that all the provisions of the Indian Stamp Act, 1899 and Rules are applicable to the said tax as they are applicable to the stamp duty under that Act. But in the Municipalities Act, Sections 27 and 64 of the Stamp Act are above made applicable by Section 121 of that Act. On a question whether Section 35 of the Stamp Act applies to the collection of the duty on transfer and whether the Civil Court has power under the Madras District Municipalities to levy and collect transfer duty or penalty in *K. Manavala Naicker vs. K.R. Gopala Krishnaiah Chetty,* AIR 1969 A.P. 417. The A.P. High Court held that Section 35 of the Stamp Act is not applicable and that only Sections 27 and 64 are alone applicable. But in sub-section (2) of this Act all the provisions and Rules are applicable. Hence the procedure for collection of stamp duty is applicable to the transfer tax also.

Supplementary Taxation:—Section 263 empowers the Corporation to increase the rates of taxes levied during the year or by adding some more articles to octroi. This increase must be done in accordance with the same procedure for levying the original tax. The Municipal Council under the A.P. Municipalities Act has no such power.

Jute is not a gunny bag 'liable to levy of fees on storage and sale under Schedule IV, item (p) of the Act. Match boxes are Combustable materials and levy of fees on sale of materials is valid - 1976 (9) APLJ 308.

262. [1][x x x].

Supplementary Taxation

263. Any tax impossible under this Act may be increased by way of imposing supplementary taxation:— Whenever the Corporation determines, under Section 192, to have recourse to supplementary taxation in any financial year, they shall do so by increasing, for the unexpired portion of the said year, that rates at which any tax leviable under this Act is being levied or by adding to the number of articles on which octroi is being levied but every such increase or addition shall be made subject to the limitations and conditions on which any such tax is leviable.

Collection of Taxes

264. Property taxes how payable:— Each of the property taxes shall be payable in advance either in half-yearly or quarterly instalments as the Corporation may decide.

1. Omitted by Act 38 of 1961.

(2) In case of—

(a) half-yearly instalments, the taxes shall be payable in advance on each first day of April and October.

(b) quarterly instalments, the taxes shall be payable on each first day of April and July and each first day of October and January.

265. Tax on vehicles, animals and public conveyances payable in advance:— (1) Except as is hereinafter otherwise provided the tax on vehicles and animals, shall be paid quarterly in advance, on each first day of April and each first day of July and each first day of October and each first day of January.

(2) If in any quarter, a vehicle or animal becomes liable to such tax, such tax shall be leviable thereon from the earliest day in the quarter on which such vehicle or animal so becomes liable the amount of tax leviable for such quarter shall be, if such earliest day occurs—

(a) in the first month of such quarter, the whole tax for such quarter,

(b) in the second month of such quarter, two-thirds of tax for such quarter,

(c) in the last month of such quarter, one-third of the tax for such quarter, provided that no tax shall be leviable for such quarter if such earliest day occurs within the last 10 days of such quarter.

266. Service of bills for certain taxes:— (1) When any property tax or tax, on vehicles and animals or any instalment of any such tax, shall have become due, the Commissioner shall with the least practicable delay, cause to be served upon the person liable for the payment thereof a bill for the sum due.

(2) Every such bill shall specify the period for which the premises, vehicle or animal in respect of which, the tax is charged, as hereinafter provided, against time within which objections may be raised or on the decision, an appeal may be preferred, as hereinafter provided, against such decision. Every such bill for the payment of tax on vehicles and animals shall have to be printed on the reverse side of the bill the provisions of Sections 244 to 247.

Commentary

Limitation:— The Commissioner can collect arrears of tax within the limitation period of 3 years. He has no power to collect arrears of tax by distraint beyond the three years' period. 1976 (2) APLJ 41.

267. When one bill may be served for several claims:— (1) All the sums due for each half year or quarter year, as the case may be, for all or any of the property taxes, by any one person on account of one and the same property shall be charged to such person in one bill and shall be recoverable from him in the lump :

Provided that nothing herein contained shall affect the liability of such person to any increased tax to which he may be assessed on account of the said property under Section 225.

(2) If any one person is liable for all or any of the said taxes on account of more properties than one, it shall be competent to the Commissioner to charge to such person in one or several bills, as he shall think fit the several sums payable by him on account of such properties:

Provided that if such person, by written notice to the Commissioner, request to be furnished with several bills, the Commissioner shall comply with such request in respect of all the said taxes for which such person becomes liable after receipt by the Commissioner of his said notice :

Provided, however, that notwithstanding anything in the foregoing proviso, no person shall be entitled to be furnished with more than one bill in respect of any building or land which has been treated as comprising of more than one separate property under Section 216.

268. Notice of demand:— (1) If the amount of tax for which any bill has been served as aforesaid is not paid into the Municipal Office within fifteen days from the service thereof the Commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form of Schedule K, or to the like effect.

(2) For every notice of demand which the Commissioner causes to serve on any person under this section, a fee of such amount not exceeding one rupee shall in each case be fixed by the Commissioner, shall be payable by the said person and shall be included in the costs of recovery.

269. Distress:— (1) If the person liable for the payment of the said tax does not, within fifteen days from the service of the notice of demand, pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioner, and if no appeal is preferred against the said tax as hereinafter provided, such sum, with all costs of the recovery, may be levied under a warrant in the form of Schedule L, or to the like effect, to be issued by the Commissioner, by distress and sale of the goods and chattels of the defaulter, or if the defaulter be the occupier of any premises in respect of which a property tax is due, by distress and sale of any goods and chattels found on the said premises or, if the tax due in respect of any vehicle or animal by distress and sale of such vehicle or animal in whomsoever's ownership, possession or control, the same may be.

(2) If after the service of the notice of demand the amount of the said tax is paid but the fee for the notice is not paid, the sum due on account of the said fee may be levied under a warrant in the form of Schedule L, *mutatis mutandis* as if such sum were due on account of the tax :

[1][Provided that a simple interest at the rate of two per cent per mensum shall be charged in case of failure to pay property tax within the due date :

Provided further that when payment of property tax is not made within the due date, the Commissioner may, after giving notice to the owner or occupier, disconnect the essential services to the premises.]

270. Goods of defaulter may be distrained wherever found:— The goods and chattels of any person liable for the payment of any tax, or the vehicle or animals in respect of which the tax is due for levy of which a warrant has been issued as aforesaid, may be distrained wherever the same may be found.

271. Inventory and notice and distress and sale:— The officer charged with the execution of a warrant of distress issued under Section 269 shall forthwith make an inventory of the goods and chattels and vehicles or animals which he seizes under such warrant and shall at the same time give a written notice, in the form of Schedule M or in a similar form to the person in possession thereof at the time of seizure, that the said goods and chattels and vehicles or animals will be sold as therein mentioned.

1. Subs. by Act 3 of 1994.

272. Sale:— (1) If the warrant is not in the meantime suspended by the Commissioner or discharged, the goods and chattels and vehicles or animals seized shall, after the expiry of the period named in the notice served under the last preceding section, be sold by order of the Commissioner, who shall apply the proceeds or such part thereof as shall be requisite in discharge of the sum due and of the costs of recovery.

(2) The surplus, if any, shall forthwith be credited to the municipal fund, but if the same be claimed by written application to the Commissioner within one year from the date of the sale, a refund thereof shall be made to the person in possession of the goods and chattels or vehicles or animals at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the Corporation.

273. Fees for distraints:— For every distraint made under this Act a fee shall be charged at the rate set forth in Schedule N ; and the said fee shall be included in the costs of recovery.

274. Fees for cost of recovery may be remitted:— The Commissioner may, in his discretion, remit the whole or any part of any fee chargeable under the last preceding section or under sub-section (2) of Section 268.

275. Seizure of vehicles and animals if tax on vehicles and animals not paid and number plate not obtained:— (1) If the tax on any vehicle or animal governed by the provisions of Section 265, is not paid and a number plate is not obtained and affixed to the vehicle within thirty days from the date on which the tax becomes due, the Commissioner may at any time thereafter seize and detain the vehicle and the animal, if any, used or employed in drawing the vehicle and, if the owner or other person entitled thereto does not within seven days from the date of such seizure and detention claim the same and pay the tax due together with the charges incurred in connection with the seizure and detention, the Commissioner may cause the same to be sold and apply the proceeds of the sale or such part thereof as shall be requisite in discharge of sum due and the charges incurred as aforesaid :

Provided that if any person becomes the owner or obtains possession or control of any vehicle or animal on which the tax is due after the expiry of the said period of thirty days and the tax thereon has remained unpaid, he shall pay the same in the manner prescribed immediately after

he becomes the owner or obtains possession or control of such vehicles or animal and on failure to do so the vehicle or animal shall, if it is not already seized and detained be liable to be seized and sold as aforesaid:

Provided further that no vehicle or animal used therefor shall be seized and detained under section when actually employed in the conveyance of goods.

(2) The surplus, if any, remaining after the application of the proceeds of a sale under sub-section (1) in the manner provided therein shall be disposed of in the manner provided in sub-section (2) of Section 272.

276. When occupier may be held liable for payment of property tax:— (1) If the sum due on account of any property tax remains unpaid after a bill for the same has been duly served on the person primarily liable for the payment thereof and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the Commissioner may serve a bill for the amount on the occupier of the said premises, or, if there are two or more occupiers thereof, may serve a bill on each of them for such portion of the sum due as bears to the whole amount due the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fail within thirty days from the service of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the foregoing provisions.

(3) No arrears of a property-tax shall be recovered from any occupier under this section, which had remained due for more than one year, or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

Commentary

Liability of occupies to pay tax:— Section 276 seeks to relieve an occupier of a premises from the burden of payment of arrears of property tax for the period for which he was not in occupation. In such a situation,

a limited liability can only be fastened on him namely, arrears of tax, only for one year as payable by him. Sub-section (4) of that Section further relieves the occupier from such burden of tax paid by him by allowing deduction of the amount paid to the Corporation as arrears of tax while paying the rent, where the occupier is a lessee. That sub-section declares that any sum paid or recovered from the occupier would be credited in the account of the person primarily liable for payment of the same. In other words the amount of tax thus recovered from the occupier, who is not primarily liable (such as lessee), would be liable to be adjusted towards the amount payable by the occupier. *Lucky Wines (P) Limited v. Municipal Corporation of Hyderabad rep. by its Deputy Commissioner,* 1995 (3) ALD 452.

277. Summary proceedings may be taken against persons about to leave the city:— (1) If the Commissioner shall at any time have reason to believe that any person from whom any sum is due on account of any property tax or tax on vehicles and animals [1][x x x] is about forthwith to remove from the city, the Commissioner may direct the immediate payment by such person of the sum so due by him and cause a bill for the same to be served on him.

(2) If no service of such bill, the said person does not forthwith pay the sum due by him, the amount shall be leviable by distress and sale in the manner hereinbefore provided, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the Commissioner's warrant for distress and same may be issued and executed without any delay.

278. Defaulter may be sued for arrears if necessary:— Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a property-tax or of tax on vehicles and animals [1][x x x] may be recovered from him by a suit in any Court of competent jurisdiction.

Commentary

Recovery under Revenue Recovery Act :-Article 113 of the Limitation Act, 1963 governs the field providing three years limitation period for initiating proceedings to recover the amount due from the date when the right to sue accrues. The Municipal Corporation is not entitled to recover arrears of property tax by way of distraint after the expiry of three years from the

1. The words "or profession tax" omitted by Act 22 of 1987.

date when the tax becomes due. The Municipal Corporation can take recourse to the provisions contemplated under Section 278 of the Hyderabad Municipal Corporation Act. *V.K. Roy vs Commissioner, Municipal Corporation of Hyderabad and another,* 2002 (4) ALD 711 (DB).

279. Collection of Octroi how to be effected:— (1) Octroi (a) may be collected under the orders of the Commissioner, by municipal officers and servants appointed in this behalf ; or

(b) if the Commissioner thinks fit, may, with the approval of the Standing Committee, be formed by him for any period not exceeding one year at a time or be collected by or under the orders of any person whom the Commissioner, with the approval of the Standing Committee, appoints to be his agent for this purpose.

(2) Octroi shall be collected, and refunds of Octroi shall be made, at such places and be managed and controlled in such manner as the Commissioner with the approval of the Standing Committee shall from time to time direct.

280. Powers of persons authorised to collect and refund Octroi:— Every person authorised under Section 279 to collect or to refund Octroi shall have in respect of its collection or refund such powers and privileges and be subject to such liabilities in respect of anything done by him or for the purpose of collecting or refunding Octroi as may from time to time, be prescribed and in respect of the confiscation of goods in connec-tion therewith such powers as are conferred by the foregoing provisions of this Act in respect of distress of movable property or vehicles, boats and animals.

Commentary

Scope:— Sections 264 to 280 deal with collection of various taxes levied by the corporation.

Mode of Recovery of Taxes:—The following are the modes for recovery of taxes:

1. By presenting a bill,
2. By serving a written notice of demand,
3. By distraint and sale of defaulter's movable property,
4. By the attachment, sale of defaulter's immovable property,
5. In the case of property tax by attachment of rents due,
6. By suit,
7. In the case of octroi and toll, the seizure and sale of goods and vehicles.

281. Writing off of irrecoverable taxes:— The commissioner may, with the approval of the Standing Committee from time to time, write off any sum due on account of any tax or of the costs of recovery of any tax which shall in his opinion be irrecoverable.

Appeals against valuation and taxes

282. Appeals when and to whom to lie:— (1) Subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Judge.

(2) But no such appeal shall be heard by the said Judge, unless:—

(a) it is brought within fifteen days after the accrual of the cause of complaint;

(b) a complaint has previously been made to the Commissioner under Sec. 221 and such complaint has been disposed of;

(c) a complaint has been made, by the person aggrieved within fifteen days after the first received notice of any amendment made in the assessment book under Section 225 and his complaint has been disposed of;

(d) in the case of an appeal against tax, the amount claimed from the appellant has been deposited by him with the Commissioner.

Commentary

Where an appeal against enhancement of tax is validly filed, Appellate Court has power to grant stay of collection of tax. 1974 (2) APLJ 239. See also AIR 1969 SC 430.

Jurisdiction:— Where the order was passed for cancellation of assessment itself the provisions of Section 282 do not apply for deciding the issue of jurisdiction of Civil Court. What is material is to see whether the statute, by express and unequivocal terms excludes the jurisdiction of the Civil Courts. *Pingili Narasimha Reddy v. Municipal Corporation, Warangal,* 2002 (1) ALD 52 = 2002 (1) ALT 20.

Appeal - non-deposit of the disputed tax :-Section 282(2)(d) says that no appeal shall be heard by the Judge, unless the amount claimed by the Municipality from the appellant towards tax is deposited by him with the Commissioner. This provision is therefore, with regard to hearing of the appeal and not with regard to the filing of the appeal. Therefore, it cannot be said that the appeal is not validly filed, even if it is filed without depositing the

rateable value or tax fixed or charged under this Act. The intention of the legislature is that the amounted of tax claimed has to be deposited by the appellant before hearing of the appeal and it does not mean that the amount has to be deposited before filing the appeal itself. *Alladi Venkateswarlu vs Warangal Municipal Corporation, Warangal,* 2002 (1) ALD 861.

[1][**282-A:— Revision of tax by the Director of Municipal Administration:—** Where it is brought to the notice of the Director of Municipal Administration, that the property tax is under-valued, he may re-assess the property tax and fix the same tax accordingly].

283. Cause of complaint when to be deemed to have occurred:— For the purpose of the last preceding section, cause of complaint shall be deemed to have occurred as follows, namely:—

(a) in the case of an appeal against a rateable value, on the day when the Commissioner under Section 221 against such value is disposed of ;

(b) in the case of an appeal any amendment made in the assessment book, under Section 255 during the financial year on the day when the complaint made to the Commissioner by the person aggrieved against such amendment is disposed of.

(2) In the case of an appeal against a tax, on the day when payment thereof is demanded or when a bill therefor is served.

284. Arbitration:— Wherein any appeal under Section 282 the parties agree that any matter in difference between them shall be referred to arbitration, they may, at any time before a decision is given in such appeal, apply in writing to the Judge for an order of reference on such appeal, apply in writing to the Judge for an order of reference on such matter and on such application being made, the provisions of the Arbitration Act, 1940 relating to arbitration in suits shall, so far as they can be made applicable, apply to such application and the proceedings to follow thereon, as if the Judge were a Court within the meaning of that Act and the application were an application made in a suit.

285. Appointment of valuer:— (1) If any party to an appeal against a rateable value under Section 282 makes an application to the Judge either before the hearing of the appeal, but before evidence as to value has been adduced, to direct a valuation of any premises in relation to

1. Ins. by Act No. 20 of 1989, w.e.f. 01.11.1990.

which the appeal is made, the Judge may, in his discretion, appoint a competent person to make the valuation and any person so appointed shall have power to enter on survey and value the premises in respect of which the direction is given :

Provided that, except when the application is made by the Commissioner, no such direction shall be made by the Judge unless the applicant gives such security as the Judge thinks proper for the payment of the costs of valuation under this sub-section.

(2) The costs incurred for valuation under sub-section (1) shall be costs in the appeal, but shall be payable in the first instance by the applicant.

(3) The Judge may, and on the application of any party to the appeal, shall call as a witness the person appointed under sub-section (1) for making the valuation and, when he is so called, any party to appeal shall be entitled to cross-examine him.

Commentary

Appeals against Valuation and Taxes:—Judge means Chief Judge City Small Causes Court in the Twin Cities. In the Corporations of Visakhapatnam and Vijayawada it will be the District Judge.

Filing of Appeal:— (1) The appeal must be filed within fifteen days from the accrual of the cause of action.

(2) A complaint must have been lodged before the commissioner or his delegate already.

(3) Person aggrieved must file against an amendment in the assessment book within fifteen days from the receipt of the amendment.

(4) In case of tax the amount of tax is to be deposited.

Cause of action:—Rateable Value-Cause of action arises on the date of disposal of the complaint by the Commissioner. Amendment in assessment book—Cause of action arises from the day on which the commissioner disposed of the complaint against the amendment tax—On the day when a bill thereof is served or on the day the amount is demanded.

Scope of the Appeal in Taxation:—In appeals against taxation one of the preconditions is that the assessee or tax payer should have made a complaint in writing to the corporation within the time fixed in the notice giving the ground on which the claim of the Municipality or Corporation is disputed. In view of this precondition the grounds on which an appeal can

be entertained are confined to the Valuation and assessment in respect of which objections can be heard and disposed of by the Municipal authorities, (1955), 57 Bom. LR 547. In response to the notice, the assessee is entitled to submit to the Municipality an objection to the effect that his buildings are exempted from the tax under rules. Such an objection relates to assessment of the buildings to the tax, and it is the duty of the Municipality to hear the objection and to dispose of it. Therefore the objection comes within the scope of the appeal provided in the Act. The Judge has jurisdiction to decide that issue. AIR 1967 Bom. 276.

Assessment:— Assessment means the actual sum for which the tax payer is liable and for which bill is presented. 57 Bom. LR 547.

Assessment of Taxes:— An objection claiming exemption from tax amounts to an objection to validity of tax. *Municipal Corporation of Hyderabad vs. Tahera Begum*, 1974 ALT 316=1974 (2) APLJ 239 = 1975 (1) An.WR 25 = 1974 APHN 276.

Amount deemed to be Tax:—An appeal lies against a demand made by the Municipality on the owner of the property. AIR 1962 SC 547.

Deposit of Tax:—No appeal against taxation shall be heard and decided unless the amount of tax claimed is deposited.

Copy of the Order:—Section 223 does not provide for serving the copy of the order on the objector or the assessee. Section 672 of the Act made Sections 5, 12 and 13 of the Limitation Act, 1908 is made applicable to appeals and applications under this Act. Hence the time taken for certified copy of the order will be excluded for computation of the time for filing the appeal. Hence an appeal can be filed with the copy of the order soon as it is obtained within the limitation period.

Power to grant Stay:—In an appeal to Chief Judge he can grant stay of collection of enhanced tax in appropriate cases. Procedure laid down in Order 42 Rule 5 is made applicable to the appeals before the Chief Judge. *Municipal Corporation of Hyderabad vs. Tahera Begum*, 1974 ALT 316=1974 (2) APLJ 239. The Chief Judge granted stay of payment of enhanced tax. The appellant later failed to pay tax. The dismissal of appeal is legal 1976 ALT 112 (NRC). The condition of deposit before hearing of the appeal is not *ultra vires* of the Constitution. 1974 (2) APLJ 56 (SN).

Second Appeal:—Appeal lies to High Court against every order of the Chief Judge. A revision under Section 115 C.P.C. is not maintainable. *Hyderabad Municipal Corporation vs. Exhibition Society*, 1963(1) An. WR 22 = ILR 1964 AP 1430.

286. Reference of question to High Court:— (1) If, before or on the hearing of an appeal under Section 282, any question of law or

usage having the force of law, or the construction of a document arises on which the Judge entertains reasonable doubt, the Judge may either of his own motion or on the application of the party to the appeal, draw up a statement of the facts of the case and the point on which doubt is so entertained and refer such statement with his own opinion on the point for the decision of the High Court.

(2) Where a reference is made to the High Court under sub-section (1), the provisions of Rules from 2 to 5, both inclusive of Order XLVI in the First Schedule to the Code of Civil Procedure, 1908, shall so far as they can be made applicable, apply.

Commentary

Reference to High Court:— If before or during the appeal before the Chief Judge a reference can be made to the High Court.

(1) by the Judge *suo motu,* or

(2) on the application of the party to the appeal if the Judge entertains reasonable doubt on any question of law, or usage having the force of law, or the construction of a document.

Procedure:— The Judge has to draw a point on which doubt is entertained and refer the issue to the High Court. The C.P.C. will supply to such reference.

287. Appeals:— An appeal shall lie to the High Court from any decision of the Judge in an appeal under Section 282—

(a) by which a rateable value in excess of rupees two thousand is fixed, and

(b) upon a question of law or usage having the force of law or the construction of a document.

Commentary

Second Appeal:— An appeal will lie to the High Court from the decisions of the Judge on taxation matters where the rateable value is more than two hundred rupees and a question of law, or usage having the force of law, or the construction of a document.

288. Cost of proceeding in appeal:— The cost of all proceedings in appeal under Section 282 before the Judge including those of arbitration under Section 284 and of valuation under Section 285 shall be payable

by such parties in such proportion as the Judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Court.

289. Unappealed values and taxes and decisions on appeal to be final:— (1) Every rateable value fixed under this Act against which no complaint is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Judge aforesaid upon any appeal against any such value or tax, if no appeal is made therefrom and the decision of the High Court upon appeal under Section 287, shall be final.

(2) Effect shall be given by the Commissioner to every such decision.

CHAPTER IX
Drains and Drainage Works
Municipal Drains

290. Municipal drains to be under the control of Commissioner:— All municipal drains shall be under the control of the Commissioner.

291. Vesting of water course:— Any natural water course heretofore belonging to Government by which rain water or drainage of any kind is carried, may on application to the Government by the Commissioner with the previous approval of the Standing Committee be vested in the Corporation:

Provided that—

(a) it shall be in the discretion of the Government in each case to determine whether a particular water-course so applied for shall be so vested, and

(b) the Government declaring that a water-course so applied for may be made over to the Corporation shall, from the date thereof to be specified in this behalf operate to vest such water-course in the Corporation.

292. Drains to be constructed and kept in repair by the Commissioner:— The Commissioner shall maintain and keep in repair all municipal drains and, when authorised by the Corporation in this behalf, shall contract all new drains as shall from time to time be necessary for the effectually draining the city.

(2) The Commissioner shall also, in the case of any street in which there is a municipal drain, construct at the charge of the municipal fund such portion of the drain of any premises to be connected with such municipal drain as it shall be necessary to lay under any part of such street and the portion of any connecting drain so laid shall vest in the Corporation and be maintained and kept in repair by the Commissioner as a municipal drain.

293. Powers for making drain:— (1) The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the city or, for the purpose of outfall or distribution of sewage, without the city.

(2) The Commissioner may enter upon and construct any new drain in the place of an existing drain in any land where in any municipal drain has been already lawfully constructed or repaired or altered any municipal drain so constructed.

(3) In the exercise of any power under this section, as little, damage as can be, shall be done, and compensation shall be paid by the Commissioner to any person who sustains damage by the exercise of such power.

Commentary

Scope:— Section 293 is not covered by exception. It is in conformity with Article 31(5) (b), of the Constitution of India. 1968 (1) ALT 103.

294. Alteration and discontinuance of drains:— (1) The Commissioner may enlarge, arch over or otherwise improve any municipal drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary.

(2) The discontinuance, closing up or destruction of any drain shall be so done as to create the least practicable nuisance or inconvenience to any person and if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall, as soon as may be, provide for his use some other drain which would be as effectual as the one discontinued, closed up or destroyed.

295. Cleansing of drains:— (1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing and emptying the said drains, the Commissioner may, with the sanction of Corporation, construct or set-up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

Drains of Public Street and Drains of Premises

296. Powers to connect drains of private streets with municipal drains:— The owner of a private street shall be entitled to connect the drain of such street with a municipal drain subject to the following conditions, namely:—

(a) before commencing to construct such drain, the owner of the street shall submit to the Commissioner a plan of the street bearing the signature of a licensed surveyor in token of its having been made by him or under his supervision, and drawn, to such a convenient scale as the Commissioner shall require, and there shall be shown on such plan the position, course and dimensions of the proposed drain, with a section or sections thereof, and such other particulars in relation thereto as the Commissioner shall deem necessary and require, and no such drain shall without the approval in writing or contrary to the directions of the Commissioner be proceeded with;

(b) the drain of such private street shall, at the expense of the owner of the street, be constructed of such size, material and description, and be branched into the municipal drain in such manner and form of communication, in all respects, as the Commissioner with the approval of the Standing Committee, shall direct;

(c) the Commissioner may, if he thinks fit, construct such part of such drain and such part of the work necessary for branching the same into the municipal drain as shall be in or under any public street or place vesting in the Corporation and, in such case, the expenses incurred by the Commissioner shall be paid by the owner of the private street.

297. Power of owners and occupiers of premises to drain municipal drains:— The owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain or other place legally set apart for the discharge of drainage provided that he first obtains the written permission of the Commissioner and that he complies with such conditions as the Commissioner may impose as to the mode in which and the superintendence under which connections with municipal drains or other places aforesaid are to be made.

298. Connections with municipal drains not to be done except in conformity with Section 296 or 297:— No person shall, without complying with the provisions of Section 296 or 297, as the case may be, make or cause to be made any connection of a drain belonging to himself or to some other person with any municipal drain or other place legally set apart for the discharge of drainage and the Commissioner may, with the approval of the Standing Committee, close, demolish, alter or remake any such connection made in contravention of this section, and the expenses incurred by the Commissioner in so doing shall be paid by the owner of the street, or the owner or occupier of the premises, for the benefit of which the connection was made, or by the person offending.

299. Buildings etc., not to be erected without permission over any drains:— (1) Without the written permissions of the Commissioner no building, wall or other structure shall be newly erected or re-erected and no street or railway shall be constructed over any drain.

(2) If any building, wall or other structure be so erected or re-erected, or any street or railway be so constructed, the Commissioner, after giving the offending person ten days' notice of his intention, may apply for the approval of the Standing Committee and may with their approval remove or otherwise deal with the same as he shall think fit, and the expenses thereby incurred shall be paid by the person offending.

300. Right of owners and occupiers of premises to carry drains through land belonging to other persons:— (1) If it shall appear to the Commissioner that the only means or the most convenient means, by which the owner or occupier of any premises can cause his drain to empty into a municipal drain or other place legally set apart for the discharge of drainage is, by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Commissioner, after giving to the owner of such land a reasonable

opportunity of stating objections, if any, may, with the approval of the Standing Committee, if no objection is raised, or if any objection which is raised, or if any objection which is raised appears to him invalid or insufficient by an order in writing, authorise the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) Every such order of the Commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises or any agent or person employed by him for this purpose, may after giving to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section, as little damage as can be, shall be done, and the owner or occupier of premises for the benefit of which the work is done shall—

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of executing the said work;

(c) any compensation to the person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section while such land was unbuilt upon, shall, at any time afterwards, desire to erect a building on such land, the Commissioner shall, with the approval of the Standing Committee, by

written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the said Committee, and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same:

Provided that no such requisition shall be made, unless in the opinion of the Standing Committee, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

301. Owner of land to allow others to carry drains through the land:— Every owner of land shall be bound to allow any person in whose favour an order has been made under Section 300, sub-section (1) to carry a drain into, through or under the land of such owner on such terms as may be specified in such order.

302. Commissioner may enforce drainage of undrained premises situate within a hundred feet of a municipal drain:— Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, and a municipal drain or some place legally set apart for the discharge of drainage is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises—

(a) to make a drain of such material, size and description laid at such level and according to such alignment and with such fall and outlet as may appear to the Commissioner necessary, emptying into such municipal drain or place aforesaid :

Provided that, where any premises have already been drained in accordance with the bye-laws or have to be so redrained, no such requisition shall be made without the previous sanction of the Standing Committee;

(b) to provide and set up all such appliances and fittings as may appear to the Commissioner necessary for the purpose of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith ;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

303. Commissioner may enforce drainage of undrained premises not situate within a hundred feet of municipal drain:— (1) Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, and a municipal drain or such place as aforesaid is situated at a distance exceeding one hundred feet from some part of the said premises, the Commissioner, may by written notice, require the owner or occupier of the said premises—

(a) to construct a drain up to a point to be specified in such notice, but not distant more than one hundred feet from some part of the said premises; or

(b) [1][x x x]

Authors' Note:— Section 303(1)(b) though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Section 303(1)(b) is given hereunder.

(b) to construct a closed cesspool of such material, size and description in such position, at such level, and with allowance for such fall and outlet as the Commissioner thinks necessary and the drain emptying into such cesspool.

(2) Any requisition for the construction of any drain under sub-section (1) may comprise any detail specified in clauses (a), (b) or (c) of Section 302.

304. Powers of Commissioner to drain premises in combination:— (1) Where the Commissioner is of opinion that any group or block of premises, any part of which is situated within one hundred feet of a municipal drain, or other place legally set apart for the discharge of drainage already existing or about to be constructed, may be drained more effectually or economically in combination than separately the Commissioner may, with the approval of the Standing Committee, cause such group or block of premises to be drained by such method as appears to the Commissioner to be best suited therefor, and the expenses incurred by the Commissioner in so doing shall be paid by the owners of such premises in such proportions as the Standing Committee may think fit.

1. Omitted by Act 6 of 1982.

(2) Not less than fifteen days before any work under this section is commenced, the Commissioner shall give written notice to the owners of all the premises to be drained of—

(a) the nature of the intended work,

(b) the estimated expenses thereof, and

(c) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed, or continued, for the special use and benefit only of such premises, and shall in the proportions in which it is determined that the owners of such premises, are to contribute to the expenses incurred by the Commissioner under sub-section (1), be responsible for the expenses of maintaining every such drain in good repair and efficient condition but every such drain shall from time to time be flushed, cleaned and emptied by the Commissioner at the charge of the Municipal Fund.

305. Commissioner may close or limit the use of existing private drains:— (1) Where a drain connecting any premises with a municipal drain or other place legally set apart for the discharge of drainage is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable but is not, in the opinion of the Commissioner, adapted to the general drainage system of the city or of that part of the city in which such drain is situated, the Commissioner with the approval of the Standing Committee, may—

(a) subject to the provision of sub-section (2) close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done;

(b) [1][x x x]

Authors' Note:— Section 305(1)(b) though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Section 305(1)(b) is given hereunder.

1. Omitted by Act 6 of 1982.

(b) direct that such drain shall, from such date as he may specify in this behalf, be used for sullage and sewage only, or for rain water only, or for unpolluted sub-soil water only, or for both rain water and unpolluted sub-soil water only, and by written notice require the owner or occupier of the premises to make an entirely distinct drain for sullage or sewage or for rainwater or unpolluted sub-soil water, or for both rainfall and unpolluted sub-soil water.

(2) No drain may be closed, discontinued or destroyed by the Commissioner under clause (a) of sub-section (1) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain or other place as aforesaid which the Commissioner thinks fit; and the expenses of the construction of any drain so provided by the Commissioner and of any work done under the said clause (a) shall be paid by the Commissioner at the charge of the Municipal Fund.

(3) [1][x x x]

Authors' Note:— Section 305(3) though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Section 305(3) is given hereunder.

(3) Any requisition made by the Commissioner under clause (b) of sub-section (1) may embrace any detail specified in clause (a) or clause (b) of sub-section 33.

306. New building not to be erected without drain:— (1) It shall not be lawful to newly erect or re-erect any building, or to occupy any building newly erected or re-erected, unless and until—

(a) a drain be constructed of such size, materials and description, at such level; with such fall and outlet as shall appear to the Commissioner to be necessary for the effectual drainage of such building [2][and the drainage betterment charges as fixed by the Commissioner, from time to time, with the sanction of the corporation have been paid ;]

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the Commissioner to be necessary for

1. Omitted by Act 6 of 1982.
2. Added by Act 6 of 1984, w.r.e.f. 01.07.1980.

the purpose of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage situated at a distance not exceeding one hundred feet from the premises in which such building is situated; but if no such drain or place is within that distance, then such drain shall empty into such cesspool as the Commissioner directs.

307. Provision of troughs and pipes to receive water from roofs of buildings:— The Commissioner may, by notice in writing require the owner of any building in any street to put up and maintain in good condition proper and sufficient troughs and pipes for receiving and carrying the water from the roof and other parts of the building and for discharging the water so that it shall not fall upon any street or damage any street or other property vested in the Corporation.

308. Excrementitious matter not to be passed into cesspool:— No person shall, except with the permission of the Commissioner pass or cause or permit to be passed any excrementitious matter into any cesspool made or used under Section 303 or Section 306 or into any drain communicating with any such cesspool.

309. Obligation of owners of drains to allow use thereof or joint ownership therein to others:— Every owner of a drain connected with a municipal drain or other place legally set apart for the discharge of drainage shall be bound to allow the use of it to others, or to admit other persons as joint owners thereof, on such terms as may be specified by the Commissioner.

310. How right of use of joint ownership of a drain may be obtained by a person other than the owner:— Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain or may apply to the Commissioner for authority to use such drain or to be declared joint owner thereof.

311. Commissioner may authorise person other than the owner of a drain to use the same or declare him to be a joint owner thereof:— (1) Where the Commissioner is of opinion whether on receipt of such application or otherwise, that the only, or the most convenient, means by which the owner or occupier of any premises can cause the drain of such premises to empty into a municipal drain or other place legally set apart for the discharge of drainage is through a drain communicating with such municipal drain or place aforesaid, but belonging to same person other than the said owner or occupier, the Commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto may, with the approval of the Standing Committee, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorise the said owner or occupier to use the drain or declare him to be joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the said premises with the communicating drain and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleansing and emptying the joint drain, or otherwise, as may appear to him equitable.

(2) Every such order of the Commissioner shall be a complete authority to the person in whose favour it is made or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situated, with assistants and workmen, at any time between sunrise and sunset, and subject to all provisions of this Act, to do all such things as may be necessary for—

(a) connecting the two drains; or

(b) renewing, repairing or altering the connection; or

(c) discharging any responsibility attaching to the person in whose favour, the Commissioner's order is made for maintaining, repairing, flushing, cleansing or emptying the joint drain or any part thereof.

(3) In respect of the execution of any work under sub-section (2), the person in whose favour the Commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of Section 300.

312. Sewage and rain water drains to be distinct:— Wherever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Commissioner to require that there shall be one drain for sullage excrementitious matter and polluted water and another and an entirely distinct drain for rain water and unpolluted sub-soil water or for both rain water and unpolluted sub-soil water each emptying into [1][Board sewer and municipal drain respectively] or other places legally set apart for the discharge of drainage.

313. Drain not to pass beneath buildings:— Except with the written permission of the Commissioner, and in conformity with such conditions as shall be specified by the Standing Committee, either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

314. [2][x x x]

Authors' Note:— Section 314 though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Section 314 is given hereunder.

*314. **Position of Cess Pools:—** No person shall construct a cesspool—*

(a) beneath any part of any building or within twenty feet of any lake, tank, reservoir, stream, spring or well; or

(b) upon any site or in any position which has not been approved in writing by the Commissioner.

315. Rights of Corporation to drains, etc., constructed, etc., at charge of Municipal Fund on premises not belonging to the Corporation:— All drains, ventilation shafts and all appliances and fittings connected with drainage works constructed, erected or set up at the charge of the Municipal Fund upon a premises not belonging to the Corporation, whether before or after the passing of this Act, and otherwise than for the sole use and benefit of the said premises, shall, unless the Corporation has otherwise determined or shall at any time determine, vest, and be deemed to have always vested, in the Corporation.

1. Subs. for the words "Separate Municipal Drains" by Act No. 6 of 1982. The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.
2. Omitted by *Ibid.*

316. All drains and cesspools to be properly covered and ventilated:— (1) Every drain and cesspool, whether belonging to the Corporation or to any other person shall be provided with proper traps and coverings and with proper means of ventilation.

(2) The Commissioner may, by written notice, require the owner of any drain or cesspool not belonging to the Corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the Corporation.

317. Affixing of pipes for ventilation of drains:— (1) For the purpose of ventilating any drain or cesspool, whether belonging to the Corporation or to any other person, the Commissioner may erect upon premises or affix to the outside of any building or to any tree any such shaft or pipe as shall appear to the Commissioner necessary and cut through any projection from any building including the eaves of any roof thereof in order to carry up such shaft or pipe through any such projection; and lay in trough, or under any land, such appliances as may in the opinion of the Commissioner be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated :

Provided that any shaft or pipe so erected or affixed, shall—

(a) be carried at least fifteen feet higher than any skylight or window situated within a distance of forty feet therefrom;

(b) if the same be affixed to a wall supporting the eave of a roof be carried at least five feet higher than such eave;

(c) be erected or affixed so as to create the least practicable nuisance or inconvenience to the inhabitants of the neighbourhood;

(d) be removed by the Commissioner to some other place, if at any time the owner of the premises, building or tree upon or to which the same has been erected or affixed is desirous of effecting any change in his property which either cannot be carried out, or cannot without unreasonable inconvenience be carried out, unless the shaft or pipe is removed.

(2) If the Commissioner declines to remove a shaft or pipe under clause (d), the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Judge and the

Judge may, after such enquiry as he thinks fit to make, direct the Commissioner to remove the shaft or pipe and it shall be incumbent on the Commissioner to obey such order.

(3) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Commissioner shall, so far as is practicable, reinstate and make good such building, and fill in and make good such land, at the charge of the Municipal Fund.

318. [1][x x x]

Authors' Note:— Section 318 though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Section 318 is given hereunder.

*318. **Special provisions relating to trade effluent:—** (1) Subject to the provisions hereinafter appearing the occupier of any trade premises may, with the consent of the Commissioner, discharge into the municipal drains any trade effluent proceeding from those premises.*

(2) No trade effluent shall be discharged from any trade premises into municipal drain otherwise than in accordance with a written notice, hereinafter referred to as "a trade effluent notice" served on the Commissioner by the owner or occupier of the premises, stating—

(a) the nature or composition of the trade effluent;

(b) the maximum quantity of the trade effluent which it proposes to discharge in any one day; and

(c) the highest rate at which it is proposed to discharge trade effluent, and no trade effluent shall be discharged in accordance with such notice until the expiration of two months, or such less time as may be agreed to by the Commissioner, from the day on which the notice is served on the Commissioner hereinafter referred to as "the initial period".

(3) Where a trade effluent notice in respect of any premises is served on the Commissioner, he may, at any time within the initial period, give to the owner or occupier, as the case may be, of those premises a direction that no trade effluent shall be discharged in pursuance of the notice until a specified date after the end of the initial period and, in so far as the discharge of any trade effluent in accordance with the trade effluent notice requires the consent of the Commissioner

1. Omitted by Act No. 6 of 1982.

in order to be lawful, the Commissioner may give that consent either unconditionally or subject to such conditions as he thinks fit to impose in respect of—

(a) the drain or drains into which any trade effluent may be discharged in pursuance of the trade effluent notice;

(b) the nature or composition of the trade effluent which may be so discharged;

(c) the maximum quantity of any trade effluent which may be so discharged on any one day, either generally or into a particular drain;

(d) the highest rate at which any trade effluent may be discharged in pursuance of the trade effluent notice, either generally or into a particular drain; and

(e) any other matter with respect to which bye-laws may be made under this Act;

but any such condition aforesaid shall be of no effect if, and so far as, it is inconsistent with any bye-laws so made which were for the time being in force.

Disposal of Sewage

319. Appointment of places for emptying of drains and disposal of sewage:— [1][The Commissioner may cause any municipal drain to empty into a tank or other place whether within or without the city and in any manner, which he shall deem suitable for such purposes:

Provided that:—

(a) the Commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not hereto therefore been emptied, without the sanction of the Corporation;

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance;

(c) no municipal drain shall be made to empty into any place or in any manner, which the Government shall think fit to disallow.]

Authors' Note:— Section 319 though substituted by Act No. 6 of 1982 the old section continued to be in force in so far as other Municipal Corporations are concerned. The substitution is restricted

1. Subs. by Act No. 6 of 1982.

to the Municipal Corporation of Hyderabad. And hence Section 319 as it stood prior to amendment is given hereunder.

319. Appointment of places for emptying of drains and disposal of sewage:— The Commissioner may cause any municipal drain to empty into a tank or other place whether within or without the city and dispose of the sewage at any place, whether within or without the city and in any manner, which he shall deem suitable for such purpose:

Provided that—

(a) the Commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore been emptied, or to dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of without the sanction of the Corporation;

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance;

(c) no municipal drain shall be made to empty into any place and no sewage shall be disposed of at any place or in any manner which the Government shall think fit to disallow.

320. Provision of means for disposal of sewage:— For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the Commissioner may, when authorised by the Corporation in this behalf—

(a) construct any work within or without the city,

(b) purchase or take on lease any land, building, engine, material or apparatus either within or without the city,

(c) enter into an arrangement with any person for any period not exceeding twenty years, for the removal or disposal of sewage within or without the City :

Provided that any power conferred by this section shall be exercised in such manner as to cause the least practicable nuisance.

Water-closets, privies, urinals, etc.

321. Construction of water-closets and privies:— (1) It shall not be lawful to construct a water-closet or privy for any premises except

with the written permission of the Commissioner and in accordance with such terms not being inconsistent with any bye-laws for the time being in force as he may specify.

(2) In specifying any such terms, the Commissioner may determine in each case—

(a) whether the premises shall be served, by the water-closet or by the privy system, or partly by one and partly by the other; and

(b) what shall be the site or position of each water-closet of privy.

(3) If any water-closet or privy is constructed on any premises in contravention of sub-section (1) the Commissioner may, after giving not less than ten days' notice to the owner or occupier of such premises, close such water-closet or privy and, with the previous approval of the Standing Committee, alter or demolish the same, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or occupier or by the person offending.

322. Water-closets and other accommodation in buildings newly erected or re-erected:— (1) It shall not be lawful newly to erect or to re-erect a building for, or intended for human habitation, or at in which labourers or workmen are to be employed, without such water-closet or privy and such urinal accommodation, and accommodation for bathing or for the washing of clothes and domestic utensils, as the Commissioner may determine.

(2) In determining any such accommodation the Commissioner may specify in such case—

(a) whether such building shall be served by the water-closet, or by the privy system or partly by one and partly by the other;

(b) what shall be the site or position of each water-closet, privy, urinal or bathing or washing place and their number.

323. Where there is no such accommodation or the accommodation is insufficient or objectionable:— (1) Where any premises are without a water-closet privy, urinal, or bathing or washing place, or if the Commissioner is of opinion that the existing water-closet, privy, urinal or bathing or washing place available for the persons occupying or employed in any premises is insufficient, inefficient or on any sanitary grounds, objectionable, the Commissioner may, with the previous approval of the Standing Committee, by written notice require the owner of such premises—

(a) to provide, such or such additional water-closet, privy, urinal, or bathing or washing place as he determines;

(b) to make such structural or other alterations in the existing water-closet, privy, urinal or bathing or washing place as he determines; or

(c) to substitute water-closet accommodation or any privy accommodation:

Provided that where the water-closet, privy, urinal or bathing or washing place accommodation of any premises—

(i) has been, and is being, used in common by the persons occupying or employed in such premises and any one or more other premises; or

(ii) is in the opinion of the Commissioner likely to be so used, the Commissioner may, if he is of opinion that such accommodation is insufficient to admit of the same being used by all the persons occupying or employed in all such premises, direct in writing that a separate water-closet, privy, urinal or bathing or washing place be provided on or for each of such other premises:

Provided further that the Commissioner may, if he is of opinion that there is sufficient municipal latrine accommodation available for all the persons occupying or employed in any premises, direct that a separate water-closet, privy or urinal need not be provided for such premises.

(2) Any requisition under sub-section (1) may comprise any detail specified in sub-section (2) of Section 322.

324. Power to require privy accommodation to be provided for factories etc.:— Where it appears to the Commissioner that any premises area or are intended to be, used as a market, railway station, or other place of public resort or as a place in which persons exceeding twenty in number are employed in any manufacture, trade or business or as workmen or labourers, the Commissioner may, by written notice, require the owner or occupier of the said premises to construct a sufficient number of water-closets or latrines or privies and urinals for the separate use of each sex.

325. Power of Commissioner as to unhealthy privies:— Where the Commissioner is of opinion that any privy is likely, by reason of its not being sufficiently detached from any building to cause injury to the health of any person occupying such building with the previous approval of the Standing Committee he may, by written notice, require the owner or occupier of the premises in or on which such privy is situated either—

(a) to so close up such privy as to prevent any person using the same, and to provide in lieu thereof such water-closet or privy or such urinal as the Commissioner may determine; or

(b) to provide between the said privy and any portion of the said building such air-space, not exceeding three feet in width, open to the sky, and situate entirely within such limits of the said premises as the Commissioner may determine.

326. Provisions as to privies:— The owner or occupier of any premises on which there is a privy shall—

(a) have between such privy and any building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, an air-space of at least three feet in width and open to the sky;

(b) have such privy shut off a sufficient roof and wall or fence from the view of persons dwelling in the neighbourhood or passing by;

(c) unless and except for such period as he shall be permitted by the Commissioner, under the power next therein after

conferred, to continue any existing door or trap-door close up and not to keep any door or trap-door in such privy opening on to a street:

Provided that the Commissioner may permit the continuance for such period as he may think fit of any existing door or trap-door in a privy opening on to a street, if a nuisance is not thereby created:

Provided further that clause (a) shall not be deemed to apply to privy in existence when this Act comes into force, unless—

(i) there is space available on the premises for the erection of a new privy conformable to the said clause; and

(ii) the existing privy can be removed and a new one erected as aforesaid without destroying any portion of a permanent building other than the existing privy.

327. Provisions as to water-closets:— The owner or occupier of any premises on which there is a water-closet shall—

(a) have such water-closet divided off from any part of a building or place used or intended to be used for human habitation or in which any person may be or may be intended to be employed in any manufacture, trade or business, by such means as the Commissioner shall deem sufficient;

(b) have such water-closet in such a position that one of its sides at the least shall be an external wall;

(c) have the seat of such water-closet placed against an external wall;

(d) cause such water-closet to be provided with such means of constant ventilation as the Commissioner shall deem adequate, by a window or other aperture in one of the walls of such water-closet, or by an opening directly into the external air, or by an airshaft or by some other suitable method or appliance;

(e) have such water-closet supplied by a supply cistern and flushing apparatus and fitted with a soil-pan or receiver and such other appliances or such materials, size and description as the Commissioner shall deem necessary; provided always

that a cistern from which a water-closet is supplied shall not be used, or be connected with another cistern which is used for supplying water for any other purpose.

328. Position of privies and water-closets:— No person shall build a privy or water-closet in such a position or manner as—

(a) to be directly over or directly under any room or part of a building other than another privy or water-closet or a bathing place, bathroom or terrace;

(b) to be within a distance of twenty feet from any well or from any spring, tank or stream the water whereof is, or is likely to be used whether in natural manufactured state for human consumption, domestic purposes, or otherwise render the water of any well, spring, tank or stream liable to pollution.

329. Use of places for bathing or washing clothes domestic utensils:— No person shall use or permit to be used as a bathing place, or as a place for washing clothes or domestic utensils any part of any premises which has not been provided with all such appliances and fittings as shall in the opinion of the Commissioner, be necessary for collection the drainage thereof and conveying the same therefrom.

330. Public necessaries:— The Commissioner shall provide and maintain in proper and convenient situations and on sites vesting in the Corporation, water-closets, latrines, privies and urinals and other similar conveniences for the public.

331. Water-closets, etc., not to be injured or improperly fouled:— (1) No person shall injure or foul any water-closet, privy, urinal or bathing or washing place or any fittings or appliances in connection therewith which have been provided for the use in common of the inhabitants of one or more buildings.

(2) If any such water-closet, privy, urinal or bathing or washing place or any fitting or appliance in connection therewith or the approaches thereto or the walls, floors or seats or anything used in connection therewith are in such a state as to be a nuisance or source of annoyance to any inhabitant of the locality or passer-by for want of proper cleaning thereof, such of the persons having the use thereof, as may be in default or, in the absence of evidence as to which of the persons having the

use thereof in common is in default, every such person shall be deemed to have contravened the provisions of this section.

(3) The provisions of this section shall not exempt the owner of the building or buildings from any penalty to which he may otherwise have rendered himself liable.

Inspection

332. Drains, etc., not belonging to the Corporation to be subject to inspection and examination:— All drains, ventilation shafts and pipes, cesspools, house-gullies, water-closets, privies, latrines and urinals and bathing and washing places which do not belong to the Corporation, or which have been constructed, erected, or set up at the charge of the municipal fund on premises not belonging to the Corporation, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Commissioner.

333. Power to open ground, etc., for purpose of such inspections and examinations:— For the purpose of such inspections and examinations, the Commissioner may cause the ground or any portion of any drain or other work exterior to a building or with the approval of the Standing Committee, any portion of building which he shall think fit, to be opened, broken up or removed :

Provided that in the prosecution of any such inspection and examination as little damage as can be, shall be done.

334. When the expenses of inspection are to be paid by the Commissioner:— (1) If upon any such inspection and examination as aforesaid it shall be found that the drain, ventilation shaft or pipe, cesspool, housegully, water-closet, privy, latrine or urinal or bathing or washing place is in proper order and condition, and that none of the provisions of this Chapter has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, reinstated and made good by the Commissioner.

(2) *When the expenses of inspection and examination are to be paid by the owner:—* If it shall however be found that any drain,

ventilation shaft, or pipe, cesspool, housegully, water-closet, privy, latrine, urinal or bathing or washing place inspected and examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or except when the same has been constructed by or under the order of the Commissioner, if it has been constructed in contravention of any of the provisions of this Chapter or of any enactment at the time in force, the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall fill in, reinstate and make good the ground, or portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination at his own cost.

335. Commissioner may require repairs, etc., to be made:— (1) When the result of such inspection and examination as aforesaid is as described in sub-section (2) of Section 334, the Commissioner may—

(a) by written notice require the owner of the premises or the several owners of the respective premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine, urinal or bathing or washing place is situated or for the benefit of which the same has been constructed, erected, or set up—

(i) to close or remove the same or any encroachment thereupon or subject to the proviso to clause (c) of Section 337 to remove any projection over the same; or

(ii) to renew, repair, cover, recover, trap, ventilate, pave and pitch or take such other step with the same as he shall think fit to direct and to fill in, reinstate and make good the ground, building or thing opened, broken up or removed for the purpose of such inspection and examination; and

(b) without notice, close, fill up or demolish any drain by which sullage or sewage is carried through, from, into or upon any premises in contravention of any of the provisions of this Chapter, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or owners.

(2) Any requisition under clause (a) of sub-section (1) in respect of any drain which has been constructed, erected or set up or which

is continued for the sole use and benefit of a property or for the exclusive use and benefit of two or more properties may include any extension thereof beyond such property or properties, if and so far as such extension has been constructed, erected, or set up, or is continued, for the sole use and benefit of such property or properties.

336. Cost of inspection and execution of works in certain cases:— In the case of any drain which has been constructed, erected or set up, or which is continued, for the exclusive use and benefit of two or more premises and which is not—

(a) a drain constructed under Section 304, sub-section (1), or

(b) a drain in respect of which conditions as to the respective responsibilities of the parties have been declared under Section 311, sub-section (1) the expenses of any inspection and examination made by the Commissioner under Section 332 and the execution of any work required under Section 335, whether executed under Section 340 or not, shall be paid by the owners of such premises, in such proportions, as shall be determined—

(i) by the Standing Committee if the aggregate amount of such expenses exceeds rupees one hundred; or

(ii) by the Commissioner if the aggregate amount of such expenses does not exceed rupees one hundred.

General Provisions

337. Prohibition of acts contravening the provision of this Chapter or done without sanction:— No person shall—

(a) in contravention of any of the provisions of this Chapter or any notice issued or direction given under this Chapter, or without the written permission of the Commissioner, in any way alter the fixing, disposition or position of; or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change, any drain, ventilation, shaft or pipe, cesspool, water-closet, privy latrine, urinal or bathing or washing place or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the Commissioner, renew, re-build, or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal or bathing or washing place, or any fitting or appliance, which has been, or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this Chapter;

(c) without the written permission of the Commissioner, make any projection over or encroachment upon or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, water-closet, privy, latrine or bathing or washing place:

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding two feet over any window which does not front a wall or window of any adjoining house;

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or any drain, any brick, stone, earth, ashes, or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed;

(e) pass, or cause or permit to be passed, into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain has not been provided;

(f) [1][x x x]

Authors' Note:— Section 337(f) though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Section 337(f) is given hereunder.

(f) cause or suffer to be discharged into any drain from any factory, bake house, distillery, workshop or work place or from any building or place in which steam, water or mechanical power is employed, any hot water, steam, fumes or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain or which would from its temperature or otherwise be likely to create a nuisance.

1. Omitted by A.P. Act 6 of 1982.

338. When materials and works may be supplied and done under this Chapter for any person by the Commissioner:— On the written request of any person who is required under any of the provisions of this Chapter to supply any materials or fittings or to do any work, the Commissioner may, in such person's behalf supply the necessary materials or fittings, or cause the necessary work to be done; but he shall not do so in any case to which the provisions of sub-section (3) of Section 641 or Section 643 will not apply unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said materials, fittings and work.

339. Work to be done by licensed plumber, permission to use as drain:— (1) No person shall permit any work described in this Chapter to be executed except by a licensed plumber:

Provided that if, in the opinion of the Commissioner, the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs a licensed plumber to execute any such work shall, when so required, furnish to the Commissioner the name of such plumber.

(3) Every such person shall, within one month after completion of any such work and before permitting the same or any portion thereof to be filled in or covered over, deliver, or send or cause to be delivered or sent to the Commissioner at his office notice in writing of the completion of such work, accompanied by a certificate in the form of schedule signed by the licensed plumber by whom the same has been executed, who is hereby required immediately upon completion of the work and upon demand by the person employing him to sign and give such certificate to such person, and shall give to the Commissioner necessary facilities for the inspection of such works:

Provided that—

(a) such inspection shall be made within seven days from the date of receipt of the notice of completion; and

(b) the Commissioner may within seven days after such inspection, by written intimation addressed to the person from whom the notice of completion was received and delivered at his address

as stated in such notice, or in the absence of such address, affixed to a conspicuous part of the premises in which such work has been executed—

(i) given permission for the filling in or covering over of such work; or

(ii) require that before such work is filled in or covered over, it shall be amended to the satisfaction of the Commissioner in any particular in respect of which it is not in accordance with a requisition previously made by the Commissioner or contravenes some provisions of this Act or of the bye-laws made thereunder.

(4) No person shall permit any such work to be used as a drain or part of a drain until—

(a) the permission referred to in proviso (b) to sub-section (3) has been received; or

(b) the Commissioner has failed for fourteen days after receipt of the notice of the completion to intimate as aforesaid his refusal of permission for filling in or covering over of such work.

340. Commissioner may execute certain works under this Chapter without allowing option to persons concerned of executing the same:— (1) The Commissioner, may, if he thinks fit, cause any work described in this Chapter to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed, the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Corporation shall, by a general or special order or resolution, sanction as they are hereby empowered to sanction, the execution of such work at the charge of the Municipal Fund.

CHAPTER X
Water Supply

[Sections 341 to 372 (Both inclusive) are omitted by Act No. 6 of 1982]

Authors' Note:— Sections 341 to 372 though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal

Corporation of Hyderabad. And hence the repealed Sections 341 to 372 are given hereunder.

341. Definitions:— *In this chapter, unless there is anything repugnant in the subject or context,—*

(a) 'Communication pipe' *means a pipe extending from a municipal water-main up to and including the municipal stop-cock;*

(b) 'Consumer' *means any person who uses or is supplied with water from a municipal water work or on whose application such water is supplied and includes any person liable to the Corporation under the provisions of this Act for the payment of water tax or any sum for the water supplied from a Municipal water work;*

(c) 'Consumer's pipe' *means a pipe used in connection with the supply of water from any municipal water work and which is not the property of the Corporation;*

(d) 'distributing pipe' *means any pipe not subject to water pressure from a municipal water main;*

(e) 'fitting' *includes a pipe, coupling, flange, branch bend, stop, ferule stop, tap, bib, tap, spring tap, pillar tap, glob, tap, ball cock, boiler, pump, meter, hydrant and any other apparatus or article used for the purpose of conveying or storing water supplied by the Corporation;*

(f) 'municipal stop-cock' *means the stop-cock which controls the supply of water from a municipal water main;*

(g) 'supply pipe' *means the pipe extending from a municipal stop-cock up to the ball-cock of the storage tank, if any, and any pipe subject to pressure from a municipal water main.*

342. General powers for supplying the city with water:— *For the purpose of providing the city with a supply of water proper and sufficient for public and private purposes, the Commissioner when authorised by the Corporation in this behalf, may—*

(a) construct and maintain water works, either within or without the city, and do any other necessary acts;

(b) purchase or take on lease any water work or any water or right to store or to take and convey water, either within or without the city;

(c) enter into an arrangement with any person for a supply of water.

343. Municipal water works to be managed and kept in repair by the Commissioner:— *The Commissioner shall manage all municipal water works and maintain the same in good repair and efficient condition and shall cause all such alterations and extensions to be, from time to time, made in the said water works as shall be necessary or expedient for improving the said works.*

344. Inspection of Municipal water works by persons appointed by Government:— *Any person appointed, by Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal water work.*

345. Power of access to Municipal water works:— *(1) The Commissioner and any person appointed by Government under section 344 in this behalf may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal water works, at all reasonable times—*

(a) enter upon a pass through any land within or without the City adjacent to or in the vicinity of such water works, in whomsoever such land may vest;

(b) cause to be conveyed into and through any such land all necessary men, materials, tools and implements.

(2) In the exercise of any power conferred by this section as little damage as can be shall be done and compensation for any damage which may be done in the exercise of said power shall be paid by the Commissioner or if any person appointed under Section 344 by the Government, has caused the damage by the Government.

346. Power of carrying water mains, etc.,:— *(1) For the purpose of carrying, renewing and repairing water-mains, pipes and ducts within or without the City, the Commissioner have the same powers and be subject to the same restrictions as he has and is subject to under the provisions hereinbefore contained for carrying renewing and repairing drains within the City.*

(2) This section shall apply in respect of carrying renewing, and repairing private water-mains, pipes and ducts as it applies in respect of carrying, renewing and repairing municipal water-mains, pipes and ducts.

347. Fire hydrants to be provided:— *The Commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrant key to be deposited with the Officer-in-Charge of fire station at each place within the City and do such other things for the purpose aforesaid as he shall deem expedient.*

348. Prohibition of certain acts affecting the municipal water works:— *(1) Except with the permission of the Corporation, no person shall—*

(a) erect or re-erect any building for any purpose whatever on any part of such area as shall be demarcated by the Commissioner surrounding any lake, tank, well or reservoir from which a supply of water is derived for a municipal works;

(b) remove, alter, injure, damage or in any way interfere with demarcation works of the area aforesaid;

(c) extend, alter or apply to any purpose different from that to which the same has been heretofore applied any building already existing within the area aforesaid; or

(d) carry on, within the area aforesaid, any operation of manufacture, trade or agriculture in any manner, or do any act whatever, where by injury may arise to any such lake, take well or reservoir or to any portion thereof or whereby the water of any such lake, tank, well or reservoir may be fouled or rendered less wholesome.

Except as hereinafter provided, no person shall—

(a) cause or suffer to percolate or drain into or upon any municipal water work or to be brought thereinto or thereupon anything, or to be done any act, whereby the water therein may be in any way fouled or polluted or its quality altered;

(b) alter the surface of any municipal land adjacent to or forming part of any such work by digging thereinto or depositing thereupon any substance;

(c) cause or suffer to enter into the water in such work any animals;

(d) throw or put anything into or upon the water in such work;

(e) bathe in or near such work; or

(f) wash or cause to be washed in or near such work any animal or thing.

349. Buildings etc., not to be erected over municipal water main without permission:— *(1) Without the written permission of the Commissioner, no building, wall or structure of any kind shall be newly erected or re-erected and no street or minor railway shall be constructed on any municipal water main.*

(2) If any building, wall or structure be so erected or re-erected or any street or minor railway be so constructed, the Commissioner may with the approval of the Standing Committee, cause the same to be removed or otherwise dealt with in such manner as shall appear to him fit, and the expenses thereby incurred shall be paid by the person offending.

350. Vesting of public drinking fountains, etc., in the Corporation:— *(1) All existing public drinking fountains, tanks, reservoirs, cisterns, pumps, wells, ducts and works for the supply of water for the gratuitous use of the inhabitants of the City shall vest in the Corporation and be under the control of the Commissioner.*

(2) The Commissioner shall maintain the said works and provide them with water, and when authorised by the Corporation in this behalf may construct any other such works for supplying water for the gratuitous use of the inhabitants of the City:

Provided that water carried away by any of the inhabitants from any such work shall be taken only for personal or domestic purposes and not for the purpose of business or sale and shall not, except with the written permission of the Commissioner, be carried away in any vehicle.

(3) The Commissioner may temporarily, and with the approval of the Corporation permanently, close any of the said works either entirely or partially.

(4) If any such work is permanently closed either entirely or partially by the Commissioner the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the Corporation:

Provided that if any such work which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and the materials or the proceeds of the sale thereof, shall unless by reason of their value being insignificant or for other sufficient reason the Corporation thinks fit to direct otherwise, be applied to or towards some local work of public utility bearing the name of such person, or to or towards any such local work which shall be approved by the Corporation and by the heirs or other representatives, if any, of the said person.

351. Public drinking fountains, etc., may be set apart for particular purpose:— *(1) The Commissioner may assign and set apart each of the said works and the water therein for use by the public for such purpose only as he shall think fit, and shall cause to be indicated, by a notice affixed on a conspicuous spot on or near each such work, the purpose for which the same is so assigned and set apart.*

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

Private Water Supply

352. Conditions on which water supply may be provided:— *(1) Subject to the provisions of sub-sections (2), (3) and (4) supply pipes for conveying to any premises a private supply of water from a municipal water work shall not be connected with such water work except on the written application or with the written assent of the owner of the premises, or of the person primarily liable for the payment of property taxes on the said premises.*

(2) But if it shall appear to the Commissioner that any premises situate within any portion of the City in which a public notice has been given by the Commissioner under clause (b) of Section 200 or without a supply of pure water obtainable on the premises and adequate to the requirements of the persons, usually occupying or employed upon the said premises, the Commissioner shall by written notice require, the owner of the said premises or the person primarily liable for the payment of property taxes thereon, to obtain a supply adequate as aforesaid from a municipal water-work and to provide supply and distributing pipes, cisterns and fittings and do all such works as may in the opinion of the Commissioner be necessary for that purpose.

(3) If the written assent of the owner of any premises or the person primarily liable for the payment of property taxes referred to in sub-section (1) is withheld from a tenant of such premises who applies for such assent, such tenant may appeal to the Commissioner who shall, if he is satisfied that the assent has been unreasonably withheld and if the provisions of sub-section (2) are satisfied, give notice as provided therein.

(4) The Commissioner may refuse to grant a connection, in respect of any premises if he is satisfied that the arrangements for draining waste water from such premises are inadequate or that the supply of water through communication pipes is likely to cause such premises to be in an insanitary condition or to create a nuisance, unless such measures as he may direct are carried out for disposing of the waste water or for preventing the creation of insanitary conditions or a nuisance.

Commentary

Effect of Act 6 of 1982:— Section 7(1) of the Visakhapatnam Municipal Corporation Act read with Ss. 352 and 227 of the Hyderabad Municipal Corporation Act empowers the respondent Corporation to collect water charges at such rates as may be determined by it from time to time. The provisions of Hyderabad Municipal Corporations Act, which were in force by the date of commencement of the Visakhapatnam Municipal Corporation Act will apply *mutatis mutandis* as if the same form part of the Visakhapatnam Municipal Corporation Act, notwithstanding the subsequent repeal of these provisions in 1982. Ss. 227 and 352 of the erstwhile Hyderabad Municipal Corporation Act would continue to be in force in so far as the Visakhapatnam Municipal Corporation Act is concerned. *Citizen's Welfare Association and Ors. v. Municipal Corporation of Visakhapatnam and Anr.,* 1996 (3) ALD 327 (DB).

353. Making and renewing connection with municipal water works:— *(1) No connection with any municipal water work shall be made or renewed—*

(a) except by a municipal officer or servant empowered in that behalf by the Commissioner; and

(b) until the certificate specified in sub-section (4) has been given.

(2) In every case where a new connection with a municipal water work is made or an existing connection requires renewal, all necessary communication pipes & fittings thereon, shall be supplied by the Commissioner, and the work or laying and applying such communication pipes and fittings shall be executed by municipal agency under the Commissioner's orders; and cost of all such materials and work shall be paid by the owner or occupier of the premises.

(3) Every such communication pipe and fittings thereon shall vest in the Corporation and be maintained at the charge of the municipal fund as a municipal water work.

(4) All supply and distributing pipes and cisterns and fittings not being the property of the Corporation shall be laid and applied under the supervision

and to the satisfaction of a municipal officer appointed by the Commissioner in that behalf, who shall give and sign a certificate, free of charge, when such supply and distributing pipes, cisterns and all necessary fittings have been laid, applied and executed in a satisfactory manner and when proper and sufficient arrangements have been made for draining of waste water.

(5) Where any supply or distributing pipe, cistern or such fittings is laid, applied added to or altered, or any connection is made in contravention of this section the Commissioner may, with the previous approval of the Standing Committee, remove such supply or distributing pipe, cistern, fitting or connection, or additions or alteration thereto, and make good such pipe, cistern, fittings or connection; and the owner and occupier of the premises in which or for supply to which such supply or distributing pipe, cistern or fitting has been laid, applied, added to or altered or such connection has been made, shall be jointly and severally liable to pay the expenses incurred by the Commissioner in so doing.

354. Commissioner may take charge of private connection:— *(1) The Commissioner may, by agreement with a consumer, take charge on behalf of the corporation of all or any of the consumer's pipes and fittings:*

Provided that if any of such pipes or fittings are communication pipes or fittings only not vesting in the Corporation, the Commissioner may, if he thinks fit take charge of the same without such agreement.

Any consumer's pipes and fittings, of which the Commissioner takes charge under this section, shall thereafter vest in, and be maintained at the expense of the Corporation as a Municipal water work.

(2) The Commissioner may, if at any time he deems it expedient to alter the position of an existing connection with any municipal water work, or of any consumer's pipe or fitting thereof, and after giving to the owner of such connection, pipe or fitting not less than four days previous notice of his intention so to do, cause the said connection, pipe or fitting to be moved to such other position as he thinks fit and relaid and applied, or others to be laid and applied in lieu thereof, in such position as he may direct; and in every such case all such work shall be carried out at the expense of the municipal fund and such new connection, pipe and fitting shall thereafter vest in the Corporation and be maintained at the charge of the municipal fund as a municipal water work.

(3)(a) The Commissioner may, whenever it shall appear to him to be necessary, by written notice require the owner of any premises furnished with a private water supply from any municipal water work to provide such premises within a reasonable period which shall be specified in the said notice, with cistern and fittings of such size, material, quality and description and placed in such position and with safe and easy means of access as he thinks fit;

(b) the Commissioner may also in like manner require the owner of any premises to provide such safe and easy means of access as he thinks fit to any existing cistern which on an examination under Section 359 is found to be not easily accessible;

(c) the Commissioner shall also from time to time determine the size, material, quality, description and position of the pipes & fittings to be employed for the purpose of any connection with, or of any communication from, any municipal water work, and no such connection or communication shall be made by any person otherwise than as so determined;

(d) the Commissioner shall likewise determine the size, material, quality and description of the pipes, cisterns and fittings to be employed for the purposes of replacing any pipes, cisterns and fittings found on an examination under Section 359 to be defective that they cannot be effectively repaired.

355. Provision for keeping cisterns locked:— *(1) The Commissioner may, by written notice, require the owner of any premises furnished with a cistern or in respect of which the Commissioner has required a cistern to be furnished, to provide such cistern with a lock and key of such pattern, material and quality as the Commissioner shall in such notice determine and may in like manner require any lock or key found to be defective on an inspection under Section 359 to be replaced.*

(2) Every cistern so provided with a lock shall be kept permanently locked and the key shall then be delivered to the Commissioner.

356. Communication pipes, etc., to be kept in efficient repair by owner or occupier of premises:— *(1) It shall be incumbent on the owner or occupier of any premises to which a private water supply is furnished from any municipal water work, to keep in a thoroughly clean condition and to maintain and keep in efficient repair every supply and distributing pipe conveying water from the said water work to such premises and every meter for measuring water, not being a municipal meter and every cistern and fitting in or connected with any such pipe, so as effectually to prevent the water from running to waste.*

(2) When an occupier of any premises is served with a notice under sub-section (2) of Section 359, he may, after giving to the person to whom he is responsible for the payment of his rent three days notice in writing, himself have the repairs executed and in such event he shall be entitled to deduct from any rent due or to become due by him to such person the actual expenses incurred by him in complying with the notice served under sub-section (2) of Section 359.

357. Provision of meters when water is supplied by measurement:— *(1) Where water is supplied by measurement, the Commissioner may either provide a meter and charge the consumer for the same such rent as shall from time to time be fixed in this behalf by the Standing Committee or may permit the consumer to provide a meter of his own of such size, material and description as the Commissioner shall approve for this purpose.*

(2) The Commissioner shall at all times keep all meters and other instruments for measuring water, let by him for hire to any person, in proper order for correctly registering the supply of water, and in default of his so doing such person shall not be liable to pay rent for the same during such time as such default continues.

358. Register of meter to be evidence:— *Where water is supplied by measurement, the register of the meter or other instrument for measuring water shall be* prima facie *evidence of the quantity consumed.*

Inspection

359. Commissioner, etc. may inspect premises in order to examine meter, communication pipes, etc.:— *(1) The Commissioner may make an inspection of any premises to which a private water supply is furnished by the Corporation in order—*

(a) to remove, test, examine and replace any meter for measuring water; or

(b) to examine any supply or distributing pipe, cistern, lock or fitting or

(c) to see if there be any waste or misuse of water.

(2) The Commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in or to clean, any such meter, not being a municipal meter let to him for hire, or any such supply or distributing pipe, cistern, lock or fitting.

Cutting off private water supply

360 Power to cut off private water-supply or to turn off water:— *The Commissioner may cut off the connection between any municipal water work and any premises to which a private water-supply is furnished by the Corporation or turn off the water from such premises in any of the following cases, namely:—*

(a) in default of payment of any instalment of water tax or of any sum due for water or hire of meter or expenses of any work done under or by virtue of the provisions of Sections 353, 357 or 370 within fifteen days after a notice of demand for such tax or sum has been duly presented;

(b) if the owner of the premises neglects, within the period specified in this behalf in any notice given under sub-section (3) of Section 354 or under Section 355, to comply with any requisition made to him by the Commissioner regarding the provision of any cistern, fitting, lock or key or any means of access to such cistern;

(c) if the owner or occupier of the premises fails, within the period specified in this behalf in any notice given under sub-section (2) of Section 359, to comply with the terms of such notice or fails to use articles of the kind determined under clause (d) of sub-section (3) of Section 354;

(d) if after receipt of a written notice from the Commissioner requiring him to refrain from so doing, the owner or occupier of the premises continues—

(i) to use the water, or to permit the same to be used, in contravention of any bye-law made under this Act or of any condition imposed under sub-section (2) of Section 227;

(ii) in case where payment for the water is made not by measurement, to permit any person not residing on premises in respect of which tax is paid to carry away from such owner's or occupier's premises water derived from the municipal water work;

(e) if the owner or occupier of the premises wilfully or negligently injures or damages any meter, pipe, cistern or fitting or lock thereof in such premises;

(f) if the owner or occupier of the premises fails to comply with any requisition made on him by the Commissioner under sub-section (2) of Section 371, to furnish the name of the licensed plumber:

Provided that—

(i) if any case under clause (a) the Commissioner shall not take action unless not less than fifteen days previously a copy of the notice of demand in respect of the tax or sum has been affixed to a conspicuous part of the premises;

(ii) in cases under clauses (a), (b), (d) and (f) the Commissioner shall not take action without the sanction of the Standing Committees;

(iii) in cases under clauses (c) and (e) the Commissioner shall not take action unless written notice of not less than twenty-four hours has been given to the owner or occupier of the premises;

(iv) in any case falling under clause (b), the Commissioner shall not take action unless not less than fifteen days previously a copy of the notice under sub-section (3) of Section 354 or under Section 355, as the case may be, has been affixed to a conspicuous part of the premises.

361. Conditions as to use of water not to be contravened:— *No person to whom water is supplied by measurement or on payment of a fixed periodical sum shall contravene any condition imposed under sub-section (2) of Section 227 for the use of such water, or permit any such condition to be contravened.*

362. Powers of Commissioner to carry private mains through land belonging to other persons:— *The Commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing, private water mains, pipes and ducts as he has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing private drains.*

363. Water pipes, etc., not to be placed where water will be polluted:— *No water pipes shall be laid in a drain or on the surface of an open channel or house-gully or within twenty feet of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted; and no well or tank and except with the consent of the Commissioner, no cistern shall be constructed within twenty feet of a privy, water-closet or cesspool.*

364. Prohibition of fraudulent and unauthorised use of water:— *(1) No person shall fraudulently dispose of any water supplied to him by the Corporation.*

(2) No person to whom a private supply of water is furnished by the Corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water tax is paid to carry away water from the premises to which it is supplied.

(3) No person, who does not reside on premises in respect of which water tax is paid, shall carry away water from any premises to which a private supply is furnished by the Corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

365. Prohibition of fraud in respect of meters:— *(1) No person shall fraudulently—*

(a) alter the index to any meter or prevent any meter from duly registering the quantity of water supplied;

(b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

(2) The existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use shall be evidence that the consumer has fraudulently effected the same.

General Provisions

366. Prohibition of wilful or neglectful acts relating to water works:— *No person shall wilfully or negligently—*

(a) injure or suffer to be injured any meter belonging to Corporation or any of the fittings of any such meter;

(b) break, injure or open any lock, cock, valve, pipe, work engine, cistern or fitting, appertaining to any municipal water-work;

(c) flush or draw off the water from any such water work, thereby causing such water to be wasted;

(d) do any act or suffer any act to be done whereby the water in or derived from any municipal water work shall be wasted;

(e) obstruct, divert or in any way injure or alter any water main or duct;

(f) except with the permission of the Commissioner, open, break, injure or tamper with any lock furnished under Section 355.

367. Compensation to be payable by offenders against Sections 364 or 365:— *Compensation shall be paid by the offender for any damage which the Corporation may sustain by reason of any contravention of Sec. 364 or Sec. 365.*

368. What persons to be liable for offences under certain provisions of this Chapter:— *If it shall be shown that an offence against some provision of this Chapter or against some bye-laws made under this Act at the time in force relating to water supply has occurred on any premises to which a private supply of water*

is furnished by the Corporation, the owner the person primarily liable for the payment of water tax and the occupier of the said premises shall be jointly and severally liable for the same.

369. When materials and works may be supplied and done under this Chapter for person by the Commissioner:— *On the written request of any person who is required under any of the provisions of this Chapter to supply any materials, fittings, cistern or lock and key or to do any work, the Commissioner may, on such person's behalf, supply the necessary materials fittings, cistern or lock and key, the case may be, or cause the necessary work to be done, but he shall not do so in any case to which the provisions of sub-section (3) of Sections 641 or 643 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said material, fitting, cistern, lock and key or work.*

370. Commissioner may execute works under this Chapter without allowing option to persons concerned of executing the same:— *(1) The Commissioner may, if he thinks fit, cause any work described in this Chapter to be executed or any cistern to be supplied with a lock and key by municipal or other agency under his own orders, without first of all giving the person by whom or to whom the same would otherwise to be executed or supplied the option of doing or supplying the same.*

(2) The expenses of any work so done or of supplying such lock and key shall be paid by the person aforesaid, unless the Corporation shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work or the supply of such lock and key at the charge of the municipal fund.

371. Work under Chapter X to be done by licensed plumber:— *(1) No person other than a licensed plumber shall execute any work described in this Chapter, other than the provision of a lock and key and no person shall permit any such work to be executed except by a licensed plumber.*

(2) Every person who employs a licensed plumber to execute any such work shall, when so required, furnish to the Commissioner the name of such plumber.

(3) Where any person cause or permits any pipe, cistern or fitting or other work necessary for conveying a private supply of water from a municipal water-work into any premises to be laid, applied, or executed in contravention of sub-section (1), he shall in addition to being liable to the penalty provided for such contravention not be entitled to an independent or branch connection until the defects, if any, in such pipe, cistern, fitting or work are removed to the satisfaction of the Commissioner.

372. Power to supply water without the city:— *The Commissioner may supply water from a municipal water-work to local authority or person without the city on such terms as to payment and as to the period and conditions of supply as shall be, either generally or specially, approved by the Corporation.*

CHAPTER XI
Regulation of Streets
Construction, maintenance & improvement of Public Streets

373. Vesting of public streets in the Corporation:— All streets within the city being or which at any time become public streets and the pavements, stones and other materials thereof, shall vest in the Corporation and be under the control of the Commissioner.

374. Power of Commissioner in respect of public streets:— (1) The Commissioner shall from time to time cause all public streets vested in the Corporation to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require; he may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered and may place and keep in repair fences and posts for the safety of pedestrians:

Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed rupees five thousand or such higher amount as the Corporation may from time to time fix, shall be undertaken by the Commissioner unless or until such undertaking has been authorised by the Corporation.

(2) With the sanction of the Corporation, the Commissioner may permanently close the whole or any part of a public street vested in the Corporation :

Provided that such sanction of the Corporation shall not be given unless, one month at least before the meeting at which the matter is decided, a notice signed by the Commissioner has been put in the street or part of street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting, have been received and considered by the Corporation.

[1][**374-A. Government's power to repair the public streets vested in the Municipal Corporation:—** (1) Notwithstanding anything contained in this Act, it shall be competent for the Government or any other agency authorised by them in this behalf to exercise the

1. Added by Act 11 of 1991, w.e.f. 06.12.1990.

powers of the Corporation and the Commissioner vested in them by or under this Act for the purpose of levelling, metalling, paving, channelling, widening or otherwise to carry out any repair to the public streets vested in the Corporation and also to lay new roads at their own expenses in public interest.

(2) For the purpose of enabling the Government or the agency authorised by them to undertake repairs under sub-section (1) the public streets shall vest in the Government temporarily from a date to be notified by them in this behalf and thereupon it shall be competent for the Government to take over possession of the public streets from the said date. The public streets or any new roads laid under sub-section (1) shall continue to vest in the Government until the notification is revoked and thereafter stand transferred to the Corporation.

(3) It shall be the duty of the Corporation and the Commissioner to carry out any directions issued by the Government for the purpose of sub-sections (1) and (2).]

375. Disposal of land forming site of closed street:— Whenever any public street, or part of a public street is permanently closed under Section 374 the site of such street, or of the portion thereof which has been closed, may be disposed of as land vesting in the Corporation.

376. Power to make new public streets:— The Commissioner when authorised by the Corporation in this behalf may at any time—

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the Corporation, and that such street shall become, on completion, a public street, which shall vest in the Corporation ;

(c) declare any street made under any scheme of the City Improvement Board to be a public street.

377. Minimum width of new public streets:— (1) The Corporation may, from time to time specify the minimum width for different classes of public streets according to the nature of the traffic

likely to be carried thereon, the localities in which they are situated, the heights up to which buildings abutting thereon may be erected and other similar considerations.

(2) The width of a new public street made under Section 376 shall not be less than that specified under sub-section (1) for the class to which it belongs, and no steps and except with the written permission of the Commissioner under Section 399 no other projections shall extend on to any such street.

378. Power to adopt, construct or alter any subway, bridge etc.:— The Commissioner when authorised by the Corporation in this behalf, may agree with any person;

(a) to adopt and maintain any existing or projected subway, bridge, viaduct or arch, and the approaches thereto, and may accordingly adopt and maintain such sub-way, bridge, viaduct or arch and approaches as parts of public streets or as property vesting in the Corporation; or

(b) for the construction or alteration of any such sub-way, bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundations and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person or partly at the expense of the Corporation.

379. Power to prohibit use of public streets for certain kinds of traffic:— (1) It shall be lawful for the Commissioner with the sanction of the Corporation to:—

(a) prohibit vehicular traffic in any particular streets, vesting in the Corporation so as to prevent danger, obstruction, or inconvenience to the public by fixing up posts at both ends of such street or portion of such street;

(b) prohibit in respect of all public streets, or particular public streets, the transit of any vehicle of such form, construction, weight or size of laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or any constructions thereon, or risk or obstruction to other vehicles or to pedestrian alone or over such street or streets except under such conditions as to time, mode of traction

or locomotion, use of appliances for protection of the roadway, number of lights and assistants and other general precautions and the payment of special charges as may be specified by the Commissioner generally or specially in each case.

(2) Notices of such prohibitions as are imposed under sub-section (1) shall be posted up in conspicuous places at or near both ends of the public streets or portions thereof to which they relate, unless such prohibitions apply generally to all public streets.

Commentary

The Commissioner has power to erect a girder to prohibit vehicular traffic. *Kesrimal Gothe vs. M.C.H.*, 1986 (1) ALT 25 (NRC).

380. Power to acquire premises for improvement of public streets:— (1) The Commissioner may subject to the provisions of Sections 146, 147 and 148:—

(a) acquire any land required for the purpose of opening, widening, extending, diverting or otherwise improving any public street, bridge, or subway or of making any new public street, bridge or subway, and the buildings, if any, standing upon such land;

(b) acquire in addition to the said land and the buildings, if any, standing thereupon, all such land with the buildings, if any, standing thereupon as it shall deem expedient for the Corporation to acquire outside for the regular line or of the intended regular line of such street;

(c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) The acquisition of land for providing, extending or improving a place for the parking of vehicles shall be deemed to be an acquisition of land for the purpose of providing, extending or improving a public street.

(3) Any conveyance of land or of a building under clause (c) of sub-section (1) may comprise such conditions as the Commissioner thinks fit, as to the removal of the existing building, the description of new building to be erected; the period within which such new building shall be completed and other such matters.

Commentary

The provision relating to acquisition and compensation of land required for public street is *ultra vires* of Articles 31(2) and 14 of the Constitution of India. *Srinivasa Pitti vs. Municipal Corporation*, I.L.R. 1972 A.P. 214.

Preservation of Regular line in Public Street

381. Power to determine the regular line of street:— (1) The Commissioner may—

(a) determine a line on one or both sides of any public street:

Provided that every regular line of a public street operative under any law for the time being in force in any part of the City on the day immediately preceding the appointed day shall be deemed to be a street line for the purpose of this Act until a street line is prescribed by the Commissioner under this clause.

(b) from time to time, but subject, in each case to the previous approval of the Standing Committee determine a fresh line in substitution for any line so determined or for any part thereof:

Provided that such approval shall not be accorded unless, at least one month before the meeting of the Standing Committee, at which the matter is decided, public notice of the proposal has been given by the Commissioner by advertisement in the local newspapers and special notice thereof, signed by the Commissioner, has also been put up in the street or part of the street for which such fresh line is proposed to be determined and until the Standing Committee has considered all objections to the said proposal made in writing and delivered at the office of the Municipal Secretary not less than three clear days before the day of such meeting.

(2) The line for the time being determined shall be called the 'regular line of the street'.

(3) A register with plans attached shall be kept by the Commissioner showing all public streets in respect of which a regular line of the street has been determined and such register shall contain such particulars as may appear to the Commissioner to be necessary and shall be open to inspection.

(4) (a) Subject to the provisions of sub-section (5) no person shall construct or reconstruct any portion of any building on land within the regular line of the street except with the written permission of the Commissioner and in accordance with the conditions imposed the rein and the Commissioner shall in every case in which he gives such permission, at the same time, report his reasons in writing to the Standing Committee.

(b) No person shall construct or reconstruct any boundary wall or a portion of a boundary wall within the regular line of the street except with the written permission of the Commissioner :

Provided that if, within sixty days from, after the receipt of an application from any person for permission to construct or reconstruct a boundary wall or a portion thereof, the Commissioner fails to acquire the land within the regular line of the street under Section 284 the said person may, subject to any other provisions of this Act or if the bye-laws, made thereunder proceed with the work of construction or reconstruction of such boundary wall or a portion thereof, as the case may be.

(5) (a) When the Commissioner grants permission under clause (a) of sub-section (4) for the construction or reconstruction of any building or land within the regular line of the street he may require the owner of the building to execute an agreement binding himself and his successors in title not to claim compensation in the event of the Commissioner at any time thereafter calling upon him or any of his successors by written notice to remove any work carried out in pursuance of such permission or any portion thereof and to pay the expenses of such removal if, in default, such removal is carried out by the Commissioner.

(b) The Commissioner may before granting such permission require the owner to deposit in the Chief Municipal Office an amount sufficient in his opinion to cover the cost of removal and such compensation, if any, as may be payable to any successor in title or transferee of such building.

Commentary

Sec. 381(4) is hit by Article 19(1)(f) of the Constitution. *Srinivasa Pitti vs. Municipal Corporation*, ILR 1972 AP 214.

382. Setting back buildings to the regular line of the street:— (1) If any building or any part of a building abutting on a public street is within the regular line of street, the Commissioner may, whenever it is proposed—

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground level such half to be measured in cubic feet; or

(b) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which the regular line of the street in any order which he issues concerning the rebuilding, alteration or repair of such building to be set back in the regular line of the street.

(2) When any building or any part thereof within the regular line of the street falls down or is burnt down or is taken down, whether under the provisions of this Act or otherwise, the Commissioner may at once take possession on behalf of the Corporation of the portion of land within the regular line of the street theretofore occupied by the said building and if necessary clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest as such in the Corporation.

383. Additional power of Commissioner to order setting back of building to regular line of the street:— (1) If any building or any part thereof is within the regular line of a public street and if, in the opinion of the Commissioner, it is necessary to set back the building to the regular line of the street may, if the provisions of Section 382 do not apply, by written notice—

(a) require the owner of such building to show cause within such period as is specified in such notice by a statement in writing subscribed by him or by an agent duly authorised by him in that behalf and addressed to the Commissioner, why such building or any part thereof which is within the regular line of the street shall not be pulled down and the land within the said line acquired by the Commissioner; or

(b) require the said owner on such day and at such time and place as shall be specified in such notice to attend personally

or by an agent duly authorised by him in that behalf and show-cause why such building or any part thereof which is within the regular line of the street shall not be pulled down and the land within the said line acquired by the Commissioner.

(2) If such owner fails to show sufficient cause to the satisfaction of the Commissioner why such building or any part thereof, which is within the regular line of the street shall not be pulled down and the land within the said line acquired as aforesaid the Commissioner may, with the approval of the Standing Committee, require the owner by written notice, to pull down the building or the part thereof which is within the regular line of the street within such period as is specified in the notice.

(3) If within such period the owner of such building fails to pull down such building or any part thereof coming within the said line, the Commissioner may pull down the same and all the expenses incurred in so doing shall be paid by the owner.

(4) The Commissioner shall at once take possession on behalf of the Corporation of the portion of the land within the said line occupied by the said building, and such land shall thenceforward be deemed to be a part of the public street and shall vest as such in the Corporation.

(5) Nothing in this section shall be deemed to apply to buildings vesting in the State.

384. Acquisition of open land or of land occupied by platforms, etc., within regular line of street:— If any land not vesting in the Corporation, whether open or closed, lies within the regular line of a public street and is not occupied by a building, or if a platform, verandah, step, compound wall, hedge or fence or some other structure external to a building, abutting, on a public street or portion of a platform, verandah, step, compound wall, hedge, or fence or other such structure, is within the said line of such street, the Commissioner may after giving to the owner of the land or building not less than seven clear days written notice of his intention to do so, take possession on behalf of the Corporation of the said land within its enclosing wall, hedge or fence, if any or of the said platform, verandah, step or other structure as aforesaid or of the portion of

the said platform, verandah, step or other such structure as aforesaid which is within the regular line of the street and; if necessary, clear the same and the land so acquired, shall thenceforward be deemed a part of the public street:

Provided that when the land or building is vested in the State possession shall not be taken as aforesaid, without the previous sanction of the Government concerned and, when the land or building is vested in any Corporation constituted by any law for the time being in force, possession shall not be taken as aforesaid, without the previous sanction of the Government.

Commentary

Where land was acquired for public purpose and the acquired land is public place, the encroachment on such land by persons can be dealt with in proceedings under Sections 313 and 314 of Bombay Municipal Corporation Act, 1888. *Municipal Corporation of Greater Bombay vs. Premnagar Zopadapatti Committee Society,* AIR 1991 SC 817.

385. Acquisition of the remaining part of building and land after their portions within a regular line of the street are acquired:— (1) If a building or land is partly within the regular line of a public street and if the Commissioner is satisfied that the land remaining after the excision of the portion within the said line will not be suitable or fit for any beneficial use, he may, at the request of the owner, acquire such land in addition to the land within the said line and such surplus land shall be deemed to be a part of the public street vesting in the Corporation.

(2) Such surplus land may thereafter be utilised for the purpose of setting forward of building under Section 386.

386. Setting forward of buildings to regular line of the street:— (1) If any building which abuts on a public street is in rear of the regular line of street, the Commissioner may, whenever it is proposed—

(a) to re-build such building; or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street to an extent exceeding one-half of such building or portion thereof above the ground-level, such half to be measured in cubic feet; in any order which

he issues concerning the rebuilding, alteration or repair of such building, permit, or with the approval of the Standing Committee, require such building, to be set forward to the regular line of the street.

(2) For the purpose of this section, a wall separating any premises from a public street shall be deemed to be a building, and it shall be deemed to be a sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such materials and dimensions as are approved by the Commissioner, is erected along the said line.

387. Compensation to be paid and charges to be levied:— (1) [1][Compensation in accordance with the provisions of the Land Acquisition Act, 1894 as amended from time to time, shall be paid by the Commissioner] to the owner of any building or land required for a public street under Sections 382, 383, 384 or 385 for any loss which such owner may sustain in consequence of his building or land being so acquired and for any expense incurred by such owner in consequence of the order made by the Commissioner :

Provided that:

(i) any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part likely to accrue from the set-back to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation;

(ii) if any such increase in value exceeds the amount or loss sustained or expenses incurred by the said owner, the Commissioner may recover from such owner half the amount of such excess as a betterment charge.

(2) If, in consequence of any order to set forward, a building made by the Commissioner under Section 386, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Commissioner for such loss or damage after taking into account any increase in value likely to accrue from the set-forward.

(3) If the additional land which will be included in the premises or any person required or permitted under Section 386, to set forward

1. Subs. by A.P. Act 14 of 1989.

a building belongs to the Corporation, the order or permission of the Commissioner to set forward the building shall be sufficient conveyance to the said owner of the said land; and the price to be paid to the Corporation by the said owner for such additional land and other terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the Commissioner requires a building to be set forward, the owner of the building is dissatisfied with the price fixed to be paid to the Corporation or any of the other terms or conditions of the conveyance, the Commissioner shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Judge.

Commentary

Section 387(1) does not fix the amount of compensation for the loss sustained by the owner and it leaves to the Commissioner's discretion to follow any of the many principles available to determine the loss and hence it is hit by Article 31(2) of the Constitution of India. *Srinivasa Pitti vs. Municipal Corporation*, I.L.R. 1972 A.P. 214.

Provisions concerning private streets

388. Notice to be given to Commissioner of intention to lay out lands for building and for private streets:— Every person who intends—

(a) to sell or let on lease any land subject to a covenant or agreement on the part of a purchaser or lessee to erect buildings thereon,

(b) to divide land (whether unbuilt or partly built) into building plots,

(c) to use any land or a portion thereof or permit the same to be used for building purposes; or

(d) to make or lay out a private street whether it is intended to allow the public a right of passage or access over such street or not,

shall give written notice of his intention to the Commissioner and shall along with such notice, [1][furnish a copy of the title deed of the land duly attested by a Gazetted Officer of the Government together with

1. Inserted by Act 7 of 1992, w.e.f. 06.01.1992.

an urban land ceiling clearance certificate, in case the extent of land exceeds the ceiling limit and if it does not exceed the ceiling limit, an affidavit declaring that the total extent of land held by such holder, his or her spouse and unmarried minor children does not exceed the ceiling limit] [1][pay the drainage betterment charges as fixed by the Commissioner from time to time] submit plans and sections, showing the situation and boundaries of such building, land and the site of the private street, if any, and also the situation and boundaries of all other lands of such person of which such building, land or site forms a part and the intended development, laying out and plotting of such building, land including the dimensions and area of each building plot and also intended level, direction, width, means of drainage, paving, metalling and lighting of such private street, the provisions of planting and rearing of trees, beside such private street and the height and means of drainage and ventilation of the building or buildings proposed to be erected on the land, and if any building when erected will not abut on a street then already existing or then intended to be made as aforesaid the means of access from and to such building and the manner of the paving, metalling, draining and lighting of such means of access.

Commentary

Sanction of layout - Production of ULC Clearance Certificate :- For sanction of layout production of Urban Land Ceiling Clearance certificate and 'No Objection Certificate' is mandatory. *Government of A. P. and others vs Sree Pancha Murthy Cooperative House Building Society Limited, Hyderabad and others,* 2002 (5) ALD 433 (DB).

389. Commissioner may call for further particulars:— If any notice under Section 388 does not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case or if any such notice given for any or all of the purposes mentioned in clause (a), (b) or (c) of the said section does not contain any proposal or intention to make or lay out a private street, he may, at any time within thirty days after receipt of the said notice, by written notice require the person who gave such notice—

(a) to furnish the required information together with all or any of the prescribed documents, or

(b) to revise any or all of the schemes submitted under the said clause (a), (b) or (c) so as to provide for the making or laying

1. Added by Act No. 6 of 1984, w.e.f. 1.7.1980.

out of a private street or private streets of such width or widths as he may specify in addition to or in substitution for any means of access proposed to be provided in such scheme or schemes and to furnish such further informations and documents relating to the revised scheme or schemes as he may specify.

390. Commissioner may require plans to be prepared by licensed Surveyors:— The Commissioners may decline to accept any plan, section or description as sufficient for the purposes of Section 388 or 389 which does not bear the signature of a licensed Surveyor in token of its having been prepared by such Surveyor or under his supervision.

391. Laying out of land, dimensions and area of each plot, laying out of private streets and heights of buildings to be determined by Commissioner:— (1) The laying out of land for building the dimensions and area of each building plot, the level, direction, width and means of drainage of every private street, the kind and number of trees to be planted and reared beside such streets and the height and means of drainage and ventilation of, and access to all buildings to be erected on such land or on either side of such street shall be fixed and determined by the Commissioner subject to such general directions as the Standing Committee may give in this behalf from time to time with the general object of securing sanitary conditions, amenity and convenience in connection with laying out and use of the land of any neighbouring lands and also with the object that the proposed private street may not conflict with any arrangements which have been made or which are, in the opinion of the Commissioner, likely to be made for carrying out any general scheme of new streets or of improvements of existing streets in the locality:

Provided that if, within sixty days after the receipt by the Commissioner of any notice under Section 388 or of the plans, sections, descriptions, scheme or further information, if any, called for under Section 389 the disapproval by the Commissioner with regard to any of the matters aforesaid specified in such notice has been communicated to the person who gave the same proposals of the said person shall be deemed to have been approved by the Commissioner.

(2) When the Commissioner signifies in writing to the said person his approval of the said work under certain conditions or without any conditions, or when the said work is deemed to have been approved by the Commissioners as aforesaid, the said person may at any time within

one year from the date of the delivery of the notice under Section 388 to the Commissioner, proceed with the said work in accordance with the intention as described in the notice or in any of the documents aforesaid and in accordance with the conditions, if any, imposed by the Commissioner but not so as to contravene any of the provisions of this Act or of any bye-law made thereunder.

Commentary

Powers under layout rules:— The authorities under the Hyderabad Municipal Corporation Act or the Zoning Regulations do not have the power to decide questions of title. They can determine for their own purpose whether an applicant satisfies, the requirement of all the rules which includes their satisfaction that the applicant is the owner of the land. Zoning Regulations also have to be kept in their mine. AIR 1985 A.P. 352.

392. Land not to be appropriated for building and private street not to be laid out until expiration of notice not otherwise than in accordance with Commissioner's direction:— (1) No person shall, sell, let, use or permit the use of any land whether undeveloped or partly developed for building or divide any such land into building plots, or make or layout any private street—

(a) unless such person has given previous written notice of his intention as provided in Section 388 nor until the expiration of sixty days from delivery of such directions, if any, as may have been fixed and determined under sub-section (1) of Section 391;

(b) after the expiry of the period of one year specified in sub-section (2) of Section 391 ;

(c) unless such person gives written notice to the City Engineer of the date on which he proposes to proceed with any work he is entitled to carry out and commences such work within seven days of the date mentioned in the notice.

(2) If any act be done or permitted to be done in contravention of this section, the Commissioner may by written notice require any person doing or permitting the doing of such act—

(a) to show cause on or before such day as shall be specified in such notice by statement in writing subscribed by him in that behalf, and addressed to the Commissioner, why the layout, plot, street or building contravening this section should not be altered

to the satisfaction of the Commissioner, or if that be in his opinion impractical why such street or building should not be demolished or removed or why the land should not be restored to the condition in which it was prior to the execution of the unauthorised work, or

(b) to attend personally or by an agent duly authorised by him in that behalf on such day and at such time and place as shall be specified in such notice and show cause as aforesaid.

(3) If such person shall fail to show cause to the satisfaction of the Commissioner why such street or building should not be so altered, demolished or removed or why such land should not be so restored the Commissioner may cause the works of alteration, demolition, removal or restoration to be carried out and the expenses thereof shall be paid by the said person.

393. Renewal of notice of intention to carryout works not executed in pursuance of approval given under Section 391:— If a person who is entitled to proceed with any work under Section 391 fails so to do within the period of one year specified therein he may at any time give fresh notice of his intention to execute such work and such notice shall be treated as a new notice under S. 388.

394. Levelling and draining of private streets and means of access:— If any private street or any other means of access to a building be not levelled, metalled, flagged or paved. [1][x x x] drained, channelled, lighted or provided with trees for shade to the satisfaction of the Commissioner, he may, with the sanction of the Standing Committee, by written notice, require the owner or owners of the several premises fronting or adjoining the said street or other means of access or abutting thereon or to which access is obtained through such street or other means of access or which will benefit by works executed under this section to carryout anyone or more of the aforesaid requirements in such manner as he shall direct.

395. Power to declare streets when sewered, etc., as public streets:— When any private street has been levelled, metalled, flagged or paved, sewered, drained, channelled and made good to the satisfaction

1. The word 'sewered' omitted by Act 6 of 1982. The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.

of the Commissioner, he may and, upon the request of the owners or of any of the owners of such street, shall, if lamp posts and other apparatus necessary for lighting such street have been provided to his satisfaction and if all land revenue payable to the Government in respect of the land comprised in such street has been paid, declare the same to be a public street by notice in writing put up in any part of such street, and thereupon the same shall become a public street and vest in the Corporation as such:

Provided that no such street shall become a public street if, within one month after such notice has been put up the owner of such street or the greater part thereof shall, by notice in writing to the Commissioner, object thereto.

396. Applicability of Sections 394 and 395 when a street is in part public and in part private:— If a portion only of any street is a public street, the other portion of such street may be for all purposes of Sections 394 and 395 be deemed to be a private street.

Projections and Obstructions

397. Prohibition of projections upon streets:— (1) Except as provided in Section 399 no person shall erect, set up, add to or place against or in front of any premises any structure or fixture which will—

(a) overhang, jut or project into, or in any way encroach upon, or obstruct in any way the safe or convenient passage of the public along, any street, or

(b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use of proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) *Power to require removal of the same:—* The Commissioner by written notice, require the owner or occupier of any premises to remove or to take such other action as he may direct with any structure or fixture which has been erected, set up, added to or placed against or in front of, the said premises in contravention of this section or of any law in force in the city on the day of the coming into force of this Act.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled,

unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

398. Powers to require removal or alterations of projections, etc., made before the coming into force of this Act:— If any such structure or fixture as is described in sub-section (1) of Section 397 has been erected, set up, added to, or placed against or in front of any premises at any time before the coming into force of this Act, the Commissioner may give notice as aforesaid to the owner or occupier of the said premises:

Provided that in any such case the structure or fixture was lawfully erected, set up, added to or placed compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

399. Projections over streets may be permitted in certain cases:— (1) The Commissioner may give a written permission on such terms as he shall in each case think fit to the owner or occupier of any building abutting on any street—

(a) to erect an arcade over such street or any portion thereof, or

(b) to put up a verandah, balcony, arch, connecting passage, sun-shade, weather-frame, canopy, awning, or other such structure or thing projecting from any storey over or across any street or portion thereof:

Provided that no permission shall be given by the Commissioner for the erection of an arcade in any public street in which the construction of arcades has not been generally sanctioned by the Corporation.

(2) The provisions of Sections 397 and 398 shall not be deemed to apply to any arcade, verandah, balcony, arch, connecting passage, sun-shade, weather-frame, canopy, awning or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

(3) The Commissioner may at any time by written notice require the owner or occupier of any building to remove a verandah, balcony, sun-shade, weather-frame or the like put up in accordance with the provisions of sub-section (1) and such owner or occupier shall be bound to take action accordingly but shall be entitled to compensation for the loss caused to him by such removal and the cost incurred thereon.

Commentary

Application for construction of house submitted after construction without obtaining the sanction of lay out. Notice issued by the Corporation for demolition on the ground of sanctions illegal. *Hyderabad Municipality vs. T.V. Sarma*, AIR 1972 AP 96.

Construction of an arch on a public street at a junction:— The permission granted by the Commissioner to erect or construct an arch on the junction of the roads or streets so as to narrow the existing width of the roads at intersection of roads, is patently illegal.

Sec.399 postulates a situation where owner of the building wants to have an ornamental dressing to the wall of the building which is abutting any street or where it is proposed to construct a covered passage or passage containing shops, stalls as is found in the shopping complex. Therefore, the proposed arch does not fall within the meaning of an arcade. Further the proviso to Section 399 enjoins that no permission shall be given by the Commissioner for erection of an arcade in any public street in which the construction of arcades have not been generally sanctioned by the Corporation.

The Commissioner has no power under the Act, Rules or Zoning Regulations either to regulate the traffic by controlling the speed or to beautify the city, by permitting permanent construction of arches on the public street or public roads. *Immadisetty Anantham vs. Municipal Corporation of Hyderabad and others* 1989 (2) ALT 390.

400. Ground floor doors, etc., not to open outwards on streets:— The Commissioner may at any time, by written notice, require the owner of any premises on the ground floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street in such manner as in the opinion of the Commissioner to obstruct the safe or convenient passage of the public along such street, to have said door, gate, bar or window altered so as not to open outwards.

401. Prohibition of structures or fixtures which cause obstruction in streets:— (1) No person shall, except with the permission of the Commissioner under Section 428 or 433 erect, or set up any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature, or any fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to or an encroachment upon or a projection over, to occupy, any portion of such street, channel, drain, well or tank.

(2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of sub-section (1) of Section 413 applies.

402. Prohibition of depositing etc., of thing in streets:— (1) No person shall, except with the written permission of the Commissioner—

(a) place or deposit upon any street, or upon any open channel, drain or well in any street or in any public place, any stall, chair, bench, box, [1][ladder, bale, building materials, building debris or other things] whatsoever so as to form an obstruction thereto or encroachment thereon;

(b) project, at a height of less than twelve feet from the surface of the street, any board or chair, beyond the line of the plinth of any building over any street;

(c) attach to, or suspend from any wall or portion of a building abutting on a street, at a lower height than aforesaid anything whatever.

[1][(2) Whoever contravenes the provisions of sub-sec. (1) shall on conviction, be punishable with imprisonment which may extend to one month or with fine which may extend to five thousand rupees or with both.

(3) Anything placed or deposited in contravention of the provisions of sub-section (1) may be seized by the Commissioner or any other person duly authorised by him in this behalf, and on conviction for an offence under sub-section (2) the court may also pass such order as it thinks fit respecting the disposal of such thing including confiscation of such thing.]

403. Licence for sale in public places:— Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall hawk or expose for sale in any public street any article whatsoever, whether it be for human consumption or not.

404. Licenses for use of skill in handicraft of rendering services for purposes of a gain in public place or street:— Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall, for purposes of gain, use his skill in any handicraft or in rendering services to and for the convenience of the public in public place or public street.

405. Commissioner may without notice, remove anything erected, deposited or hawked or exposed for sale in contravention of Act:— The Commissioner may, without notice, cause to be removed—

1. Subs. by Act 11 of 1999, w.e.f. 18.04.1999.

(a) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature, or any fixture which shall be erected or set up in or over any street, any open channel, drain, well or tank contrary to the provisions of this Act;

(b) any stall, chair, bench, box, ladder, bo d or shelf, or any other thing whatever placed, deposited, projected, or suspended, in, upon, from or to any place in contravention of this Act;

(c) any article whatsoever hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

Commentary

Claim of ownership:— Where a person claims to be an owner of a particular piece of land the Municipality cannot remove the structures erected in that property without issuing a notice under Section 406. Section 406 is the relevant Section in such case and not Section 405. Though Section 405 of the Act enables the Municipality to remove unauthorised structures, it applies only where there is no dispute about the ownership of the Municipality in respect of that property. Admittedly in the instant case no notice was issued. Therefore the action of the first respondent in demolishing the structures was held illegal, unreasonable and without authority of law. *Qamar Sultana v. The Commissioner, M.C.H. and Anr.,* 1995 (1) ALD 842.

Encroachments on pavements and road margins:— The fact that certain individuals were permitted to use the road margins at a time when such necessities were not felt does not confer any right in such persons. The opinion formed by the Corporation as to the feasibility or otherwise in permitting such use of road margins is not justiciable. Such squatters or occupants of road margins and pavements are not entitled for any notice as such. The Municipal Corporation has right to remove and clear illegal encroachments on the road, road margins, pavements and footpaths, as provided for under Section 405 of the Act. *Jubilee Hills Labour Welfare Association, Hyderabad and others vs Municipal Corporation of Hyderabad and others,* 2003 (6) ALD 790.

The law of the streets does not enable any citizen to encroach upon footpath nor squat on the footpath for the purpose of business, much less, put up Haleem Bhattis (hearth or oven). Further, under Section 405 of the Greater Hyderabad Municipal Corporation Act, 1955, it shall be the duty of the Commissioner to remove encroachments on the roads and keep the footpaths free from such encroachments. Any leniency by the officials amounting to breach of law cannot be countenanced by the Court of judicial review. *Mohd. Ilyas Khan and others v. Abdullah Bin Hussain and others,* 2010 (5) ALD 307 (DB) = 2010 (5) ALT 132 (DB).

Even if licences were taken; electricity charges were paid it does not confer any right to continue to stay in the encroached areas. *Mohd. Miskinavelli and others vs. Visakhapatnam Municipal Corporation,* 2003 (2) ALD 541 = 2003 AIHC 1674 = 2003 (2) ALT 369.

406. Power to require removal of a structure or fixture erected or set up:— The Commissioner may, by written notice, require the owner, occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture which it would be unlawful to erect or set up under this Act has been erected or set up to remove the said wall, fence, rail, post, step, booth or other structure or thing:

Provided that, in any such case the structure or fixture shall have been lawfully erected or set up, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

Commentary

Claim of ownership:— Where a person claims to be an owner of a particular piece of land the Municipality cannot remove the structures erected in that property without issuing a notice under Section 406. Section 406 is the relevant Section in such case and not Section 405. Though Section 405 of the Act enables the Municipality to remove unauthorised structures, it applies only where there is no dispute about the ownership of the Municipality in respect of that property. Admittedly in the instant case no notice was issued. Therefore the action of the first respondent in demolishing the structures was held illegal, unreasonable and without authority of law. *Qamar Sultana v. The Commissioner, M.C.H. and Anr.,* 1995 (1) ALD 842.

407. Prohibition of tethering of animals in public street:— (1) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household in any public street.

(2) Any animal tethered as aforesaid may be removed by the Commissioner, or by any Municipal Officer or servant, and made over to a police officer or may be removed by a police officer, who shall deal therewith as with an animal found straying.

Temporary Erections on Streets During Festivals

408. Commissioner may permit booths etc., to be erected on streets on festivals:— With the concurrence of [1][the Chief City Magistrate]

1. Subs. for the words "the Chief City Magistrate of Hyderabad or the District Magistrate of Secunderabad, as the case may be" by Act 21 of 1960.

the Commissioner may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

Provisions concerning Execution of Works in or Near to Streets

409. Streets when broken up for any municipal purposes to be restored without delay:— Whenever the soil or pavement of any street is opened or broken up by or under the order of the Commissioner, or of any municipal officer or servant, for the execution of any work on behalf of the Corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, reinstated and made good with all convenient speed; and on completion of the work, the surplus of earth and materials, if any excavated and all rubbish occasioned thereby shall be removed without delay.

410. Commissioner may close street in which work is in progress:— (1) The Commissioner may whilst any such work as aforesaid or any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous position an order prohibiting traffic to the extent or of the description so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

(2) No person shall, without the permission of the Commissioner or without other lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

411. Commissioner to provide for traffic, etc. pending execution of Municipal work in any street:— Whilst the execution of any work on behalf of the Corporation is in progress in any street, the Commissioner shall, so far as may be reasonably practicable, make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street, and for any drainage, water supply, or means of lighting which may be interrupted by reason of the execution of the said work.

412. Precautions to be taken for public safety where municipal works are in progress in any street:— (1) Whilst the execution of any work on behalf of the Corporation is in progress in any street the Commissioner shall—

(a) take proper precaution for guarding against accident by sharing up and protecting the adjoining buildings;

(b) have any place where the soil or pavement has been opened or broken up, fenced and guarded;

(c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, claims or posts set up under Section 410 for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain so set up.

(2) No person shall, without the written permission of the Commissioner or without other lawful authority, remove any shoring timber or fence, or remove or extinguish any light employed or set up for any of the purposes of this section.

413. Streets not to be opened or broken up and building materials not be deposited thereon without permission:— (1) No person other than Commissioner or a municipal officer or servant shall, without the written permission of the Commissioner or without other lawful authority—

(a) open, break up, displace, take up or make any alteration in, or cause any injury to the soil or pavement or any wall, fence, posts, chain or other material or thing forming part of any street;

(b) deposit any building materials in any street; or

(c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or (c) of sub-section (1) shall be terminable at the discretion of the Commissioner, on his giving not less than twenty-four hours written notice of the termination thereof to the person to whom such permission was granted.

(3) Except in cases in which permission has been applied for under clause (b) of sub-section (1) for the deposit of building materials in any street and no reply has been sent to the applicant within seven days from the date of the application, the Commissioner may, without notice, cause to be removed any building materials, or any scaffold, or any temporary erection, or any posts, rails, boards or other things by way of enclosure, which have been deposited or set up in any street without the permission or authority specified in sub-section (1), or which, having been deposited or set up without such permission or authority, have not been removed within the period specified in the notice issued under sub-section (2).

414. Precaution for public safety to be taken by persons to whom permission is granted under Section 413:— Every person to whom permission is granted under Section 413 shall at his own expense cause the place where the soil or pavement has been opened or broken up or where he has deposited building materials, or set up any scaffold, erection or other things, to be properly fenced and guarded, and, in all cases in which the same is necessary to prevent accidents, shall cause such places to be well lighted during the night.

415. Persons to whom permission is granted under Section 413 must reinstate streets, etc.:— (1) Every person to whom permission is granted under Section 413 to open or break up the soil or pavement of any street, or who under other lawful authority open or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up, and fill in the ground and reinstate and make good the street or pavement so opened or broken up without delay, to the satisfaction of the Commissioner.

(2) If the said person shall fail to reinstate and make good the street or pavement as aforesaid, the Commissioner may restore such street or pavement, and the expenses incurred by the Commissioner in so doing shall be paid by the said person.

416. Provisions to be made by persons to whom permission is given under Section 413 for traffic, etc.:— The Commissioner may, by written notice, require any person to whom permission is granted under Section 413 to open or break up the soil or pavement of any street or who, under any other lawful authority opens or breaks up the soil or pavement of any street for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic for

securing access to any premises which may be approached from such street and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the said work.

417. Hoards to be set up during work on any building adjacent to a street:— (1) No person who proposes to build, take down or rebuild any building or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered inconvenient, commence doing so, without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and hand-rail, if there be room enough for the same and the Commissioner shall think the same desirable, to serve as a footway for the use of persons outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the Commissioner, and every such hoard or fence put up with such permission, with such platform and hand-rail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the Commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience and, in all cases in which the same is necessary to prevent accidents, the said person shall also cause such hoard or fence to be well lighted during the night.

(3) The Commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

Naming of Streets, etc.

418. Naming of streets, and numbering of houses:— (1) The Commissioner may, from time to time—

(a) with the sanction of the Corporation, determine the name by which any street shall be known ;

(b) cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name so determined ;

(c) with the sanction of the Corporation determine the number by which any premises shall be known ;

(d) by written notice require the owner of any premises either to put or paint or number on such premises in such position and

manner as may be specified in such notice, or to signify in writing his desire that the work shall be executed under the orders of the Commissioner.

(2) No person shall, without the written permission of the Commissioner or without other lawful authority, destroy, remove, deface or in any way injure any such name or number, or put up or paint any name or number, different from that put up or painted by order of the Commissioner.

(3) Where a number is put up or painted on any premises under the orders of the Commissioner in accordance with clause (d) of sub-section (1), the expenses of such work shall be payable by the owner of the premises:

Provided that the maximum rate of charge for such work shall be fixed by the Commissioner with the previous sanction of the Corporation.

419. Buildings at corners of streets:— (1) The Commissioner may with the approval of the Standing Committee, require by written order the corner of any building which has already been erected or which is to be newly erected or which is to be re-erected or repaired and which is situated at the junction of two or more streets to be rounded or splayed off to such height and in such manner as he may determine and may also in such order impose such conditions as he deems necessary as to the construction of a compound wall or fence or hedge or any other structure whatsoever or the planting or retention of any tree on the premises appurtenant to such building.

(2) Compensation shall be paid by the Commissioner for any loss or damage caused by the issue of an order under sub-section(1).

Sky-Signs and Advertisements

420. Regulations as to sky signs:— (1) No person shall, without the written permission of the Commissioner, erect, fix or retain any sky-sign, whether now existing or not, and no such written permission shall be granted, or renewed, for any period exceeding two years from the date of each such permission or renewal:

Provided that in any of the following cases a written permission or renewal by the Commissioner under this section shall become void, namely:—

(a) if any addition to the sky-sign be made except for the purpose of making it secure under the direction of the municipal, city engineer;

(b) if any change be made in the sky-sign, or any part thereof;

(c) if the sky-sign or any part thereof falls either through accident, decay or any other cause;

(d) if any addition or alteration be made to, or in the building or structure upon or over which the sky-sign is erected, fixed or retained, if such addition or alteration involves the disturbance of the sky-sign or any part thereof;

(e) if the building or structure upon or over which the sky-sign erected, fixed or retained become unoccupied or be demolished or destroyed.

(2) Where any sky-sign shall be erected, fixed or retained upon or over any land, building, or structure, save and except as permitted as hereinbefore provided, the owner or person in occupation of such land, building or structure shall be deemed to be the person who has erected, fixed or retained such sky-sign in contravention of the provision of this section unless he proves that such contravention was committed by a person not in his employment or under his control, or was committed without his connivance.

(3) If any sky-sign be erected, fixed or retained contrary to the provisions of this section, or after permission for the erection, fixing or retention thereof for any period shall have expired or become void, the Commissioner may, by written notice require the owner or occupier of the land, building or structure, upon or over which the sky-sign is erected, fixed or retained, to take down and remove such sky-sign.

The expression "sky-sign" shall in this section mean any word, letter, model, sign, devise or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard frame work or other support wholly or in part upon or over any land, building or structure which, or any part of which sky-sign, shall be visible against the sky from some point in any street and includes all and every part of any such post, pole, standard, frame-work or other support. The expression "sky-sign" shall also include any balloon, parachute, or other similar device employed wholly or in part for the purpose of any advertisement, announcement or direction upon

or over any land, building or structure or upon or over any street, but shall not include—

(a) any flag staff, pole, vane or weather-cock, unless, adopted or used wholly or in part for the purpose of any advertisement, announcement or direction;

(b) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blacking course of any wall, or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one continuous face and not open work and do not extend, in height more than three feet above any part of the wall, or parapet or ridge to, against, or on which it is fixed or supported;

(c) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the railway administration and place wholly upon or over any railway, railway station, yard, platform or station approach belonging thereto, and so placed that it cannot fall into any street or public place;

(d) any notice of land or buildings to be sold, or let, placed upon such land or buildings.

Commentary

Contractual obligations:— In cases of contractual obligations, where public law element is present, the State or instrumentalities of the State are bound to act fairly and reasonably and subject to scrutiny on the touchstone of Art. 14 of the Constitution. In the instant case there was no such contract at all. Therefore respondents were held to have no power to demand any amounts on the pretext of violation of lease. *UNI-ADS Pvt. Ltd., Hyd. v. Commissioner, MCH, Hyd. & Anr.,* 1999 (2) ALD 600 = AIR 1999 AP 278 = 1999 (2) ALT 747 = 1999 (1) LS 669.

421. Regulation and control of advertisements:— (1) No person shall without the written permission of the Commissioner, erect, exhibit, fix or retain any advertisement whether now existing or not, upon any land, building, wall, hoarding or structure:

Provided always that such permission shall not be necessary in respect of any advertisement which is not an illuminated advertisement nor a sky-sign and which—

(a) is exhibited within the window of any building;

(b) relates to the trade or business carried on within the land or building upon which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein, or to any sale, entertainment or meeting to be held upon or in the same, or to the trade or business carried on by the owner of any vehicle upon which such advertisement is exhibited;

(c) relates to the business of any railway administration;

(d) is exhibited within any railway station or upon any wall or other property of a railway administration except any portion of the surface of such wall or property fronting any street.

(2) Where any advertisement shall be erected, exhibited, fixed or retained after three months from the enactment of this section upon any land, building, wall, hoarding or structure save and except as permitted or exempted from permission as hereinbefore provided, the owner or person in occupation of such land, building, wall, hoarding or structure shall be deemed to be the person who has erected, exhibited, fixed or retained such advertisement in contravention of the provisions of this section unless he proves that such contravention was committed by a person not in his employment or under his control or was committed without his connivance.

(3) If any advertisement be erected, exhibited, fixed or retained contrary to the provisions of this section after the written permission for the erection, exhibition, fixing or retention thereof for any period shall have expired or become void, the Commissioner may, by notice in writing, require the owner or occupier of the land, building, wall, hoarding or structure upon which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement.

(4) (a) The word "structure" in this section shall include a tram car, omnibus and any other vehicle and any movable board used primarily as an advertisement or an advertising medium; and

(b) the expression "illuminated advertisement" in this section shall not include an illuminated display of goods if such display—

(i) is of goods merely bearing labels showing the name of the article or of its manufacture or of both; and

(ii) is made of lighting which is not, in the opinion of the Commissioner, more than is necessary to make the goods and labels visible at night.

Commentary

Scope:— Sections 420 and 421 regulate the exhibition of sky signs and advertisements. A written permission is to be obtained to erect, fix or retain any sky sign or exhibit fit, erect or retain any advertisement.

Contractual obligations:— In cases of contractual obligations, where public law element is present, the State or instrumentalities of the State are bound to act fairly and reasonably and subject to scrutiny on the touchstone of Art. 14 of the Constitution. In the instant case there was no such contract at all. Therefore respondents were held to have no power to demand any amounts on the pretext of violation of lease. *UNI-ADS Pvt. Ltd., Hyd. v. Commissioner, MCH, Hyd. & Anr.,* 1999 (2) ALD 600 = AIR 1999 AP 278 = 1999 (2) ALT 747 = 1999 (1) LS 669.

Notice - Who can challenge:— The owner or the person in occupation of land, building, wall, hoarding or structure shall be deemed to be a person who has erected, exhibited, fixed or retained the advertisement. In the instant case respondent issued a notice calling upon the petitioner company to pay the given amount for 48 advertisement boards and to file self-assessment return within 7 days for other advertisements added after issuing public notice. Respondent Corporation issued notices under Section 421 after waiting for the prescribed period to various owners of paints' shops levying advertisement fee etc., which notices were not challenged by them before the High Court. Therefore the principle of *Jus tertii* (nobody can plead the cause of another) was held to apply and that the petitioner was barred to invoke the jurisdiction of the High Court. *Asian Paints India Limited, Mumbai v. Additional Commissioner (Finance), MCH, Hyderabad,* 2001 (1) ALD 117 = 2000 (3) ALT 658 = 2000 (2) APLJ 330.

Advertisements on Direction Boards :-Where a firm which was entrusted with the project of erecting sign boards and direction boards on all public roads in a particular circle of the city at his own cost and maintain them in proper condition for a particular period, was also allowed to display advertisements thereon. Non-floating of tenders or absence of public auction or invitation is not a ground to challenge the said grant. *5M & T Consultants, Secunderabad* vs *S.Y. Nawab and another,* 2003 (6) ALD 99 (SC)

Public advertisement:— Contract for setting up sign boards shall be entered into only after issuing advertisement clearly laying down the norms thereof in order to enable all the eligible persons to take part in the auction. *S.Y. Nawab v. Municipal Corporation of Hyderabad,* ILR 2001 AP 49 = 2001 (4) ALD 146 (FB).

Name boards — Whether advertisement:— Sections 328, 328A of the Bombay Municipal Corporation Act which are similar to Section 421 of this Act fell for consideration before the Bombay High Court. The name boards are displayed for knowing and locating the place if required. Those who are not concerned with and those who do not want such place, activity or service would just read and ignore and walk further. Mere reading of the name board does not amount to advertisement to attract the provisions of Ss. 328 and 328-A of the Bombay Municipal Corporation Act. Therefore the illuminated name board was held not amounting to an advertisement. As a matter of law, it was held that no illuminated name board displayed on the places of the business would amount to an advertisement to attract the aforesaid provisions of the law. *Ratiloku Shetty vs. Municipal Corporation of Greater Mumbai,* AIR 2001 Bom. 380.

Illuminated Boards:— In the context of advertisements, mere fixing of lamps outside the board, to make it visible, may not be treated as illumination. It is only when an arrangement is made within the board, in such a way, that the light focused from inside makes the external part visible in nights, that the board can be said to have illuminated. This can be the proper and workable meaning, that can be ascribed to the relevant part of Section 421 of the Act. It would take in its fold, the neon lighting also, where the letters or picture are drawn through glass tubes, and the whole tube is illuminated through electrodes, or other devises. Though the view expressed herein may not be treated as a perfect or the ultimate, it would ensure fair amount of objectivity in determining the rights of citizens. *Rama Devi Multi Speciality Dental Clinic, Hyderabad and others v. Greater Hyderabad Municipal Corporation, Hyderabad and another,* 2010 (2) ALD 856 = 2010 (3) ALT 302.

Collection of tax by private agency:— Section 169 of the Act requires that any amount received by the Corporation towards tax and fee must be credited to its consolidated fund. The permission accorded by the Corporation to the Agency to collect the fee, which partakes the characteristics of tax, is totally opposed to the scheme under the Act. The notices issued to the petitioners, require them to pay the fee "through cheques/DDs in favour of USM Business Systems Private Limited". There would have been some justification for empowering the Agency referred to above, to collect the cheques or DDs to be issued in the name of the Corporation. The course adopted by the Corporation is in clear violation of specific provisions of the Act.

The plea of the Corporation and the Agency that the authorization or activity is in the form of outsourcing cannot be accepted. The phrase "outsourcing" is of recent origin. It is a device, where the work, which is otherwise to be done by the regular establishment, is got done by a different Agency engaged for that

purpose. While in some cases, wages are paid, in other cases, lump sum amounts are paid towards consideration. In the instant case, it is the Agency that is placed under obligation to pay huge amounts to the Corporation. It is permitted to retain the amounts collected by it towards fee, irrespective of its quantum. This does not fit into the scheme of the Act. *Rama Devi Multi Speciality Dental Clinic, Hyderabad and others v. Greater Hyderabad Municipal Corporation, Hyderabad and another,* 2010 (2) ALD 856 = 2010 (3) ALT 302.

Advertisements over traffic signals:— Section 421(1) prohibits erection of advertisement hoardings upon land within the limits of the GHMC without the written permission of the Commissioner. In the instant case the advertisement hoardings erected by the petitioner over the traffic signals, located on public roads vested in the GHMC, do not fall under any of the exceptions in clauses (a) to (d) of Section 421(1) of the GHMC Act. *STAN POWER, Hyderabad v. Greater Hyderabad Municipal Corporation, Hyderabad and others,* 2010 (4) ALD 617 = 2010 (4) ALT 763 = AIR 2010 (NOC) 999 (A.P.).

Exempted category of advertisements:— Analogous provisions are contained in various enactments, under which the Municipal Corporations and Municipalities across the country function. The provisions of the Act manifest the legal regime, *vis-a-vis* the advertisements. At the first place, the Corporation is conferred with the power to impose tax on advertisements, under Section 199(l)(f). In the second place, the Corporation is empowered under Section 421 of the Act, to insist on obtaining permissions before an advertisement, or sign board is erected. It is a different thing that certain categories of advertisements are exempted from that provision. *Rama Devi Multi Speciality Dental Clinic, Hyderabad and others v. Greater Hyderabad Municipal Corporation, Hyderabad and another,* 2010 (2) ALD 856 = 2010 (3) ALT 302.

Dangerous Places

422. Commissioner to take proceedings for repairing or enclosing dangerous places:— (1) If any place is, in the opinion of Commissioner for want of sufficient repair, protection or enclosure or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons who have lawful access thereto or to the neighbourhood thereof and if any such work, in the opinion of the Commissioner, affects the safety or convenience of such persons, he may, by notice in writing, require the owner or occupier thereof to repair, protect or enclose the said place or take such other step as shall appear to the commissioner necessary, in order to prevent danger therefrom or to ensure the safety or convenience of such persons.

(2) The Commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place or to ensure public

safety or convenience at such work, and expense incurred by the Commissioner in taking such temporary measures shall be paid by the owner or occupier of the place to which the said notice refers.

423. Protective measures during demolition work:— (1) No person who proposes to take down a building or a part thereof, shall commence doing so without providing in addition to such board or fence which he may be required to provide under Section 417 and screens extending to the full height of such building on all sides thereof so to prevent pollution of the surrounding air with dust or injury or damage caused by falling of any debris, bricks, wood or other material.

(2) If any such work is commenced in contravention of sub-section(1) the Commissioner may cause it to be stopped forthwith and any person carrying it out be removed from the premises by a police officer.

Lighting of Street

424. Public streets to be lighted:— (1) The Commissioner shall—

(a) take measures for lighting in a suitable manner the public streets, municipal gardens and open spaces and municipal markets and all buildings vesting in the Corporation.

(b) procure, erect and maintain such number of lamps, lampposts and other appurtenances as may be necessary for the said purpose; and

(c) cause such lamps to be lighted by means of oil, gas electricity or such other light as the Corporation shall from time to time determine.

(2) The Commissioner may place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, staves, struts, brackets, and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon, any immovable property without being liable to any claim for compensation thereof :

Provided that such wires, posts, poles, standards, staves, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

425. Prohibition of removal, etc., of lamps:— No person shall, without lawful authority, take away or wilfully break, throw down or damage—

(a) any lamp, lamp-post or lamps-iron set up in any public street or municipal garden, or in any open space, markets or building vesting in the Corporation ;

(b) any electric wire for lighting any such lamp;

(c) any post, pole, standard, stave, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp;

(d) any property of the Corporation in any street; and no person shall wilfully extinguish the light or damage the appurtenance of any such lamp.

426. Persons accidentally breaking lamp to repair the damage:— If any person shall through negligence or accident breaks any lamp set up in any public street or municipal market, garden or public place or building vesting, in the Corporation, or shall break, or damage any property of the Corporation of any street, he shall pay the expenses of repairing the damage so done by him.

427. Measures for watering streets:— The Commissioner may—

(a) take measures for having the public streets watered at such time and seasons and in such manner as he shall think fit;

(b) procure and maintain such vehicles, animals, apparatus as he shall think fit for the said purpose.

CHAPTER XII

Building Regulations

Notices regarding erection of Building

428. Notice to be given to commissioner of intention to erect a building:— (1) Every person who intends to erect a building shall give to the commissioner notice of his said intention in a form, obtained for this purpose under Section 435, specifying the position of the building intended to be erected, the description of building, the purpose for which it is intended, its dimensions and the name of the person whom he intends to employ to supervise its erection.

(2) In this Chapter and wherever occurring in this Act "to erect or re-erect a building" means—

(i) any material alteration or enlargement of any building;

(ii) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;

(iii) the conversion of one or more places of human habitation into a greater number of such places;

(iv) the conversion of two or more places of human habitation into a lesser number of such places;

(v) such alteration of a building as would effect a change in its drainage or sanitary arrangements or materially effect its security;

(vi) the addition of any rooms, buildings, outhouses or other structures to any building;

(vii) conversion by any structural alteration into a place of religious worship or into a sacred building, any place or building not originally meant or constructed for such purpose;

(viii) to roof or cover an open space between walls or buildings as regards the structure which is formed by roofing or covering such space;

(ix) to convert into a stall, shop, warehouse or godown, any building not originally constructed for use as such or *vice versa*.

Commentary

Adjudication of title under Sec.428 is beyond its powers 1957 ALT 568 1957 APHN. The Municipal Corporation of Hyderabad has no power to adjudicate upon the question of title of rival claimants for granting permission for construction. It has power to summarily enquire who should be given permission. The Commissioner has power to call upon a party to produce his document of title — 1985(1) APLJ 20.

There is no specific provision in the HMC Act or Building Bye-laws enabling Commissioner of MCH to reject an application on the ground of ownership of the applicant being doubtful. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant. Objections for grant of building permission on the ground of title be considered by Commissioner in a pragmatic manner taking into consideration only *prima facie* factors. While doing so, Commissioner should not assume the role of an adjudicator or arbitrator and decide title inter se between applicant for permission and objector. In spite of pendency of litigation as to title to property, Commissioner may grant permission if applicant is able to show *prima facie* title to property. *T. Rameshwar v. Commissioner, Municipal Corporation of Hyderabad and others,* 2006 (3) ALD 337 = 2006 (5) ALT 582.

The Commissioner has power to call upon the party who applies for permission for under Section 428 to produce document to title. The Corporation cannot refuse to consider the application for construction of a building for want of clearance of urban ceiling Authority 1987(1) ALT 644.

No Objection Certificate from Joint Collector :-Municipal Corporation cannot refuse to receive building application on the ground that No Objection Certificate from Joint Collector, Hyderabad is not enclosed. *Dr. G. Anand Kumar Reddy and another v. Municipal Corporation of Hyderabad and another,* 2006 (4) ALD 657 = 2006 (4) ALT 688 = 2006 (2) LS 330. (2000 (3) ALT 525 (D.B.) and 2001 (3) ALT 200 followed.)

No Objection Certificate from revenue authorities :-No Objection Certificate from revenue authorities not necessary for granting building permit. Entries made in TSLR not the sole basis for consideration of such application. Corporation authorities are bound to consider all the relevant documents relating to ownership as stipulated in Bye-law 4.2(v) of the Bye-laws of Corporation. *K. Manemma v. Municipal Corporation of Hyderabad rep. by its Commissioner and another,* 2006 (5) ALD 295 = 2006 (6) ALT 144 = 2006 (3) APLJ 60. (2001 (3) ALT 200 - Relied on.) See also *Jitender Chottai and another v. Municipal Corporation of Hyderabad and another*, 2006 (6) ALD 41.

No Objection Certificate from the Collector:— Obtaining of 'No Objection Certificate' arises only when any law presupposes. Mere circular or an executive order (issued) informing the petitioners to obtain 'No Objection Certificate' before asking for conversion of land etc., has no legal sanctity, because there is no such statutory provision which compels the MCH to insist a person seeking permission to construct a building to obtain and produce 'No Objection Certificate' from the Collector.

In the instant case, in view of the settled proposition of law the action of the *respondents insisting* the petitioners to produce 'No Objection Certificate' from the District Collector – 3rd respondent was held not sustainable. *Chaganla Mahendranath and others v. Commissioner and Special Officer Town Planning, Greater Hyderabad Municipal Corporation, Hyderabad and others,* 2008 (5) ALD 724.

Consideration of representation petition:— The Government of Andhra Pradesh issued G.O.Ms.No.15, Municipal Administration and Urban Development (M1) Department, dated 15.1.1998 delegating the powers of granting relaxation of Zoning Regulations and has been communicated to all the Special Officers of Municipalities and Municipal Corporations. In the instant case, nothing prevented the Municipal Corporation of Hyderabad to dispose of the representation of the petitioner. Justice requires that when a citizen approaches an appropriate authority for redressal by making a representation, the minimum that can be done by the authority is to consider the application and pass appropriate orders accordingly. The constitution confers such a right on all the citizens. The rule of law also requires that the citizen who should know where they stand with regard to acquiring and enjoying their rights both personal and proprietary. Therefore respondents were directed to consider the representation of the petitioner to revise the building plan made by the petitioner or his vendor. *Sweety Builders Pvt. Ltd. v. Municipal Corporation of Hyderabad & Ors.,* 1999 (4) ALD 3.

Illegal constructions:— A bare reading of the provisions of Ss. 428, 433, 435 and 452 of the Act demonstrate that the Corporation is entitled to take all necessary steps for the demolition of any construction made without prior permission. The term 'all such constructions' means and includes any 'additions or alterations' within the meaning of Ss. 428 and 433 of the Act. *N. Suryanarayana and another v. Municipal Corporation of Hyderabad, rep. by its Commissioner, Hyderabad and others,* 1996 (4) ALT 614.

Owner's consent:— The permission for modification of the building also includes the construction of the building. Where the owner's consent is dispensed with for giving permission for construction or modification and if permission for construction is granted on an application filed by the lessee then the owner will have no knowledge of such modification and therefore there is a possibility of lessee making constructions contrary to the agreement as such. It cannot be said that where the lessee is proceeding to make additions to the already existing building or constructing of a new building in the property taken on lease, the consent of the owner is not at all required and the authorities can proceed without the consent of the owner for granting permission for modification and construction of the building. It is essential that notice must be given to the owner before the authorities proceed to grant permission for such construction. *Ushodaya Publications Pvt. Ltd., rep. by Chairman/Managing Director, Hyderabad v. Smt. M. Ramanamma and others,* 1997(3) ALT 362(DB).

Refund of permit fee:— The fee, which is being collected towards the permit also is not uniform and it is fixed by the Corporation from time to time, depending on the category, namely, residential, non-residential *etc.,* and also having regard to the location of the site and the extent of the plot. Though there is no provision either in the scheme of the Act or the bye-laws made therein, explaining the service, which is to be expected on approval of the plans from the Corporation, but from the nature of levy, it is evident that whenever plans are approved, the constructions are to be supervised by the staff of the Corporation so as to ensure that constructions are being made in accordance with the sanctioned plan. Major portion of such permit fee is for the purpose of rendering services by the Municipal Corporation for the proposed constructions. The larger the area of construction, the higher the amount payable towards the permit fee, which is evident from the schedule of rates notified from time to time. When such is the basis for levy by way of fee, there appears no reason or justification for withholding such permit fee when the application for approval of plans is rejected even at the stage of scrutiny itself. The very collection of fee is conditioned by the fact that it must be the *quid pro quo* for the services rendered. When such levy is imposed by way of collecting the fee for the entire services to be rendered till completion of the building as well as after completion of construction, there is no reason or justification on the part of the respondents to withhold the entire amount even in cases where applications are rejected at the stage of scrutiny. Rightly, though there was an express provision in the bye-laws of 1972 for refund

of permit fee in cases of rejection, but such provision is absent in the present bye-laws framed in G.O. Ms. No.905, dated 7.8.1981. Though the claim of the petitioners was rejected, by referring to bye-law No.5.3, which is applicable only in cases of withdrawal of building permit applications, but in the instant case even as per the stand of the respondents, it is clearly a case where applications of the petitioners for grant of approval are rejected on the ground that the plans were not in accordance with the rules framed in G.O. Ms. No.905. If that be the case, the bye-law No.5.3 cannot be made applicable. Even in the absence of any express provision for refund, the respondents cannot withhold the entire permit fee merely because they have not applied for revision of the plans within the period of six months as stated in the counter-affidavit. When the plans were not approved on the ground that the proposals were not in accordance with the rules framed in G.O. Ms. No.905, the petitioners have changed their plans so as to construct independent houses instead of row-houses and paid separate set of permit fee, which was received and plans were approved. If that be so, there is no reason or justification for withholding the permit fee which is deposited by the petitioners along with their initial application seeking permission for construction of row-houses. The impugned action of respondents in withholding the entire amount and refusing to refund the permit fee to the petitioners is not only illegal, but such action infringes the fundamental rights guaranteed under Article 14 of the Constitution of India. The respondent-Corporation being a Statutory body under the control of the Government, is not expected to retain the money of private citizens without rendering proportionate service after collecting such fee. As per the bye-laws, it is clear that even to make the very application, one has to pay the entire permit fee, and if it is rejected for any reason, the respondents cannot withhold the entire amount, which is collected to render services not only till completion of the building, but also after its completion. Manoj *Kumar and others v. Municipal Corporation of Hyderabad and another,* 2010 (1) ALD 289 = 2010 (1) ALT 640.

429. Commissioner may require plans and other documents to be furnished:— (1) At any time within thirty days after receipt of any notice under Section 428, the Commissioner may, by written notice, require the person who has given the notice first hereinbefore in this section mentioned, to furnish to the Commissioner all or any of the following documents, namely:—

(a) correct plans and sections of every floor of the building intended to be erected or re-erected which shall be drawn to a scale of not less than one inch to every eight feet and shall show the position, form, dimensions and means of ventilation and of access to the several parts of such building and its appurtenances and the particular part or parts thereof which are, and those which are not, intended to be used for human habitation and in the case of a building intended to be used as a dwelling house for two or more

families or for carrying on any trade or business in which number of people exceeding twenty may be employed or as a place of public resort, the means to ingress and egress. Such plans and sections shall also show the depth and nature of the foundation and the proposed dimensions of all the walls, posts, columns, beams, joints and all girders and scantlings to be used in the walls, stair cases, floors and roofs of such building;

[1][(aa) a copy of the title deed of the land duly attested by a Gazetted Officer of the Government together with an urban land ceiling clearance certificate or as the case may be an affidavit referred to in Section 388].

(b) a specification of each description of work proposed to be executed and of the materials to be employed. Such specification should include a description of the proposed method of drainage of the buildings intended to be erected or re-erected and of the sanitary fittings to be used and also of the means of water supply and shall if required by the commissioner be supplemented by detailed calculations showing the sufficiency of the strength of any part of such building;

(c) a block plan of such building which shall be drawn to the scale of the largest revenue survey map at the time being in existence for the locality in which the building is; or is to be situated and shall show the position and appurtenances of the properties, if any, immediately adjoining, the width and level of the street, if any, in front and of the street, if any, at the rear of such building, the levels of the foundations and of the lowest floor of such building and of any yard or ground belonging thereto and the means of access to such building;

(d) a plan showing the intended line of drainage of such building, and the intended size, depth and inclination of each drain, and the details of arrangement proposed for the ventilation of the drains.

(2) At any time within the said period, the Commissioner may also by written notice require the said person to open for inspection any portion or portions of the foundations or walls of the existing building.

Commentary

Scope of:— When an applicant for construction of building establishes his possession and enjoyment of the land, the Municipal Authorities ought to give

1. Added by Act 7 of 1992, w.e.f. 06.01.1992.

permission. There is no statutory provision which compells the Municipal authorities to insist a person seeking permission to construct a building to obtain and produce "No Objection Certificate" from the Collector. *District Collector, Hyderabad and another v. N. Krishna Mohan and others,* 2000 (4) ALD 126 (DB) = 2000 (3) ALT 525.

Permission - title:— The recommendations of the Building Committee are advisory in nature and ultimately the Commissioner has to take a decision as to whether or not to grant permission in a case after considering all the relevant facts. The duty to consider the application for grant of building permission is conferred upon the Commissioner. All that the Commissioner has to do is to find out *prima facie* title and lawful possession of the applicant and such consideration is confined only for granting permission and nothing more. *Hyderabad Potteries Private Limited v. Collector, Hyderabad,* 2001 (3) ALD 600.

Nature of a verification-title deed:— It is true that under Section 450 of the Hyderabad Municipal Corporation Act, the 1st respondent is under an obligation to verify the title of an applicant, over the land upon which, construction is proposed to be made. However, the nature of verification cannot be similar to the one, in a suit for declaration of title. Much would depend upon the nature of property, as well as the nature of rights claimed by the applicant. If it is a private property, and title is claimed by an individual, the Corporation can insist on production of title deeds. Here again, if the ancestral property has devolved upon an individual, by way of succession, or in a family partition, or a settlement, the nature of verification would be some-what different. *Church of South India Trust Association and others v. Greater Hyderabad Municipal Corporation, Hyderabad and others,* 2010 (1) ALD 561 = 2010 (2) ALT 313.

Absolute title:— A substantial different picture would emerge, if the property partakes the social character. It is difficult to expect existence of an absolute title, as provided for under the Transfer of Property Act, in matters of this nature, particularly, when the institution is in existence for more than a century. The reason is that the property has passed through various legal regimes and the manner in which it has accrued to or devolved upon any one, under a regime, cannot be compared or equated with the one, under a subsequent regime. Recognition of an individual or agency as having the actual control and administration over the property, by the persons concerned with the institution, becomes relevant. *Church of South India Trust Association and others v. Greater Hyderabad Municipal Corporation, Hyderabad and others,* 2010 (1) ALD 561 = 2010 (2) ALT 313.

430. Commissioner may require plan, etc., submitted under last preceding section to be prepared by a licensed surveyor:— The Commissioner may decline to accept any plan, section or description as sufficient for the purpose of the last preceding section, which does not bear the signature of a licensed surveyor in token of its having been prepared by such surveyor or under his supervision.

431. Additional information and the attendance of the person who gave the notice may be required:— If the notice given under Section 428 and the documents, if any, furnished under Section 429 do not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, Commissioner may, at any time within thirty days after receipt of the said documents, any written notice, require the production of such further particulars and details as he deems necessary.

432. Effect of non-compliance with requisition made under Section 429 or Section 431:— If any requisition made under Section 429 or 431 is not complied with, the notice given under Section 428 shall be deemed not to have been given.

Notice regarding execution of works amounting to the erection of a building

433. Notice to be given to the Commissioner of intention to make additions, etc.,:— Every person who shall intend.

(a) to make any addition to a building; or

(b) to make any alteration or repairs to a building; not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the plinth level, such half to be measured in superficial feet; or

(c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid or involving the removal or re-erection of any such wall thereof as aforesaid to an extent exceeding one-half such wall above the plinth level, such half to be measured in superficial feet; or

(d) to make any alteration in a building involving:—

(i) the sub-division of any room in such building so as to convert the same into two or more separate rooms.

(ii) the conversion of any passage or space in such building into a room or rooms; or

(e) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street; shall give to the Commissioner in a form obtained for the purpose under Section 435

notice of his intention, specifying the portion of the building in which such work is to be executed, the nature and extent of the intended work, the particular part or parts, if any, of such work which is or, are intended to be used for human habitation and the name of the person whom he intends to employ to supervise its execution.

Commentary

Consideration of representation petition:— The Government of Andhra Pradesh issued G.O.Ms.No.15, Municipal Administration and Urban Development (M1) Department, dated 15.1.1998 delegating the powers of granting relaxation of Zoning Regulations and has been communicated to all the Special Officers of Municipalities and Municipal Corporations. In the instant case, nothing prevented the Municipal Corporation of Hyderabad to dispose of the representation of the petitioner. Justice requires that when a citizen approaches an appropriate authority for redressal by making a representation, the minimum that can be done by the authority is to consider the application and pass appropriate orders accordingly. The constitution confers such a right on all the citizens. The rule of law also requires that the citizen who should know where they stand with regard to acquiring and enjoying their rights both personal and proprietary. Therefore respondents were directed to consider the representation of the petitioner to revise the building plan made by the petitioner or his vendor. *Sweety Builders Pvt. Ltd. v. Municipal Corporation of Hyderabad & Ors.*, 1999 (4) ALD 3.

Illegal constructions:— A bare reading of the provisions of Ss. 428, 433, 435 and 452 of the Act demonstrate that the Corporation is entitled to take all necessary steps for the demolition of any construction made without prior permission. The term 'all such constructions' means and includes any 'additions or alterations' within the meaning of Ss. 428 and 433 of the Act. *N. Suryanarayana and another v. Municipal Corporation of Hyderabad, rep. by its Commissioner, Hyderabad and others,* 1996 (4) ALT 614.

434. Plans and additional information may be called for:— (1) If any notice given under the last preceding section does not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, he may at any time within thirty days after receipt of the said notice, by written notice, require the person who gave the notice first hereinbefore in this section mentioned to furnish plans, sections of the building and of the intended new work or of any specified portion thereof and the provisions of Sections 429,430, 431 and 432 shall apply to the intended new work so far as the Commissioner may consider them to be applicable.

(2) The Commissioner may also, at any time within the said period by written notice require the said person to open for inspection any portion or portions of the foundations or walls of the existing building.

Commentary

Site Plan - Building Plan:— A site plan cannot be equated to building plan. *3 Aces vs. M.C.H.* 1994(3) ALT 73.

Forms of Notices

435. Printed forms of notices to be supplied to the public:— (1) The Commissioner shall cause printed forms of notices for the purposes of Section 421 or 433 to be delivered to any person requiring the same, on payment of such fee not exceeding eight annas for each form as shall from time to time be determined in this behalf by the Commissioner, with the approval of the Standing Committee.

(2) There shall be printed on the reverse of every such form of notice, or on a separate paper supplied without extra charge therewith, a copy of Sections 428, 429, 430, 431, 432, 433, 434, 436, 437, 438, 440, 444, 445, 446, 447, 448 and 449 and of all bye-laws made under sub-sections (9), (12) and (13) of Section 586 at the time in force.

Commentary

Illegal constructions:— A bare reading of the provisions of Ss. 428, 433, 435 and 452 of the Act demonstrate that the Corporation is entitled to take all necessary steps for the demolition of any construction made without prior permission. The term 'all such constructions' means and includes any 'additions or alterations' within the meaning of Ss. 428 and 433 of the Act. *N. Suryanarayana and another v. Municipal Corporation of Hyderabad, rep. by its Commissioner, Hyderabad and others,* 1996 (4) ALT 614.

Commencement of Work

436. Supervision of buildings and works:— Every person who intends to newly erect a building or execute any such work as is described in Section 433, shall erect the building or execute the work in such manner, under such supervision, through such qualified agency, and subject to such conditions and restrictions as may be regulated by the bye-laws.

437. When building or work may be proceeded with:— If within thirty days after receipt of any notice under Section 428 or 433 or of the plan, section, description or further information, if any, called for under Sections 429, 431 or 434 as the case may be, the Commissioner fails to intimate in writing, to the person who has given the said notice, his disapproval of the building which the said person proposes to erect or of the work which he proposes to execute, or if, within the said period the Commissioner signifies in writing to the said person, his approval of the said building or

work, the said person may, at any time within one year from the date of the delivery of the notice to the Commissioner proceed with the said building or work in accordance with his intention as described in the notice or in any of the documents aforesaid, but not so as to contravene any of the provisions of this Act or any bye-law made thereunder.

Commentary

Failure of Commissioner:— Commissioner if fails to intimate disapproval within 30 days of receipt of notice of construction the construction can be commenced. Such a construction is not unauthorised. The Corporation cannot adjudicate on the question of title. 1975 APHN I. Commissioner is not empowered to modify the plan after expiry of 30 days. Commissioner has no power to set back. 1975 ALT 37-1976(1) An. W.R 8.

Demolition:— Mere construction of a building without prior permission of Municipality is not a ground for ordering its demolition under Sec.452. The Commissioner is having discretion under Sec.452 to order demolition of building, if construction is without permission of Municipality. Before issuing show cause notice for demolition Commissioner has to exercise his discretion reasonably according to circumstance. 1978(1) APLJ 59. Un-authorised construction is bar for consideration of original application. 1957 ALT 172. Provisions of the Act do not entitle the Commissioner to decide questions of title. 1957(2) An.W.R 483. Notice of construction of building given to special office of the corporation with plan. If there is no reply from the Commissioner, the party is entitled to take benefit conferred by this section and proceed with construction in accordance with the plan submitted by him. The Special Officer has no power to take action or demolish the building. He can only see whether the building is constructed according to the plan or not submitted by him. The Commissioner has no power to refuse permission on the ground that he has land in excess of the limits of the Urban Land Ceiling and Regulation Act, 1976, 1975 (2) An.W.R 425.

Section 437 gives no right to an applicant to proceed with the erection of the building in accordance with his intention as described in the notice or any of the documents referred to which accrues only when the commissioner fails to intimate in writing to the person given the said notice of his disapproval of the proposed building plan to be erected or out of the work proposed to be executed- 1986 (2) ALT 2 (NRC).

Notice of demolition:— Notice for demolition of additions in the building is mandatory 1988 (1) ALT 239 (NRC).

Deemed sanction:— Even in cases of deemed sanction if the construction of building is contrary to provisions of the Act, Bye-laws and regulations, corporation has power to demolish such illegal constructions.

If the construction is not commenced within a period of one year from the date of "deemed sanction", the deemed sanction itself lapses. The petitioner,

in order to avail of the `deemed' permission has to establish the fact that it commenced the construction within one year of service of notice and if it had not commenced the construction within one year, the petitioner cannot take advantage of the deeming provision. The petitioner, even if it has deemed permission, could not have commenced construction of the building in contravention of the maximum height of buildings as provided under Sections 446 and 447 of *"The Act"* having regard to the fact that Section 437 of "The Act" itself imposes a restriction that it shall not construct the building "so as to contravene any of the provisions of the Act or any other bye-law made thereunder". Therefore, the proposal to construct 1+23 floors and Blocks `B' and `C' of 1+6 floors will be contrary to the provisions of the Act. As already stated, the multistoreyed. Building Regulations also do not permit the construction of the building with more than 1+3 floors in the zone in question.

Apart from the Zoning Regulations, 1981 and Multi-storeyed Building Regulations, 1981 which are applicable to the construction in question restricting the floors to 1+3, Section 437 of "The Act" itself clearly mentions that the deemed sanction is subject to the provisions of the Act and the Bye-laws etc., this is a restriction attached to "deemed sanction" itself, having taken a deemed sanction under a provision, it is not open to the petitioner to say that the restriction imposed to the deemed sanction is not applicable in other words, claiming a deemed sanction under certain stated terms, the petitioner cannot turn round and contend that the terms to which it is subjected to need not be adhered to. Whatever may be the construction put upon by the Civil Court on Section 440(1)(b) of "The Act", the deemed sanction itself is subject to the limitation, one such being sub-section (2) of Section 440 of "The Act" that the construction must commence within the period of one year otherwise it lapses. *3 Aces vs. M.C.H.* 1994 (3) ALT 73. See also *Yaseen Khatoon v. Commissioner, Municipal Corporation of Hyderabad, Hyderabad and another, (C.Y. Somayajulu, J.),* 2005 (3) ALD 779 = 2005 (4) ALT 252 = 2005 (2) LS 243.

Permission is deemed to have been granted when it was not rejected within thirty days. But such deemed provision can be availed of only if a owner of a land makes an application seeking permission for construction of a building by complying all the requirements and when it is legally permissible to construct such a building or making such a modification, and not in each and every case where the applications are made in violation of the building rules or the relevant rules under the Act. *Visakhapatnam Urban Development Authority, Visakhapatnam vs Bharathi R. Darayani and another,* 2002 (3) ALD 84.

Deemed Permission – period of validity :-The deemed permission under Section 437 of the Act is valid for one year. If at all the Builder intends to avail the benefit of the deemed permission, he should complete the construction of the building within one year of the deemed permission. *Arvind L. Abhyankar and etc. vs Municipal Corporation of Hyderabad by its Commissioner and etc.,* AIR 2003 AP 94 = 2002 (5) ALD 763 = 2003 (1) ALT 336.

Guidelines for demolitions:— In *3 Aces vs. M.C.H.*, 1994(3) ALT 73 a Full Bench of the Hon'ble High Court of A.P. lay down the following guidelines to be followed by corporation in respect of illegal constructions. These guidelines are only illustrative and not exhaustive.

(1) In cases where applications have been duly filed in accordance with law, after fulfilling all requirements seeking permissions to construct buildings and permission was also granted by the corporation, the power of demolition should be exercised by the Corporation only if the deviations made during the construction are not in public interest or cause public nuisance or hazardous or dangerous to public safety including the residents therein. If the deviations or violations are minor, minimal or trivial which do not affect public at large, the corporation will not resort to demolition.

(2) Whatever stated in guideline number (1) will also equally apply to the permissions deemed to have been granted under Section 437 of "The Act".

(3) If no application has been filed seeking permission and the construction is made without any permission whatsoever, it is open to the Corporation to demolish and pull down or remove the said unauthorised structure in its discretion. Otherwise, having regard to the facts and circumstances of the case, it will be putting a premium on the unauthorised construction. When the Corporation comes to the conclusion, keeping the above guidelines in view, that the construction in question is required to be demolished or pulled down, it should follow the procedure indicated below:

(i) The demolition should not be resorted to during festival days declared by the State Government as public holidays excluding Sundays. If the festival day declared by the Government as a public holiday falls on a Sunday, on the Sunday also, the Corporation should not resort to demolition.

(ii) In any case, there should not be any demolition after sun set and before sun rise.

(iii) The Corporation should give notice of demolition as required by the statute fixing the date of demolition.

Even on the said date, before actually resorting to the demolition, the Corporation should give reasonable time, depending upon the premises sought to be demolished, for the inmates to withdraw from the premises. If within the time given the inmates do not withdraw, the Corporation may proceed with actual demolition.

Unauthorised construction - action for demolition - delay and laches:– As long as the construction continues to remain illegal and unauthorized, the Corporation has every right to initiate action against a Builder for removal of such illegal and unauthorized construction, and time shall not come in the way of the Corporation to take action for removal of such illegal and unauthorized

constructions, and more particularly when the statute itself did not prescribe any time limit for initiating such action. Therefore, the contention of the Builder that the action of the Corporation suffers from the vice of delay and laches, is incorrect and cannot be sustained. *Arvind L. Abhyankar and etc.* vs *Municipal Corporation of Hyderabad by its Commissioner and etc.,* AIR 2003 AP 94 = 2002 (5) ALD 763 = 2003 (1) ALT 336.

Equities:— A Builder having violated the law, cannot be allowed to claim equities. Allegation that, the Corporation is soft towards professional builders and harsh towards owner turned builder, does mean that the Corporation should not act in accordance with law, and allow the illegalities to be perpetrated. *Arvind L. Abhyankar and etc.* vs *Municipal Corporation of Hyderabad by its Commissioner and etc.,* AIR 2003 AP 94 = 2002 (5) ALD 763 = 2003 (1) ALT 336.

In this context, it is apt to refer to the judgment of the Apex Court in *Chandigarh Administration v. Jagjit Singh,* AIR 1995 SC 705, wherein it was held:

If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/ unwarranted action must be corrected, if it can be done according to law-indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with the law - but even it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law.

Deemed Sanction:— Deemed Sanction contemplated under this section does not mean that it is a licence to construct as we please. Deemed sanction is only to the extent where the plans submitted are in confirmation to the Building & Zonal Regulation. Action can be taken even in case of deemed sanction if there are voilation of Regulations. *BOC India Ltd. vs. Municipal Corporation of Hyderabad,* 1996 (2) ALD 38.

Guidelines issued by Hon'ble High Court to lower Courts:—The Act, Bye-laws and Regulations ensure orderly development of the city and adherence thereto is in larger public interest. Subordinate Courts must maintain a constant vigil and ensure that they are not used as a tool by unscrupulous builders to

violate these laws with impugnity. Therefore, the following appropriate guidelines were issued which the Courts below would be well advised to follow:

1. Exceptional circumstances apart, an *ex parte* ad-interim injunction order should not, ordinarily, be passed. The factors which should weigh with the Court in the grant of an *ex parte* injunction are (a) whether irreparable or serious mischief will ensue to the plaintiff; (b) whether the refusal of *ex parte* injunction would involve greater injustice than the grant of it would involve; (c) the Court will also consider the time at which the plaintiff first had notice of the act complained so that the making of an improper order against a party in his absence is prevented; (d) the Court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant an *ex parte* injunction; (e) the Court would expect a party applying for *ex parte* injunction to show utmost good faith in making the application; (f) even if granted, the *ex parte* injunction should only be for a limited period of time; (g) general principles like *prima facie* case, balance of convenience and irreparable loss would also be considerable by the Court. *(Morgan Stanley Mutual Fund v. Kartick Das,* 1994 (4) SCC 225).
2. Ordinarily, an order of ad-interim injunction is passed to maintain *status quo* with regards the suit schedule property that too only when the tests for grant of such an order are satisfied, the petitioner has approached the Court with clean hands and has made a true and complete disclosure of all relevant facts.
3. While an interlocutory order *of status quo*/injunction restraining municipal authorities from demolishing the building may be justified, an order of injunction enabling them to proceed with construction should, except under special circumstances and for reasons to be recorded in writing, be avoided. Under Order 39, Rule 1 C.P.C, it is only in the event of any of the clauses (a) to (c) thereunder being proved, by affidavit or otherwise, has the Court been conferred the discretion to grant a temporary injunction to restrain such acts or make such other order for the purpose of staying and preventing such acts.
4. Courts should exercise a great degree of care and caution and ensure that the relevant facts are pleaded, and are supported by evidence, before an order of ad-interim injunction, permitting construction/ reconstruction of a building, is passed.
5. The burden lies heavily on the person seeking an order of ad-interim injunction to *prima facie* establish his legal right for such an order and to have complied with all the statutory provisions applicable for construction/ reconstruction of buildings.
6. As no injunction can be passed by a Court permitting a person to violate the law, or to restrain municipal authorities from discharging

their statutory duties/functions, the Court should appraise itself of the relevant statutory provisions and not be swayed entirely by the self-serving pleas and evidence adduced by the person seeking its intervention.

7. It is often noticed that some of the officers of municipalities/ municipal corporations collude with builders and do not bring the relevant legal provisions to the notice of the Court. Their failure would not absolve the Court of its duty to call for the required information from either party to satisfy itself that all statutory provisions for construction/ reconstruction of buildings have been complied with.

8. Even in those exceptional cases, where grant of an ad-interim injunction, enabling construction /reconstruction/alteration of a building, may be necessary, adequate safeguards must be provided in the order itself to ensure that the applicable statutory provisions are not violated in the process of construction/ reconstruction/ alteration of buildings.

9. The order of the Court should not disable municipal authorities from monitoring and ensuring that construction of such buildings is in accordance with the statutory provisions prescribed in the Act, the Bye-laws and the regulations.

10. It must also be borne in mind that orders passed for extraneous considerations may invite disciplinary action against the judicial officers concerned. *Municipal Corporation of Hyderabad, Hyderabad v. Philomena Education Foundation of India, Hyderabad,* 2008 (2) ALD 1 (DB) = 2008 (1) ALT 670 (DB).

438. Building or work which is disapproved by the Commissioner may be proceeded with, subject to terms:— (1) If the Commissioner disapproves of any building or work of which notice has been given as aforesaid or of any portion or detail thereof, by reasons that the same will contravene some provisions of this Act or some bye-laws made thereunder or will be unsafe, he may, at any time within thirty days of the receipt of the notice or of the plan, section, description or further information if any, called for under Sections 429, 431 or 434 as the case may be, by a written notice intimate to the person who gave the notice first hereinbefore in this section mentioned his said disapproval and the reason for the same, and specified terms subject to which the building or work may be deemed to be approved by him.

(2) The person who gave the notice concerning any such building or work may proceed with the same subject to the terms specified as aforesaid but not otherwise, at any time within one year from the date of receipt by him under sub-section (1) of the written notice in this behalf,

but not so as to contravene any of the provisions of this Act or any bye-law made thereunder.

Commentary

Notice of intention to start construction:— Under Section 440 of the Act, any person proposing to make construction shall not make such construction unless he gives a notice of his intention to start the construction after the period prescribed for passing the orders under Sec. 438 expires and he waits for 7 days to commence the proposed construction after such prescribed period. The same position is reiterated in Bye-law No. 6(3) of the Bye-laws. *T.S. Devakaranamma and another v. State of Andhra Pradesh and others,* 2000 (3) ALD 407.

439. Power to the Commissioner to withhold disposal of plans in certain circumstances:— (1) Notwithstanding anything contained in Sections 437 and 438, if in any case it appears to the Commissioner that public improvements, which may render necessary the acquisition of the site of any building or work or any part of such site, are desirable and expedient he may by order in writing direct that no further action shall be taken in pursuance of a notice given under Section 428 or Section 433 for a period not exceeding three months from the date of such notice.

(2) The Commissioner may issue a like order if in any case it appears to him that any site as aforesaid likely to be affected by any one of the following namely:—

(a) determining a regular line of a public street;

(b) determining a fresh line in substitution for the existing regular line of a public street;

(c) extending or altering a public street;

(d) any scheme for widening or modifying a private street.

(3) If within the said period of three months the public improvements referred to in sub-section(1) or any of the matters referred to in sub-section (2) have been given final effect so as to have the result referred to in sub-section (1) or sub-section (2) the notice given under Section 428 or Section 433 shall be deemed to have lapsed.

(4) If any case is not covered by sub-section(3) the notice given under Section 428 or Section 433 shall be deemed to have been renewed as on the date on which the period of three months mentioned in sub-section(1) expired.

440. When work may be commenced:— (1) No person shall commence to erect or re-erect any building or to execute any such work as is described in Section 428.

(a) until he has given notice of his intention as hereinbefore required to erect or re-erect such building or execute such work and the Commissioner has either intimated his approval of such building or work or failed to intimate his disapproval thereof within the period specified in this behalf in Section 437 or 438.

(b) until he has given notice to the City Engineer of the proposed date of commencement, where the commencement does not take place within seven clear days of the date so notified, the notice shall be deemed not to have been given;

(c) after the expiry of the period of one year specified in Sections 437 and 438 respectively, for proceeding with the same.

(2) If a person, who is entitled under Sections 437 and 438 to proceed with any building or work, fails so to do within the period of one year specified in said sections, respectively for proceeding with the same he may at any subsequent time give a fresh notice of his intention to erect or re-erect such building or execute such work, and thereupon the provisions hereinbefore contained shall apply as if such fresh notice were a first notice of such person's intention.

441. Building not be converted to other purposes without the permission of the Commissioner:— No person shall, without the written permission of the Commissioner—

(a) use or permit to be used for human habitation any part of a building not originally constructed or authorised to be used for that purpose; or

(b) convert into, or use, or permit to be used, as a chawl or building intended to form a range or separate rooms for lodgers, a building not originally designed or authorised to be so used.

Commentary

A suit by a private individual for mandatory injunction against a neighbour does not lie merely on the ground that defendant has constructed the building not in accordance with the plan sanctioned by authorities under Hyderabad Municipal Corporation Act. 1973 (2) ALT 8.

442. Buildings of human habitation not to be used as godown, etc.:— No person shall without written permission of the Commissioner or otherwise than in conformity with the terms of such permission use or permit to be used any building or any part of a building originally constructed, or authorised to be used for human habitation as a godown, warehouse, workplace, factory, stable or a motor garage.

443. No alterations to be made in buildings for human habitation without written permission of Commissioner:— No person shall without the written permission of the Commissioner or otherwise than in conformity with the terms of such permission make any alteration or cause any alteration to be made in an existing building originally constructed or authorised to be used for human habitation for the purpose of using it or causing it to be used as a godown, warehouse, workshop, workplace, factory, stable or motor garage.

Provisions as to structure, material etc.

444. Provisions as to buildings which are to be newly erected:— With respect to buildings which are to be newly erected the following provisions shall have effect, namely:—

(a) The erection of any such building on either side of a new street may be disapproved by the Commissioner, unless and until such new street has been levelled, metalled or paved, sewered and drained to the satisfaction of the Commissioner [1][and the drainage betterment charges as fixed by the Commissioner, from time to time, have been paid.]

(b) The erection of any such building in any part of the City in which the position and direction of the streets likely to be required in the future, have not yet been laid down or determined shall, with the assent of the Standing Committee, be disapproved by the Commissioner, unless the site proposed for such building is in the opinion of the Commissioner, such as, with reference to the positions occupied by the buildings, if any, already existing in the neighbourhood, will admit of the construction in the future of one or more new streets convenient for the occupiers of all the buildings in the neighbourhood and for the purposes of drainage, water supply and ventilation :

1. Added by Act 6 of 1984.

Provided that any person whose building is so disapproved may, by written notice to the Commissioner, require that the position and direction of the future streets in the vicinity of his intended building be forthwith laid down and determined, and if such requisition be not complied with within six months from the date thereof, may, subject to all other provisions of this Act applicable thereto, proceed with the erection of his building.

(c) The foundation of any such building shall not be constructed on any site which has been filled up with, or has been used as a place for depositing excrementitious matter or the carcases of dead animals or other filthy or offensive matter, until such matter shall have been properly removed to the satisfaction of the Commissioner.

(d) Every such building intended to be used as dwelling shall be built with a plinth at least two feet above the centre of the nearest street and not below such standard level as may be fixed by the Commissioner in this behalf.

(e) In addition to any means of ventilation required by any bye-law made under this Act every such building intended to be used as a dwelling shall be so constructed that the whole of at least one side of every room thereof shall either be an external wall or abut on an interior open space. Such external wall, except where it faces a street of not less than fifteen feet in width, shall have between it and the boundary line of the owner's premises an open space, extending throughout the entire length of such wall, at least two feet wide or, in the case of a chawl or building intended to form a range of separate rooms for lodgers at least five feet wide. Such interior open space shall have an area equal to not less than one-tenth of the aggregate floor area of all the rooms abutting thereon and shall not be in any direction less than six feet across. And every open space, whether exterior or interior required by this clause, shall be and be kept free from any structure thereon and open to the sky, and shall be kept open to access from each and thereof;

(f) Every room intended to be inhabited in any such building, except a room in the roof thereof, shall be in every part at least ten feet in height from the floor to the ceiling;

(g) Every such room in the roof of any such building shall have an average height of at least eight feet from the floor to the ceiling and a minimum height of not less than four feet;

(h) Every such room shall have a clear superficial area of not less than one hundred square feet;

(i) In addition to any means of ventilation required by any bye-law made under this Act every such room shall be ventilated by means of doors or windows which open directly into the external air and have an aggregate opening equal to not less than one-fourth of the superficial area of the side of the room which faces an open space;

(j) Huts or sheds or ranges or blocks of huts or sheds, whether the same are to be used as dwellings or stables or for any other purpose, shall be built, if the Commissioner thinks fit so to require—

(i) so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Commissioner thinks proper for ventilation and for facilitating scavenging; and

(ii) with such and so many privies, latrines or urinals and such means of drainage as the Commissioner deems necessary; and

(iii) at such a level as will suffice for the means of drainage required by the Commissioner.

445. Roofs and external walls of buildings not to be of inflammable materials:— (1) No external wall and no covering of a roof built or renewed since the coming into force of this Act shall, except with the written permission of the Commissioner, consist of wood, cloth, canvas, grass, leaves, mats or any other inflammable material.

(2) In any external wall or covering of a roof is or has been, since the coming into force of this Act, constructed of any such material, the Commissioner may, by written notice, require the owner or occupier of the buildings to which such wall of roof appertains to remove such wall or covering.

446. Maximum height of buildings:— (1) Except with the written permission of the Commissioner, no building shall be erected or raised to a greater height than seventy feet as measured from the level of the centre of the street in front—

(a) in the case of a pitched roof, up to the tie-beam of the floor; and

(b) in the case of a flat roof up to the surface of the roof.

(2) In the case of the pitched roof, the roof above that height shall rise at an angle of not more than forty-five degrees.

(3) In the case of a flat door, a parapet of not more than three feet in height may be constructed above the maximum height specified in sub-section (1).

447. Height of buildings with reference to width of streets:— Subject to the maximum fixed by Section 446, the height to which a building may be erected or raised shall be regulated by the width of the street on which it abuts, in accordance with the following provisions, namely:—

(1) if the width of the street does not exceed twenty-six feet, the building shall not be erected or raised to a height greater than one and one-half times the width of the street;

(2) if the width of the street exceeds twenty-six feet but does not exceed forty feet, the building shall not be erected or raised to a height greater than forty feet; and

(3) if the width of the street exceeds forty feet, the building shall not be erected or raised to a height greater than the width of such street;

(4) where the building abuts upon more than one street, its height shall be regulated by the wider of such streets so far as it abuts upon such wider street and also, to a distance of eighty feet from such wider street, so far as it abuts upon the narrower of such streets:

Provided that if the face of the building is set back from the street, at any height not exceeding the height specified in sub-section (1), sub-section (2), or sub-section (3), as the case may be, such building may be erected or raised to a height greater than that so specified but not so that any portion of the building shall intersect any of the series of imaginary straight lines drawn from the line of set-back, in the direction of the portion set-back at an angle of forty-five degress with the horizontal.

448. Frame buildings:— After the commencement of this Act no building, the external walls of which are of timber framed construction shall be erected or re-erected so as to consist of more than one ground floor and one upper storey:

Provided that the Commissioner may by special order, grant permission for the erection or re-erection of such a building of more than two storeys or for the construction of one or more additional storeys if satisfied that such building will be or is of thoroughly sound material and construction and can safely support the same.

449. Provision of sufficient means of egress:— Where the Commissioner is of opinion that the means of egress from any building are insufficient to allow of a safe exit in the event of fire, he may, with the approval of the Standing Committee, by written notice require the owner or occupier of the building to alter or reconstruct any existing staircase in such manner or to provide such additional or emergency staircases, as he may determine.

450. Power of Commissioner to cancel permission on the ground of material misrepresentation by applicant:— If at any time after permission to proceed with any building or work has been given, the Commissioner is satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under Section 428 or 433 or if the further information if any, furnished, he may cancel such permission and any work done thereunder shall be deemed to have been done without his permission.

Commentary

The power to cancel permission to build can be exercised where applicant under Sec. 428 for such permission had failed to disclose sanctioned lay out covering his plot and location of sewer line. *Manohar Rao Kulkarni vs. Commissioner, HMC,* 1971(1) An. W.R 313.

Inspection

451. Inspection of buildings in course of erection, alteration etc.:— The Commissioner may at any time during the erection or re-erection of a building or the execution of any such work as is described in Section 433 make an inspection thereof without giving previous notice of his intention so to do.

Commentary

Illegal Constructions:— Any departure from permitting sanction by the Municipality should be treated as having deleterious effect on the health and well being of not only the neighbours but also the public who have a right to use the lane. The tendency of raising unlawful constructions and

unauthorised constructions in the twin cities are required to be dealt with by firm hands. *Om Prakash Gupta and Ors. v. State of A.P. and Ors.*, 1997 (2) ALD 115 = 1997 (1) ALT 397.

452. Proceedings to be taken in respect of building or work commenced contrary to Act or bye-laws:— (1) If the erection of any building or the execution of any such work as is described in Section 433 is commenced or carried out contrary to the provisions of this Act or bye-laws made thereunder, the Commissioner, unless he deems it necessary to take proceedings in respect of such building or work under Section 426 shall—

(a) by written notice, require the person who is erecting or re-erecting such building or executing such work or has erected or re-erected such building or executed such work, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorised by him in that behalf and addressed to the Commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down; or

(b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised by him in that behalf, to show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause as required under Clause (a) or (b) of sub-section (1), to the satisfaction of the Commissioner, why such building or work shall not be removed, altered or pulled down, the Commissioner may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

Commentary

The power conferred on the Commissioner to demolish unauthorised constructions is only in the interests of State, but not for the benefit of any particular individual. It is only discretionary. No writ of mandamus lies for compelling the Commissioner to demolish a building 1970(1) An. W.R. 67.

Procedure:— The Commissioner shall issue a notice to show sufficient cause why such building or work shall not be removed, altered, or pulled down or shall fix a day and direct him to personally or by agent show cause why such building shall not be pulled down. If he fails to show cause, then the Commissioner can pull down and collect the expenses.

Order After Show Cause:— Sub-section (2) of Section 452 laid down that on failure to show cause the Commissioner shall proceed with action to pull down the building. But it does not contemplate passing of an order by the Commissioner. Under Section 654 of the Act no appeal is provided against an order under Sec.452 where as an appeal is provided against an order under Sec.456.

The Commissioner has two alternatives namely:

(1) to proceed under Section 452 (1) or (2) if he decides so to proceed under Section 456. The procedure under Sec. 456 does not contemplate a show cause notice. The notice itself requires the person to pull down the structure. But in Section 452 a show cause notice to show cause why it should not be pulled down is contemplated. After hearing the person what is the duty of the Commissioner? Even if the person show cause and the Commissioner is not satisfied and rejects his explanation there is remedy provided under the Act. It is submitted that under such circumstances the remedy by way of writ under Article 226 of the Constitution of India may be available.

Illegal Constructions:— Any departure from permitting sanction by the Municipality should be treated as having deleterious effect on the health and well being of not only the neighbours but also the public who have a right to use the lane. The tendency of raising unlawful constructions and unauthorised constructions in the twin cities are required to be dealt with by firm hands. *Om Prakash Gupta and Ors. v. State of A.P. and Ors.,* 1997 (2) ALD 115 = 1997 (1) ALT 397.

A bare reading of the provisions of Ss. 428, 433, 435 and 452 of the Act demonstrate that the Corporation is entitled to take all necessary steps for the demolition of any construction made without prior permission. The term 'all such constructions' means and includes any 'additions or alterations' within the meaning of Ss. 428 and 433 of the Act. *N. Suryanarayana and another v. Municipal Corporation of Hyderabad, rep. by its Commissioner, Hyderabad and others,* 1996 (4) ALT 614.

Rights of neighbouring owners :-Private rights are affected, the neighbouring owners of the disputed property can maintain writ petitions seeking *mandamus* against the municipal authorities to see that the disputed structure should be in conformity with the building bye-laws of the local authority. *K. Jawahar Reddy and another vs State of A.P. and others,* 2003 (3) ALD 195 = 2003 (1) ALT 712.

Demolition of Unauthorized structure – notice :- Sections 452 and 636 of the Act empowers the Corporation to take necessary action, in case any construction is made either without permission or in deviation of the sanctioned plan. Where the action under the said provisions entails in demolition,

the Corporation is required to be specific and clear as to the nature of deviation. Vague and uncertain description will make the Notice nebulous not capable of compliance. *Musunuru Rajani vs Vijayawada Municipal Corporation, Vijayawada,* 2005 (3) ALD 87 = 2005 (4) ALT 11 = 2005 AIHC 2823 (AP).

[1][**452-A. Regularisation of violation of floor area of Non-High Rise Buildings:—** Any contravention of Section 452 in respect of Non-High Rise Buildings may be regularized by the Commissioner or any officer authorized by the Commissioner in this behalf to the extent of violated floor area made to the setbacks on each side of each floor except building line upto ten percent of the permissible setbacks, on payment of fine equivalent to one hundred percent of the value of the land as fixed by the Registration Department applicable at the time of regularization in respect of violated floor area subject to the condition that sanctioned plan has already been obtained in each case.]

453. Buildings or works commenced contrary to Act may be cut into and laid open for purpose of inspection:— (1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in Section 452 anything has been done contrary to any provision of this Act or of any rule or bye-law made thereunder or that anything required by any such provision, rule, bye-law to be done has been omitted to be done; and if, on inspecting such building or work, it is found that the same has been completed or is too far advanced to permit of any such fact being ascertained; the Commissioner may, with the approval of the Standing Committee, by a written notice, require the person who has erected or re-erected such building or executed such work to cause so much of the building as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection or re-erection of such building or the execution of such work nothing has been done contrary to any provision of this Act or of any rule or bye-law made thereunder, and that nothing required by any such provision, rule or bye-law to be done has been omitted to be done compensation shall be paid by the Commissioner to the person aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

1. **Inserted by Act No. 9 of 2008, w.r.e.f. 15.12.2007.**

454. Enforcement of provisions concerning buildings and works:— The Commissioner may, at any time, during the erection of a building or the execution of any such work as aforesaid, or at any time within three months after the completion thereof, by written notice specify any matter in respect of which the erection or re-erection of such building or the execution of such work may be in contravention of any provision of this Act or of any rule, or bye-laws made thereunder and require the person erecting or re-erecting or executing or who has erected or re-erected or executed such building or work is not at the time of the notice the owner thereof, the owner of such building or work to cause anything done contrary to any such provision, rule or bye-law to be amended or to do anything which by any such provision, or bye-law may be required to be done but which has been omitted to be done.

Commentary

Action of the Commissioner:— Upon show cause Section 453 lays down the duties of the Commissioner. Before taking action under Sec.453, there must be a reasonable ground to suspect that there is a violation of Act, rule, bye-law or regulation and if on inspection it is found to be completed or advanced too far to permit and ascertainment of that fact, then the Commissioner with the permission of the Standing Committee direct by written notice to cut open, or pull down to that extent to ascertain the contravention. After cutting open, or pulling down it is found that there is no contravention, the Commissioner shall pay compensation to the said person. Thus Section 453 laid down the action of the Commissioner. Section 454 also deals with the action of the commissioner. He may by written notice direct any person who is the owner to amend and do anything to comply with the law, rule or bye-law.

Against deviations from building regulations, neighbours have no right to question them in a suit. If a building is constructed contrary to building rules, the right of the neighbour is only to move the corporation to enforce the Municipal Laws by moving the High Court by a writ of Mandamus against the corporation. 1973(2) ALT 81 = 1972 (2) APLJ 54 (SN). Party applying for permission to construct must disclose facts correctly. The Commissioner is empowered to cancel the permission obtained without disclosing true facts. The fact that subordinate staff visited the spot and failed to point out the defect does not preclude the commissioner to take action for cancellation. Section 450 is exhaustive. *Manohar Rao Kulkarni vs. Commissioner, MCH,* 1971(1) An.W.R 313.

Where the demolition is of unauthorised construction, notice to occupier is not necessary under Calcutta Municipal Corporation Act, 1951. AIR 1991 Calcutta 346.

455. Completion of certificates, permission to occupy or use:— (1) Every person shall, within one month after the completion of the erection or re-erection of building or the execution of any such work as is described in Section 343 deliver or send or cause to be delivered or sent to the Commissioner at his office, a notice in writing of such completion accompanied by a certificate in the form specified in the bye-law signed and subscribed in the manner so specified, and shall give to the Commissioner all necessary facilities for the inspection of such building or of such work and shall apply for permission to occupy the building.

(2) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any work, until:—

(a) permission has been received from the Commissioner in this behalf ; or

(b) the Commissioner has failed for twenty-one days after receipt of the notice of completion to intimate his refusal of the said permission.

[1][**455-A. Regulation of Buildings constructed without sanctioned plan:—** The Commissioner may regularize constructions made without obtaining sanctioned plan, subject to fulfilling the following conditions:

(a) submission of building plans to the competent authority duly paying all categories of fee and charges;

(b) the constuction shall be subject to the condition that all parameters laid down in relevant statutes, Master Plan, Zonal Development Plan, Building Bye-Laws, Building Rules and other relevant Government Orders including Andhra Pradesh Fire Service Act, 1999 and the National Building Code are satisfied;

(c) payment of penalty equivalent to thirty three percent (33%) of the variuos categories of fees and charges payable by the applicant for obtaining building permission in addition to the regular fee and other charges payable.

455-AA. Regulation and penalization of construction of buildings in deviation of sanctioned plan:— Notwithstanding anything in the Act, the Municipal Commissioner may regulate and penalize the

1. Inserted by Act No. 9 of 2008, w.r.e.f. 15.12.2007.

constructions of buildings, made by the owner, or by an individual as the case may be, unauthorisedly or in deviation of the sanctioned plan as on the date of commencement of the Andhra Pradesh Municipal Laws and Urban Areas (Development) (second Amendment) Act, 2008 as a one time measure, as per the procedure and by levying such penal amount as may be prescribed and upon payment of such amount all pending or contemplated proceedings and action of enforcement shall be deemed to have been withdraw and the competent authority shall issue necessary Occupancy Certificate to the owner or the individual as the case may be.]

Dangerous Structures

456. Removal of structures, trees etc., which are in ruins or likely to fall:— (1) If it shall at any time appear to the Commissioner that any structure (including under this expression any building, wall, parapet, payment, floor, steps, railings, door or window frames or shutters or roof, or other structure and anything affixed to or projection from or resting on, any building, wall, parapet or other structure) is in ruinous condition or likely to fall, or is in any way dangerous to any person occupying, resorting to or passing by, such structure or any other structure or place in the neighbourhood thereof, the Commissioner may, by written notice, require the owner or occupier of such structure to do one or more of the following things, namely:—

(i) to pull down,

(ii) to secure,

(iii) to remove, or

(iv) to repair such structure or thing, and to prevent all cause of danger therefrom.

(2) The Commissioner may also, if he thinks fit, require the said owner or occupier by the said notice, either forthwith or before proceedings to pull down, secure, remove or repair the structure or things, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail, if there be room enough for the same the Commissioner shall think the same desirable, to serve as footway for passengers outside of such hoard or fence.

(3) If it appears to the Commissioner that the danger from a structure which is ruinous or about to fall is imminent, he may, before giving notice as aforesaid or before the period of notice expires, fence off, take down, secure or repair the said structure or take such steps or cause work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the Commissioner under sub-section (3) shall be paid by the owner or occupier of the structure.

(5) (a) Where the Commissioner is of opinion whether on receipt of an application or otherwise that the only or the most convenient means by which the owner or occupier of structure such as is referred to in sub-section (1) can pull down, secure, remove or repair such structure, is by entering any of the adjoining premises belonging to some other person the Commissioner after giving such person a reasonable opportunity of stating any objection may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the said owner or occupier to enter such adjoining premises.

(b) Every such order bearing the signature of the Commissioner shall be a sufficient authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the premises reasonable written notice of his intention so to do, to enter upon the said premises with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(c) In executing, any work under this section as little damage as possible shall be done to the adjoining owner's property, and the owner or occupier of premises for the benefit of which the work is done, shall—

(i) cause the work to be executed with the least practicable delay;

(ii) pay compensation to any person who sustains damage by the execution of the said work.

Commentary

Scope:— This section empowers the Commissioner to direct the person to pull down by a notice in writing to pull down, or secure, remove or repair any structure which is dangerous. An appeal lies to the judge against orders passed under this section.

Notice:— A notice under this section must specify the particulars of the building, or part of the building or structure which is considered to be dangerous. 32 IC 841.

Section 12 of the Rent Act and Section 456 of the Hyderabad Municipal Corporation Act operate in different fields and they should be allowed to have their full play. If the landlord wants to make repairs, alterations or additions or wants to have a new building, then only the provisions of Section 12 of the Rent Act attract. *Aswani Desai v. Visakhapatnam Municipal Corporation, Visakhapatnam and another,* 2000 (1) ALD 770 = 2000 (2) ALT 2 = 2000 (2) APLJ 43.

457. Precautions in case of dangerous trees:— (1) If any tree or any branch of a tree or the fruit of any tree be deemed by the Commissioner to be likely to fall and thereby to endanger any person or any structure the Commissioner may by notice require the owner of the said tree to secure, lop or cut down, the said tree so as to prevent any danger therefrom.

(2) If immediate action is necessary the Commissioner may himself before giving such notice or before the period of notice expires secure, lop or cut down the said tree or remove the fruit thereof or fence off a part of any street or take such temporary measures, as he thinks fit, to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree in the manner provided in Section 641.

458. Precautions in case of dangerous tanks, wells, holes etc.:— (1) If any tank, pond, well, hole-stream, dam, bank or other place be deemed by the commissioner to be for want of sufficient repair, protection or enclosure, dangerous to the passers-by or to persons living in the neighbourhood, the Commissioner may by notice require the owner to fill in, remove, repair, protect or enclose the same so as to prevent any danger therefrom.

(2) If immediate action is necessary the Commissioner may himself before giving such notice or before the period of notice expires take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner in the manner provided in Section 641.

459. Opportunity for stating objections:— The Commissioner shall issue a notice under sub-sections (1) and (2) of Section 456, sub-section (1) of Section 457 or sub-section (1) of Section 458, after giving the owner or occupier, as the case may be, a reasonable opportunity of stating any objection and adducing evidence, if any, and after being satisfied that the objection which is raised is invalid or insufficient.

460. Periodic inspection of buildings:— (1) It shall be incumbent on the owner of every building to maintain every part thereof and everything appurtenant thereto in such repair as to prevent its becoming dangerous.

(2) The Commissioner may, by written notice require the owner of any building to get the building inspected at such intervals and in such manner as may be specified in the bye-laws.

(3) The owner shall within two months of an inspection under sub-section (2) undertake such repairs as the inspection shall show to be necessary for the purpose of securing the stability of the structure within the meaning of Section 456 after complying with all the provisions of this Act and the rules and bye-laws in regard to such repairs and shall, on completion of such repairs, submit to the Commissioner a certificate signed by the person who made the inspection, of his having carried out the repairs satisfactorily.

(4) A report of every inspection made, under sub-section (2) shall forthwith be submitted to the Commissioner by the person who carried it out and the Commissioner may take such action in respect of such building as he deems fit under this section or under any other provision of this Act if the owner fails to comply with the requirements of sub-section (3).

(5) The expenses incurred by the Commissioner under sub-section (4) shall be paid by the owner.

Works unlawfully carried on

461. Powers of Commissioner to direct removal of person directing unlawful work:— (1) If the Commissioner is satisfied that the erection or re-erection of any building or the execution of any such work as is described in Section 433 has been unlawfully commenced or is being unlawfully carried on upon any premises he may, by written notice, require the person directing or carrying on such erection or re-erection or execution of work to stop the same forthwith.

(2) If such erection or re-erection or execution of work is not stopped forthwith, the Commissioner may direct that any person directing or carrying on such erection or re-erection or execution of work shall be removed from such premises by any police officer and may cause such steps to be taken as he may consider necessary to prevent the re-entry of such person on the premises without his permission.

(3) The cost of any measures taken under sub-section (2) shall be paid by the said person.

[1][(4) Notwithstanding anything contained in the Act, any person who, whether at his own instance or at the instance of any other person or any body including a department of the Government undertakes or carries out construction or development of any and in contravention of the statutory master plan or without permission, approval or sanction or in contravention of any condition subject to which such permissin, approval or sanction has been granted shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to ten percent of the value of land or building including land in question as fixed by the Registration Department at the time of using the land or building. Provided that the fine imposed shall, in no case be less than fifty percent of the said amount.]

Commentary

Third party interest :-Demolition of Unauthorised constructions cannot be challenged on ground that third party interests were created and that any coercive action to demolish the building, would make them suffer irreparable loss. Merely because third parties purchased the flats by spending their hard earned money and life savings, it does not mean that their interests should be safeguarded even at the cost of illegalities. *Arvind L. Abhyankar and etc. vs Municipal Corporation of Hyderabad by its Commissioner and etc.,* AIR 2003 AP 94 = 2002 (5) ALD 763 = 2003 (1) ALT 336.

In this context, it would be apposite to refer to a Full Bench decision of this Court in *3 Aces v. M.C.H.,* (1995) 1 Andh LD 1 : (AIR 1995 Andh Pra 17), wherein the Full Bench placing reliance on the decision of the Apex Court in *Pratibha Co-operative Housing Society Ltd. vs State of Maharashtra,* AIR 1991 SC 1453, observed that it cannot as a matter of law be held that where the interests of third party are involved, the power of demolition cannot be resorted to and that it was open to the Corporation to pull down, remove or demolish the unauthorized structures in its discretion, as otherwise it would amount to putting a premium on such unauthorized constructions. However, having regard to the power of the Corporation under Section 452 of the Act, it was observed that the demolition of the building for contravention of the law has to be exercised keeping in view the facts and circumstances of each case. The Supreme Court in *Pratibha Co-operative Housing Society Limited vs State of Maharashtra,* AIR 1991 SC 1453 while parting with the case, observed:

1. **Inserted by Act No. 6 of 2008.**

. . . . . .this case should be a pointer to all the builders that making of unauthorised constructions never plays and is against the interest of the society at large. The rules, regulations and bye-laws are made by the Corporations or development authorities taking in view the larger public interest of the society and it is the bounden duty of the citizens to obey and follow such rules which are made for their own benefits.

[1][**461-A. Powers to seal unauthorized construction/development of premises:—** (1) It shall be lawful for the Commissioner, at any time, before or after making an order for the removal or discontinuance of any unauthorized development or construction under Section 461, to make an order directing the sealing of such development or property or taking the assistance of police, for the purpose of carrying out the provisions of the Act.

(2) Where any development or property has been sealed, the Commissioner, may, for the purpose of removing or discontinuing such development or property, order such seal to be removed.

(3) No person shall remove such seal except, -

(a) under an order made by the Commissioner, or

(b) under an order of the Appellate Tribunal on the appeal made in this behalf.]

462. Powers of Commissioner to cause any building to be vacated in certain circumstances:— (1) Notwithstanding the provisions of any other law to the contrary, the Commissioner may, by written notice, order any building or any portion thereof to be vacated forthwith or within the time specified in such notice—

(a) if such building or portion thereof has been unlawfully occupied in contravention of Section 455;

(b) if a notice has been issued in respect of such building or part thereof requiring the alteration or re-construction of any existing staircase, lobby, passage, or landing and the works specified in such notice have not yet been commenced or completed;

(c) if the building or part thereof is in a ruinous or dangerous condition within the meaning of Section 456.

(2) In every such notice the Commissioner shall clearly specify the reasons for requiring such building or portion thereof to be vacated.

1. Inserted by Act No. 6 of 2008.

(3) The affixing of such written notice on any part of such premises shall be deemed a sufficient notice to the occupiers of such building or portion thereof.

(4) On the issue of a notice under sub-section (1) every person in occupation of the building or portion thereof to which the notice relates shall vacate such building or portion as directed in the notice and no person shall, so long as the notice is not withdrawn, enter the building or portion thereof except for the purpose of carrying out any work which he may lawfully carry out.

(5) The Commissioner may direct that any person who acts in contravention of sub-section (4) shall be removed from such building or part thereof by any police officer.

(6) The Commissioner shall, on the application of any person who has vacated any premises in pursuance of a notice under sub-section (1), reinstate such person in the premises on the withdrawal of such notice, unless it is in his opinion impracticable to restore substantially the same terms of occupation by reason of any structural alterations or demolition.

(7) The Commissioner may direct the removal from the said premises by any police officer of any person who obstructs him in any action taken under sub-section (6) and may also use such force as is reasonable and necessary to effect entry in the premises.

463. Power to regulate future construction of certain classes of buildings in particular streets or localities:— (1) The Commissioner may give public notice of his intention to declare, subject to any valid objection that may be preferred within a period of three months—

(a) that in any street or portion of street specified in such notice the elevation and construction or the frontage or all buildings or any classes of buildings thereafter erected or re-erected shall in respect of their architectural features be such as the Corporation may consider suitable to the locality;

(b) that in any localities specified in the notice there shall be allowed the construction of only detached or semi-detached buildings or both and that the land appurtenant to each such building shall be of an area not less than that specified in such notice;

(c) that the minimum size of building plots in particular localities shall be of a specified area:

(d) that in any localities specified in the notice, the construction of more than a specified number of houses on each acre of land shall not be allowed; or

(e) that in any street, portion of street or locality specified in such notice, the construction of shops, warehouses, factories, huts or buildings designed for particular uses shall not be allowed, without the special permission of the Commissioner granted in accordance with general regulations framed by the Standing Committee in this behalf and subject to the terms of such permission only.

(2) The Standing Committee shall consider all objections received within a period of three months from the publication of such notice, and shall then submit the notice with a statement of objections received and of its opinion thereon to the Corporation.

(3) No objection received after the said period of three months shall be considered.

(4) Within a period of two months after the receipt of the same the Corporation shall submit all the documents referred to in sub-section (2) with a statement of its opinion thereon to Government.

(5) Government may pass such orders with respect to such declaration as it may think fit:

Provided that such declaration shall not thereby, be made applicable to any street, portion of a street or locality not specified in the notice issued under sub-section (1).

(6) The declaration as confirmed or modified by the Government shall be published in the [1][Andhra Pradesh Gazette] and shall take effect from the date of such publication.

(7) No person shall erect or re-erect any building in contravention of such declaration.

1. Subs. by Act No. 5 of 1969.

[1][CHAPTER XII-A

Special provisions relating to Development and Maintenance of Major Civic Infrastructure

463-A. Power of Corporation to levy external betterment charges:— (1) It shall be lawful for the Corporation to levy and collect external betterment charges at the time of according approval to the layouts or sub-divisions of a plot or issue of building permit for the purpose of providing or maintaining major arterial roads, lung spaces and other major civic infrastructure :

Provided that such charges shall not be levied in case of the lay-outs which were finally released as on the 10th March, 1986 and also for residential buildings whose plot area does not exceed 200 sq. mts.:

Provided further that no such charges shall be levied and collected in respect of lay-outs or buildings taken up in notified slums. Such charges shall, however, be collected once the slum is denotified.

(2) The external betterment charges shall not exceed thirty per cent of betterment charges being collected by the Corporation as per the Municipal Corporation of Hyderabad (lay-out) Rules, 1965.

Explanation:— For the purposes of this sub-section betterment charges shall include the charges fixed by Corporation on various types of buildings area-wise from time to time.

(3) The Corporation shall issue detailed guidelines for levy and collection of external betterment charges and for utilisation of amounts so collected.]

CHAPTER XIII

(Sections from 464 to 479)

Repealed by Section 61 of the Andhra Pradesh Urban Areas Development Act, 1975

1. Inserted by Act 23 of 1994, w.e.f. 10.03.1986.

CHAPTER XIV
Sanitary provisions

Scavenging and cleansing

480. Commissioner to provide for cleansing of streets and removal of refuse:— For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Commissioner shall take measures for securing—

(a) the daily surface cleaning of all streets in the City and the removal of the sweeping therefrom;

(b) the removal of the contents of all receptacles and depots of the accumulations at all places provided or appointed by him under Section 484 or 485 for the temporary deposit of any of the matters specified in the said sections.

481. Refuse, etc., to be the property of the Corporation:— All matters collected by municipal servants or contractors in pursuance of the last preceding section and of Section 484 shall be the property of the Corporation.

482. Provisions and appointment of receptacles, depots and places for refuse, etc.:— The Commissioner shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit of final disposal of—

(a) dust, ashes, refuse and rubbish;

(b) trade refuse;

(c) carcasses of dead animals, and excrementitious and polluted matter;

Provided that—

(i) the said matters shall not be finally disposed of, in any place or manner in which the same have not heretofore been so disposed of, without the Corporation or in any place or manner which the Government think fit to disallow;

(ii) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

483. Duty of owners and occupiers to collect and deposit dust, etc.:— (1) It shall be incumbent on the owners and occupiers of all premises to cause all dust, ashes, refuse, rubbish and trade refuse to be collected from their respective premises and to be deposited at such times as the Commissioner, by public notice from time to time specifies, in the public receptacle, depot or place provided or appointed under the last preceding section or the temporary deposit or final disposal thereof.

(2) The Commissioner may, if he thinks fit, by written notice require the occupier and owner or either of them of any premises to cause all dust, ashes, refuse and rubbish, but not trade refuse to be collected daily, or otherwise periodically, from the said premises and deposited temporarily upon any place forming part of the said premises which the Commissioner appoints in this behalf, and it shall be incumbent on the said occupier and owner or either of them to cause the said matters to be collected and deposited accordingly.

(3) It shall be incumbent on the owners of all premises to provide receptacles of a size to be specified by the Commissioner for the collection therein of all dust, ashes, refuse, rubbish and trade refuse to be collected from such premises. Such receptacles shall at all times be kept in good repair and condition and shall be provided in such number and place and retained in such positions as the Commissioner may, from time to time, by written notice, direct.

(4) It shall also be incumbent on the owners and occupiers or either of them of all premises when required by the Commissioner by written notice so to do, to employ servants for the purpose of carrying out and complying with the requirements of sub-sections (1) and (2) of this section.

484. Provision may be made by the Commissioner for collection, etc., of excrementitious and polluted matter:— [1][(1)] When the Commissioner has given public notice, under clause (a) of sub-section (1) of Section 201, of his intention to provide in a certain portion of the city for the collection, removal and disposal by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools,

1. Section 484 renumbered as sub-sec. (1) by Act 11 of 1999, w.e.f. 20.04.1999.

it shall be lawful for the Commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situated and the said portion of the city.

[1][(2) Even after the Commissioner has taken such measure under sub-section (1), if any person commits defecation, urination or spitting in open public places shall, on conviction, be punishable with imprisonment which may extend to one month or with fine which may extend to five thousand rupees].

485. Collection and removal of excrementitious and polluted matters when to be provided for by occupiers:— It shall be incumbent on the occupier of any premises situated in any portion of the city for which the Commissioner has not given a public notice under Clause (a) of sub-section (1) of Section 201 and in which there is neither a water closet nor privy connected with a [2][Board sewer], to cause all excrementitious and polluted matter accumulating upon his premises to be conveyed to the nearest receptacle or depot provided for this purpose under clause (b) of Section 482, at such times, in such vehicle or vessel, by such route and with such precautions, as the Commissioner by public notice from time to time specifies.

486. Scavengers duties in certain cases may not be discharged by private individuals without the Commissioner's permission:— In any portion of the city in which the Commissioner has given a public notice under clause (a) of sub-section (1) of Section 201, and in any premises wherever situated in which there is a water-closet or privy connected with a [2][Board sewer], it shall not be lawful, except with the written permission of the Commissioner, for any person who is not employed by or on behalf of the Commissioner, to discharge any of the duties of scavengers.

487. Prohibition of failure to remove refuse, etc., when bound to do so:— [3][(1)] No person:—

(a) who is bound, under Section 483 or Section 485 to cause the removal of dust, ashes, refuse, rubbish and trade refuse or of

1. Sub-section (2) added by Act No. 11 of 1999 w.e.f. 20.04.1999.
2. Subs. for the words "Municipal Drain" by Act No. 6 of 1982, The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.
3. Section 487 renumbered as sub-sec. (1) by Act 11 of 1999, w.e.f. 20.04.1999.

excrementitious or polluted matter, shall allow the same to accumulate on his premises for more than twenty-four hours or neglect to cause the same to be removed to the depot, receptacle or place provided or appointed for the purpose;

(b) shall remove any dust, ashes, refuse, rubbish or trade refuse or any excrementitious or polluted matter, otherwise than in conformity with the requirements of any public or written notice at the time in force under Sec. 483 or use for the removal of any excrementitious or polluted matter any vehicle or vessel not having covering proper for preventing the escape of any portion of the contents thereof or of the stench therefrom;

(c) shall, whilst engaged, in the removal of any dust, ashes, refuse, rubbish or trade refuse, or of any excrementitious or polluted matter, fail forthwith thoroughly to sweep and cleanse the spot in any street upon which, during removal any portion thereof may fall and entirely to remove these sweepings;

(d) shall place or set down in any street any vehicle or vessel for the removal of excrementitious or polluted matter or suffer the same to remain in any street for any greater length of time than is reasonably necessary;

(e) shall throw or place any dust, ashes, refuse, rubbish or trade refuse or any excrementitious or polluted matter on any street or in any place not provided or appointed for this purpose under Section 482 or 483;

(f) who is the owner or occupier of any building or land, shall allow any filthy matter to flow, soak or be thrown therefrom or keep or suffer to be kept therein or thereupon anything so as to be nuisance to any person, or negligently suffer any privy-receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health.

[1][(2) Whoever, contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees].

1. Sub-sec. (2) added by Act No.11 of 1999 w.e.f. 20.04.1999.

488. Presumptions as to offender under [1][Cl. (e) of sub-section (1) of Section 487]:— If it shall in any case be shown that dust, ashes, refuse, rubbish or trade effluent or any excrementitious or polluted matter has or have been thrown or placed on any street or place, in contravention of [1][Clause (e) of sub-sec. (1) of Sec. 487], from some premises, it shall be presumed, until the contrary is proved, that the said offence has been committed by the occupier of the said premises.

489. Removal of rubbish and filth accumulating in large quantities on premises:— (1) If any person who is bound under Section 483 to cause the collection and deposit of dust, ashes, refuse, rubbish and trade effluent or under Section 483 to cause the collection and removal of excrementitious and polluted matter shall allow the same to accumulate on his premises for more than twenty hours or shall keep the same otherwise than in a proper receptacle, or shall neglect to cause the same to be removed to the receptacle, depot or place provided or appointed for the purpose, the Commissioner, may in addition to the institution of any proceedings provided for in this Act, by written notice require such person to collect forthwith all such dust, ashes, refuse, rubbish, trade effluent or excrementitious or polluted matter accumulated thereon and remove the same forthwith in the manner and to place provided by or under this Act.

(2) If such person shall fail to comply with the notice given under sub-section (1), the Commissioner may cause, the dust, ashes, refuse, rubbish and trade effluent or excrementitious or polluted matter accumulated in such premises to be removed [2][and a penalty not exceeding one thousand rupees as the Commissioner may fix,] shall be paid by such person towards the cost of removal.

Commentary

Charges for lifting, transporting and dumping waste material generated from the premises :-Section 489 does not contemplate or empower the Commissioner to levy and collect any amounts towards administrative charges for lifting, transporting and dumping the waste in dumping yards. Such Charges are in the nature of 'conservancy tax', if allowed, would amounts to levy and collection for the second time - once as property tax, and again in the present form.

1. Subs. for the words "Clause (e) of Section 487" by Act No. 11 of 1999, w.e.f. 20.04.1999.
2. Subs. for the words "and such charge as the Commissioner may, with the sanction of Standing Committee fix" by *Ibid.*

Further, Section 199 clearly shows that the property tax collected in respect of the premises includes conservancy tax. *Laxmi Lodge, Warangal and others vs Government of A.P. and another,* 2002 (6) ALD 605 = 2003 (1) ALT 30 = 2002 (3) LS 389.

490. Contract with owner or occupier for removal of rubbish or filth:— The Commissioner may contract with the owner or occupier of any premises to remove rubbish or filth from such premises on such terms as to time and period of removal and other matters as may seem suitable to the Commissioner, and on payment of fees at such rate as the Corporation may determine.

491. Special sanitary arrangement at certain place:— (1) The Commissioner shall make such special arrangements, whether permanent or temporary, as he considers adequate, for maintaining sanitation in the vicinity of any temple, mutt, mosque, tomb or any place of religious worship or institution to which large number of persons resort on particular occasions or in any place which is used for holding fairs or festivals.

(2) The Commissioner may require any person having control over any such place as aforesaid to pay to the Corporation such contribution towards the cost of the special measures taken under sub-section (1) as the Corporation may, from time to time, fix.

Inspection and sanitary regulation of premises

492. Power to inspect premises for sanitary purposes:— The Commissioner may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

493. Repair, cleansing and lime-washing of any building may be required:— If it shall appear to the Commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected to cause the same or some portion thereof to be repaired or limewashed or otherwise cleansed, either externally or internally, or both externally and internally.

494. Removal of building material from any premises may be required:— If it shall appear to the Commissioner that any tiles, stones, rafters, building materials or debris of building materials are stored or collected in or upon any premises without the written permission of the Commissioner in such quantity or bulk or in such way as to constitute a harbourage or breeding place for rats or other vermin or otherwise a source of danger or nuisance to the occupiers of the said premises

or to persons residing in the neighbourhood thereof, the Commissioner may, by written notice require the owner of such premises, or the owner of the materials or debris so stored or collected therein, to remove or dispose of the same or to take such order with the same as shall in the opinion of the Commissioner be necessary or expedient to abate the nuisance or prevent a recurrence thereof.

495. Abandoned or unoccupied premises:— If any premises by reason of their being abandoned or unoccupied, become a resort of disorderly persons or in the opinion of the Commissioner, a nuisance, the Commissioner, after such inquiry as he deems necessary, may give written notice to the owner of such premises, if he be known and resident within the city or to any person who is known or believed to claim to be the owner, if such person is resident within the city and shall also affix a copy of the said notice on some conspicuous part of the said premises, requiring all persons having any right of property or interest therein to take such order with the said premises as shall in the opinion of the Commissioner be necessary to prevent the same from being resorted to as aforesaid or from continuing to be a nuisance.

496. Neglected premises:— If it shall appear to the Commissioner that any premises are overgrown with rank and noisome vegetation or, are otherwise in an unwholesome or filth condition or by reason of their not being properly enclosed, or resorted to by the public for purposes of nature, or are otherwise a nuisance to the neighbouring inhabitants, the Commissioner may, by written notice, require the owner or occupier of such premises to cleanse, clear or enclose the same, or with the approval of the Standing Committee may require him to take such other order with the same as the Commissioner thinks necessary.

(2) If it shall appear to the Commissioner that any private street is overgrown with rank and noisome vegetation or is otherwise in an unwholesome or filthy condition, the Commissioner may, by written notice require the owners of the several premises fronting or adjoining the said street or abutting thereon to cleanse or clear the same, or with the approval of the Standing Committee require them to take such other order with the same as the Commissioner may think necessary, provided that nothing herein contained shall affect the provision of Section 480 :

Provided that in so far as unwholesome or filthy condition of such premises or such street or such nuisance as above mentioned is caused by the discharge from or by any defect in the municipal drains or appliances

connected therewith, it shall be incumbent on the Commissioner to cleanse such premises or such street.

497. Nuisance arising from defective roof:— (1) If it shall appear to the Commissioner that building or any part of a building is in such a state as to constitute a nuisance or to be likely to give rise to one, by reason of rain-water leaking from its roof or any part of its roof, the Commissioner may give a notice in writing to the owner of such building requiring him to abate the nuisance or to prevent its recurrence within the time and by taking the measures and doing the acts to be specified in the notice.

(2) If at any time thereafter the Commissioner is of opinion that such a nuisance may recur he may notwithstanding that the original nuisance may have been abated by the owner of the building under sub-section (1), give a further notice in writing to the said owner requiring him to abate the probable recurrence of the nuisance within the time and in the manner specified in the notice.

(3) If the owner of the building by whose act, default or sufferance such nuisance has arisen or continues is unknown or cannot be found, the Commissioner may take such measures or cause such work to be executed or such things to be done as shall in his opinion be necessary to abate such nuisance and to prevent its recurrence.

498. Powers with reference to insanitary buildings:— (1) Whenever the Commissioner considers—

(a) that any building or portion thereof is, by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation or by reason of the impracticability of cleansing, attended with danger of disease to the occupiers thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety; or

(b) that a block or group of buildings is for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid he may, by notice require the owners or occupiers of such buildings or portions of buildings or at his option, the owner of the land occupied by such buildings, or portions of buildings to execute such works

or to take such measures as he may deem necessary for the prevention of such danger.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this section save when a building is demolished in pursuance of an order made hereunder, or so far demolished as to require reconstruction, in which case the Corporation shall make reasonable compensation to the owner thereof.

(3) When any building is entirely demolished under this section and the demolition thereof adds to the value of other buildings in the immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the first-named building in such proportion to the increased value acquired by their respective buildings as may be determined by the Commissioner with the approval of the Standing Committee.

(4) When any building is so far demolished under this section as to require reconstruction, allowance shall be made in determining the compensation, for the benefit accruing to the premises from the improvement thereof.

499. Buildings unfit for human habitation:— (1) If any building, or portion thereof, intended for or used as a dwelling place appears to the Commissioner to be unfit for human habitation, he may apply to the Standing Committee to prohibit the further use of such building for such purpose, and the Standing Committee may, after giving the owner and occupiers thereof a reasonable opportunity of showing cause why such orders should not be made, make a prohibitory order as aforesaid.

(2) When any such prohibitory order has been made, the Commissioner shall communicate the purport thereof to the owner and occupiers of the building and on expiry of such period as specified in the notice, not being less than thirty days after the service of the notice, no owner or occupier shall use or suffer it to be used for human habitation until the Commissioner certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or the Standing Committee withdraws the prohibition.

(3) When such prohibitory order has remained in operation for three months the Commissioner shall report the case to the Standing Committee

which shall thereupon consider whether the building should not be demolished. The Standing Committee shall give the owner not less than thirty days notice of the time and place at which the question will be considered and the owner shall be entitled to be heard when the question is taken into consideration.

(4) If upon such consideration the Standing Committee is of opinion that the building has not been rendered fit for human habitation and the steps are not being taken with due diligence to render it so fit and that the continuance thereof is a nuisance or dangerous or injurious to the health of the public or to the inhabitants of the neighbourhood it shall record a decision to that effect, with the grounds of the decision, and the Commissioner shall in pursuance of the said decision by notice require the owner to demolish the building.

(5) If the owner undertakes to execute forthwith the works necessary to render the building fit for human habitation and the Commissioner considers that it can be so made fit, the Commissioner may postpone the execution of the decision of the Standing Committee, for such time not exceeding six months, as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

500. Power of Commissioner to call for statement of accommodation:— (1) The owner of a building shall, within a period of fifteen days after receipt of written notice from the Commissioner, sign and give a certificate of the following particulars with respect to such building or any part thereof:—

(a) the total number of rooms in the building.

(b) the length, breadth and height of each room, and

(c) the name of the person to whom he has let the building or each part of the building occupied as a separate tenement.

(2) The occupier of a building or of any part of a building occupied as a separate tenement shall, on like notice, and within the like period, sign and give a certificate of the following particulars with respect to such building or part of such building as aforesaid which is in his occupation:—

(a) the total number of persons dwelling in the building or any part of it ;

(b) the number of persons using each room by day and by night; and

(c) the number, sex and age of the occupants of each room used for sleeping.

501. Overcrowded dwelling:— (1) Where it appears to the Commissioner, whether from any certificate furnished under Section 500 or otherwise, that any building or any room or rooms therein used for human habitation is overcrowded, he may apply to a Magistrate to prevent such overcrowding and the said Magistrate after such inquiry as he thinks fit to make may fix the maximum number of persons to be accommodated in each room and may, by written order, require the owner of the building within a reasonable time not exceeding ten days to be fixed in the said order, to abate the overcrowding thereof by reducing the number of lodgers, tenants or other inmates of the said building or room or rooms, in accordance with the maximum so fixed and to the satisfaction of the Commissioner or may pass such other order as he may deem just and proper.

(2) Where the owner of the said building has sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the said building.

(3) Every tenant, lodger or other inmate of the said building shall vacate on being required by the owner so to do in pursuance of any order under sub-section (1).

(4) A room used exclusively as a dwelling shall be deemed to be overcrowded within the meaning of this section when the number of adult inmates is such that the amount of floor space available for each adult inmate is less than twenty-five superficial feet and for each person under the age of ten years less than twelve and one-half superficial feet or when the air space for each adult inmate is less than two hundred and fifty cubic feet, two children under ten years of age counting as one adult.

(5) A room not exclusively used as a dwelling shall be deemed to be overcrowded within the meaning of this section when the number of adult inmates is such that the amount of floor space available for each adult inmate is less than thirty superficial feet, and for each under the age of ten years less than fifteen superficial feet, or when the air space for each adult inmate is less than three hundred cubic feet, two children under ten years of age counting as one adult.

502. Insanitary huts and sheds:— If the Commissioner is of opinion that any hut or shed, used either as a dwelling or as a stable or for any other purpose, is likely by reason of its being built without a plinth or upon a plinth of sufficient height or without proper means of drainage, or on account of the impracticability of scavenging or owing to the manner in which it and other huts and sheds are crowded together to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety, he may, by written notice, which shall be affixed to some conspicuous part of such hut or shed, require the owner or occupier thereof, or the owner of the land on which such hut or shed stands, to remove or alter such hut or to take such order for the improvement thereof as the Commissioner shall deem necessary.

503. Measures against rats, etc., may be required in respect of premises used for storage of goods:— Where it appears to the Commissioner that any building or part thereof used for the storage of goods is used in such manner as to afford harbourage to rats, mice or other animals susceptible to plague or other vermin, he may require the owner or occupier by written notice to take such steps for the destruction of rats, mice or other animals or other vermin as are specified in the notice or to carry out such works as will render the wall and floors of such building or part of a building of roof against such infestation.

504. Fillings in of pools, etc., which are a nuisance:— (1) (i) For the purposes of this section, a nuisance shall include—

(a) any pool, ditch, tank, well, pond, quarry, hole, drain, watercourse or any collection of water;

(b) any cistern or other receptacle of water or any article or thing capable of collecting rain-water during the monsoon season whether within or outside a building;

(c) any land on which water accumulates or is likely to accumulate; or

(d) any premises or any part of any premises occupied or unoccupied, or under construction, reconstruction or demolition, which in the opinion of the Commissioner is, or is likely to become a breeding place of mosquitoes or which is, in any other respect, a nuisance as defined in Clause 35 of Section 2.

(ii) The Commissioner may by notice in writing, require the person by whose act, default or sufferances, a nuisance arises, exists or continues, or is likely to arise and the owner, lessee and occupier of the land, building or premises on which the nuisance arises, or continues or is likely to arise or any one or more of such persons, by taking such measures and by executing such work in such manner and within such period of time as the Commissioner shall specify in such notice.

(iii) The Commissioner may also by notice under clause (ii) or by another notice, served on such person, owner, lessee and occupier, require them, or any one or more of them, to take all steps requisite or necessary to prevent a recurrence of the nuisance and may, if he thinks it desirable, specify any work to be executed or measures to be carried out for that purpose, and may serve any such further notice notwithstanding that the nuisance may have been abated or removed if he considers that it is likely to recur:

Provided that if at any time within four months from the date of the service of any such notice, the nuisance recurs through the failure of the person or persons upon whom such notice has been served to comply with the requirements contained in such notice, such person or persons shall be liable without any further notice to the penalties provided in this Act for offences under this section.

(iv) Where the nuisance arises or exists or is likely to arise or recur in connection with the construction, re-construction or demolition of any premises, or any part of any premises, the Commissioner may in addition to serving any notice on any one or more of the persons mentioned in clause (ii) serve any such notice on any architect, contractor or other person employed to carry out such work of construction, re-construction or demolition and also on any sub-contractor employed by such contractor or other person, or any one or more of such contractors, persons and sub-contractors.

(2) If any person who, by a requisition made under sub-section (1), is required to fill up, cover over or drain off a well delivers to the Commissioner, within the time prescribed for compliance therewith, written objections to such requisition, the Commissioner shall report such objections

to such Standing Committee and shall make further inquiry into the case, and he shall not institute any prosecution under Section 523 for failure to comply with such requisition except with the approval of the Standing Committee, but the Commissioner may nevertheless, if he deems the execution of the work called for by such requisition to be of urgent importance, proceed in accordance with Section 639 and pending the Standing Committee's disposal of the question whether the said well shall be permanently filled up, covered over or otherwise dealt with may cause such well to be securely covered over, so as to prevent the ingress of mosquitoes, and in every such case the Commissioner shall determine, with the approval of the Standing Committee, whether the expenses of any work already done as aforesaid shall be paid by such person, or by the Commissioner out of the Municipal Fund or shall be shared, and, if so, in what proportions.

[1][**504-A. Regulation or prohibition of certain kinds of cultivation:—** The Commissioner may on the report of the Medical Officer of Health that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any place within the limits of the city is injurious to the public health, by public notice, regulate or prohibit the cultivation, use of manure, or irrigation so reported to be injurious:

Provided that when such cultivation or irrigation has been practised during the five years preceding the date of such public notice, with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested, for any damage caused to them by absolute prohibition].

505. Permission for new well, etc.:— (1) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Commissioner.

(2) If any such work is begun or completed without such permission the Commissioner may either—

(a) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Commissioner shall determine, or

1. Inserted by Act 27 of 1984.

(b) grant written permission to retain such work but such permission shall not exempt such owner from proceedings for contravening the provisions of sub-section (1).

506. Power to order cleansing of insanitary private water source, spring, tank, well, etc., used for drinking:— (1) The Commissioner may by written notice require the owner of, or person having control over, any private water source, spring, tank, well or other place the water of which is used for drinking, bathing or washing clothes to keep the same in good repair, to cleanse it in such manner as the Commissioner may direct and protect it from pollution caused by surface drainage or other matter in such manner as may be provided in the notice.

(2) If the water of any private tank, well or other place which is used for drinking, bathing or washing clothes, as the case may be, is proved, to the satisfaction of the Commissioner to be unfit for that purpose, the Commissioner may by notice require the owner or person having control thereof to—

(a) refrain from using or permitting the use of such water; or

(b) close or fill up such place or enclose it with a substantial wall or fence.

507. Duty of Commissioner in respect of public well or receptacle of stagnant water:— If it appears to the Commissioner that any public well or receptacle of stagnant water is likely to be injurious to health or offensive to the neighbourhood he shall cause the same to be cleansed, drained or filled up.

508. Dangerous quarrying may be stopped:— If, in the opinion of the Commissioner, the working of any quarry, or the removal of stone, earth or other material from any place, is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the Commissioner may with the approval of the Standing Committee, by written notice, require the owner of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place, or to take such order with such quarry or place, as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

509. Removal and trimming of trees, shrubs and hedges:— (1) If in the opinion of the Commissioner,—

(a) any hedge is at any time insufficiently cut or trimmed, or overgrown, with prickly pear or other rank of vegetation; or

(b) any tree or shrub has fallen or is likely to fall, to the danger of public safety, or overhangs or obstructs any street to the inconvenience or danger of passengers therein;

the Commissioner may, by written notice, require the owner or occupier of the land on which such hedge, tree or shrub is or has been growing;

(i) to cut down such hedge to a height not exceeding four feet and to a width not exceeding three feet, and to remove any such prickly pear or other rank vegetation therefrom; or

(ii) to remove cut, lop or trim such tree or shrub, as the case may be.

(2) In any case falling under Clause (b), the Commissioner may, if for the public safety it shall appear to him necessary so to do, cause any tree or shrub to be removed, cut, lopped or trimmed, without previously giving the said owner or occupier notice as aforesaid, and the expenses thereof shall, nevertheless, be paid by the owner or occupier.

Keeping and destruction of Animals and disposal of Carcass

510. Prohibition as to keeping animals:— (1) No person shall,—

(a) without the written permission of the Commissioner or otherwise than in conformity with the terms of such permission, keep any swine in any part of the city;

(b) keep any animal on his premises so as to be a nuisance or danger to any person;

(c) feed any animal, or suffer or permit any animal to be fed or to feed, with or upon excrementitious matter, dung, stable refuse or other filthy matter.

(2) Any swine found straying may be forthwith destroyed and the carcass thereof disposed of as the Commissioner shall direct. No claim shall lie for compensation for any swine so destroyed.

Commentary

Destruction of Pigs:— Notice issued by the Municipality restricting movement of unlicensed pigs to prevent incidence and spread of the disease of Encephalitis is valid. There is no violation of fundamental right of the owner of pigs since the measure taken by the Municipality is only in public interest and safety. 1980 (2) An.W.R 81.

511. Stabling animals or storing grain in dwelling house may be prohibited:— Where a building or any portion thereof is used or is intended to be used for human habitat and any portion of such building is used for any of the following purposes, namely—

(a) for keeping any horse, cow, buffalo, bullock, goat or donkey; or

(b) as a godown or place for the storage, in connection with wholesale trade, of grain-seed or groceries, the Commissioner may, if it shall appear to him necessary for sanitary to do so, by written notice require the owner or occupier of such building to discontinue the use of such building for any such purpose; provided that the Commissioner may permit such use subject to such condition as he may think fit to impose.

512. Removal of carcasses of dead animals:— (1) It shall be the duty of the Commissioner to provide for the removal of the carcasses of all animals dying within the city.

(2) The occupier of any premises in or upon which any animal shall die or in or upon which the carcass of any animal shall be found and person having the charge of an animal which dies in the street or in any open place, shall within the three hours after the death of such animal or, if the death occurs at night, within three hours after sunrise, report the death of such animal at the health department of the municipal office of the ward of the city in which the death occurred or in which the carcass is found.

(3) For every carcass so removed by municipal agency a fee for the removal of such animal as shall be fixed by the Commissioner, shall be paid by the owner of the animal, or if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the said animal died.

Regulation of public bathing, washing, etc.

513. Places for public bathing, etc., to be fixed by the Commissioner, and regulation of use of such places:— (1) The Commissioner may, from time to time—

(a) set apart portions of a river or other suitable places vesting in the Corporation for use by the public for bathing or for washing or for drying clothes;

(b) specify the times at which and the sex of persons by whom, such place may be used;

(c) prohibit, by public notice, the use by the public for any of the said purposes of any place not so set apart;

(d) prohibit, by public notice, the use by the public of any portion of a river or place not vesting in the Corporation for any of the said purposes;

(e) regulate, by public notice, the use by the public of any portion of a river or other place vesting in the Corporation and set apart by him for any of the said purposes ; and

(f) regulate, by public notice, the use by the public of any portion of a river or other place not vesting in the Corporation for any of the said purposes, and of any work and of the water in any work, assigned and set apart under this Act for any particular purposes.

(2) The Commissioner may charge such fee as the Standing Committee may fix for the use of any place set apart under Clause (a) of sub-section (1) by any specified class or classes of persons or by the public generally.

514. Prohibition of bathing etc., contrary to order or regulation:— Except as permitted by any order made under any provisions of this Act, no person shall—

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well in any part of a river or other place vesting in the Corporation;

(b) wash or cause to be washed in or near any such place or work, any animal, clothes or other article;

(c) throw, put, or cause to enter into the water in any such place or work any animal or other thing;

(d) cause or suffer to drain into or upon any such place or work, or to be brought thereinto or thereupon, anything, or do anything whereby the water shall be in any degree fouled or corrupted;

(e) dry clothes in or upon any such place;

(f) in contravention of any prohibition made by the Commissioner under Section 513 use any portion of a river or any place not vesting in the Corporation for any purpose mentioned in the said section;

(g) contravene the provisions of any notice given by the Commissioner under Section 513 for the use of any such portion of a river or place for any such purpose.

515. Prohibition of corruption of water by steeping therein animal or other matter, etc.:— No person shall—

(a) steep in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(b) whilst suffering from any contagious, infectious or loathsome disease, bathe on, in or near any bathing platform, lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well.

Regulation of Factories, Trades etc.

516. Factory etc., not to be newly established without permission of Commissioner:— Subject to the provisions of Factories Act, 1948 (63 of 1948), no person shall—

(i) newly establish in any premises;

(ii) remove from one place to another;

(iii) reopen or renew after discontinuance for a period of not less than three years; or

(iv) enlarge or extend the area or dimensions of—

any factory, workshop or workplace in which it is intended to employ steam, water, electrical or other mechanical power or any bakery except with the previous written permission of the Commissioner, nor shall any person work or allow to be worked any such factory, workshop, workplace or bakery without such permission:

Provided that for the purpose of Clause (iii) no such permission shall be required if during the period of discontinuance the machinery has not been removed from the place where the factory, workshop or bakery was originally established.

517. Application for new factories:— (1) Every application for permission under Section 516 shall be in writing and shall give such information and be accompanied by such plans as may be required under the bye-laws made in this behalf.

(2) The Commissioner may, as soon as may be after the receipt of the application—

(a) grant the permission applied for either absolutely or subject to such conditions as he thinks fit to impose, provided the location of such factory, workshop, workplace or bakery is not contrary to any requirement of this Act, bye-law, or standing order; or

(b) refuse to give such permission if he shall be of opinion that the establishment of such factory, workshop, work place or bakery in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof, or will be for any reason a nuisance to the inhabitants of the neighbourhood.

(3) If any written permission for the establishment of a factory, workshop, workplace or bakery granted under sub-section (2) be revoked by the Commissioner in the exercise of his power under sub-section (3) of Section 622 no person shall continue to resume the working or use of such factory, workshop, workplace or bakery until such written permission is renewed or a fresh written permission is granted by the Commissioner.

518. Furnace used in trade or manufacture to consume their own smoke:— (1) No person shall—

(a) use or permit to be used any furnace employed for the purpose of any trade or manufacture, which does not, so far as practicable consume its own smoke; or

(b) so negligently use or permit to be used any such furnace so that it shall not, as far as practicable, consume its own smoke.

(2) Nothing in this section shall be deemed to apply to a locomotive engine used for the purpose of traffic upon any railway or for the repair of streets.

519. Sanitary regulation of factories, etc.:— (1) Whenever it shall appear to the Commissioner that any factory, workshop or workplace, or any building or place in which steam, water or other mechanical power is employed, is not kept in a clean state or is not ventilated in such a manner as to render harmless as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein, which is a nuisance or is so overcrowded while work is carried on as to be dangerous or injurious to the health of the persons employed therein; or that any engine, mill gearing, hoist or other machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb; the Commissioner may, by written notice, require the owner of such factory, workshop, workplace or other building or place to take such order for putting and maintaining the same in cleanly state, or for ventilating the same, or for preventing the same from being overcrowded or for preventing danger to life or limb from any engine, mill gearing, hoist or other machinery therein, as he shall think fit.

(2) Nothing in this section shall be deemed to affect any provision of the Indian Boilers Act, 1923 (Central Act 5 of 1923) and nothing in this section which relates to the fixing or fencing of any engine, mill-gearing, hoist or other machinery shall apply on any factory to which the provisions of the Indian Factories Act, 1948 (Central Act 63 of 1948) are applicable.

520. Prohibition of use of steam whistle or steam trumpet without permission of the Commissioner:— No person shall without the written permission of the Commissioner, use or employ in any factory or any other place, any steam whistle or steam trumpet for purpose of summoning or dismissing workmen or persons employed.

(2) The Commissioner may at any time revoke any permission which he has given for the use of any such instrument as aforesaid, on giving one month's notice to the person using the same.

(3) Provided that nothing in sub-section (2) shall be deemed to require one month's notice to be given by the Commissioner, if he suspends or revokes any such permission for any reason specified in sub-section (3) of Section 622.

Commentary

Scope:— Sections 516 to 520 deal with regulation of factories in the city limits of the corporation.

Powers of the Commissioner:— The Commissioner has power either to grant or refuse permission. The refusal of permission can be done only if he is of the opinion that establishment is objectionable by reason of—

(a) density of the population in the neighbourhood thereof; or

(b) will be a nuisance to the inhabitants of the neighbourhood.

Section 436 of the Calcutta Municipal Act contains the same provision, Section 264 of the A.P. Municipalities Act also contains similar expression.

Under the Urban Development Authority Act, the Urban Development Authority has to give permission for installing a factory when only the corporation can give permission.

521. Certain things not to be kept and certain trades and operations not to be carried on, without a licence:— (1) Except under and in conformity with the terms and conditions of a licence granted by the Commissioner no person shall—

(a) keep, in or upon any premises, for any purpose whatever;

(i) any article specified in Part I of Schedule 'P';

(ii) any article specified in Part II of Schedule 'P' in excess of the quantity of such article which may at any one time be kept in or upon the same premises without a licence;

(b) keep, in or upon any premises, for sale or for other than domestic use, any article specified in Part III of Schedule 'P';

(c) keep, in or upon any building intended for or used as a dwelling or within fifteen feet of such building, cotton, in pressed bales or boars or loose, in quantity exceeding four cwts;

(d) keep or allow to be kept in or upon any premises, horses, cattle or other four footed animals—

(i) for sale;

(ii) for letting out on hire;

(iii) for any purpose for which any charge is made or any remuneration is received; or

(iv) for sale of any produce thereof;

(e) carry on, allow to be carried on, in or upon any premises—

(i) any of the trades or operations connected with trade specified in Part IV of Schedule 'P';

(ii) any trade or operation which in the opinion of the Commissioner is dangerous to life, health or property, or likely to create a nuisance either from its nature, or by reason of the manner in which, or the conditions under which, the same, is or is proposed to be carried on;

(f) carry on within the city or use any premises for the trade or operation of a carrier.

(2) A person shall be deemed to have known that a trade or operation is, in the opinion of the Commissioner, dangerous or likely to create a nuisance within the meaning of paragraph (ii) of Clause (e) of sub-section (1), after written notice to that effect, signed by the Commissioner has been served on such person or affixed to the premises to which it relates.

(3) A person shall be deemed to carry on or to allow to be carried on a trade or operation within the meaning of paragraph (ii) of clause (e) of sub-section (1), if he does any act in furtherance of such trade or is in any way engaged or concerned therein whether as principal, agent, clerk, master, servant, workman, handicraftsman or otherwise.

(4) It shall be in the discretion of the Commissioner—

(a) to grant any licence referred to in sub-section (1) to such restrictions or conditions, if any, as he shall think fit to impose; or

(b) to withhold any such licence.

(5) Every person to whom a licence is granted by the Commissioner under sub-section (3) shall keep such licence in or upon the premises, if any, to which it relates.

(6) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, wool, silk or jute to any other large mill or factory which the Commissioner may, from time to time, with the approval of the Standing Committee specially exempt from the operation thereof.

Commentary

Scope:— This section lays down the regulation of certain trades in the limits of the Corporation.

Section does not suffer from defect of excessive delegation. I.L.R 1975 A.P. 1057.

D.& O. Trades:— Popularly certain trades are known as dangerous and offensive trades. Section 263 of the A.P.Municipalities Act contains a similar section. A licence is to be obtained. This section prohibits certain dealings. The prohibition is both absolute and conditional.

(a) Articles specified in Part I of Schedule 'P' cannot be kept for any purpose without a licence.

(b) Articles specified in Part II of Schedule 'P' cannot be kept in excess of the quantity.

(c) Articles in Part III of Schedule 'P' cannot be kept for sale or for other purpose than for domestic use.

Premises:— The word 'premises' in the Municipalities Act must be understood as meaning building with land adjacent to it. A building is a necessary criterion. Hence installation in an open field will not be installation in the premises. AIR 1954 Mad. 285. In this case the Bench laid the rule of interpretation as follows:—

"The Courts have to give to the words `Premises' the ordinary interpretation and connotation given to it in the English language and when the dictionaries refer to the word `premises' as building and its adjacent, there is no reason why the Court should import a different meaning when such a word is used in a statute simply because under certain conditions and circumstances the word `premises' includes land and every thing appurtenant thereto".

'Premises' meant premises in immediate connection with the mansion and without the occupied and enjoyed-Strouds' Judicial Dictionary 4th ed. page 2089.

Residential Building:— Cotton in pressed bales or loose in quantity exceeding 4 cuts cannot be kept in residential building or in any place 15 feet near that building. This restriction is imposed because these articles are combustible articles.

Animals for Sale or Hire:— Cattle, horses or any other four footed animals for sale or letting on hire cannot be kept in any premises.

Trade or Trade operations specified in Schedule cannot be carried on without a licence.

Trade Dangerous to Health or Property:— This clause gave discretion to the Commissioner to form an opinion that a particular trade is dangerous to health, or property or likely to create a nuisance. Before forming such an opinion, Commissioner has to give notice to that effect to parties affected. Failure to give such a notice vitiates levy of licence fee on such persons. 1979(2) An.W.R. 146. Notification declaring the items of petroleums and Automobile fittings and accessories shop etc. as dangerous to health and prohibiting the dealers not to run the same without obtaining the licence is not violative of Articles 14 and 19 of the Constitution of India. *The Greater*

Hyderabad Petrol and Diesel Oil Dealers Association vs. M.C.H., 1975 ALT 118 = 1975(1) APLJ 35 (SN) = 1975 APHN 91. Enhancement or licence fee is valid. *Smt. Hajra Bano vs. M.C.H.*, WP 2886/72, dated 25-9-1973 (Un-reported).

Regulation:— In *Municipal Corporation of Toronto vs. Vigro*(1896) A.C. 88 AIR 1954 SC 728. Lord Daviej observed:

"No doubt, the regulation and governance of a trade may involve the imposition of restrictions on its existence. Where such restrictions are, in the opinion of the Public Authority, necessary to prevent nuisance or for the maintenance of order.

But there is a marked distinction to be drawn between the prohibition or prevention of a trade and the regulation or governance of it, and indeed, a power to regulate and govern implies the continued existence of that which is to be regulated or governed.

Nuisance and who to decide:— In *Nur Mohammed Gulam Rasul vs. Surat city Municipality* AIR 1920 Bom. 8, it was held that it is not for the Court to deal with the question whether what is complained of by the Municipality has been, or likely to be, a nuisance and to consider whether a matter of fact, that particular use of the land is a nuisance or likely to become nuisance to the neighbourhood. The Sourashtra High Court in an unreported judgment in Crl. Rev. No.59 of 1951, dated 8-4-1952 also held that the question whether the building used for the manufacture of tobacco was a nuisance to the neighbourhood, or was likely to be dangerous to the life, health or property is a matter of subjective satisfaction of the Municipality and cannot be challenged except on the ground of *mala fide.* The Gujarat High Court also held that the satisfaction is subjective satisfaction of the Committee and no authority can question the action of the committee. AIR 1971 Guj. 118. But the Courts are not precluded from examining whether there is material for the subjective satisfaction or not. AIR 1969 SC 707.

Marriage in the premises unless a finding is given by the Commissioner as nuisance no conviction is legal. *Mohd. Yaseen Khan vs. State of A.P.*, 1986(2) ALT 239.

Prescribing production of rental deed for granting licence does not apply to renewal of licence. *D.V. Konda Reddy vs. Govt. of A.P.*, 1987(2) ALT 96 (NRC).

Levy of licence fees and enhancement is not *ultra vires* of the powers of the corporation. *Secunderabad & Hyderabad Hotel Owners Association vs. H.M.C.*, 1987(2) ALT 57 (NCR).

Trade licence in respect of retail sale of intoxicating liquor :-No specific power conferred on Municipal Corporations under the HMC Act to impose any tax or fee on liquortrade. Insistence upon a trade licence by persons

engaged in retail liquor business and issuance of notices requiring them to pay trade licence fee by Municipal Corporations is without authority.

Under Section 521 of HMC Act, the Commissioner is empowered to grant licence permitting a person to carry on trade "only in conformity with the terms and conditions of the licence". Unless the Municipal Commissioner is able to regulate the trade, he is not entitled to insist upon the trade licence under Section 521(1) of HMC Act. The HMC Act and relevant rules framed thereunder, do not in any manner authorize the Municipal Commissioner to regulate liquor trade. However if a person has a licence to run a Bar and Restaurant, it would be permissible for the Corporation to levy trade licence fee on the restaurant. As the Municipal Corporation Act does not confer any specific power on the Corporations to impose any tax or fees on the liquor trade, it is impermissible for these local bodies to levy any fees in the name of trade licence fee, which they are not specifically authorized by the statute. *Y. Venkateswar Rao and others vs Prohibition & Excise Superintendent, Khammam District and others,* 2006 (1) ALD 445 = 2006 (1) ALT 443.

Nursing home:— Licence is not required for running a nursing home in accordance with the provisions of Section 521. *Sanitary Inspector vs. Dr.G. Suresh* 1994(1) An. W.R 62 (NRC) = 1993 (3) ALT 51 (NRC).

Money Lenders & Pawn Brokers:— Merely because a Pawn Broker or a money lender is likely to set up a shop in the thick of a residential locality or in a crowded place would be no ground for the Commissioner to come to a conclusion that the entire trade is dangerous. However the Commissioner, can notify under Section 521(e)(ii) a particular trade or operation. *Andhra Pradesh Bankers & Pawn Brokers Association vs. Municipal Corporation of Hyderabad*, AIR 2001 SC 1356.

Trade in domestic gas cylinders:— A licence was issued only after satisfying the safety measures taken by the petitioner for running the L.P. Gas distribution and storage in the area. Therefore, refusal to grant licence on the ground that the area was purely in residential zone was held not sustainable. An illegal order would not be open to the respondent to sustain by inducting fresh material. The rejection order passed by the respondent was held not in consonance with Section 521 of the Act. *Balathripura Sundari v. Municipal Corporation of Hyderabad and Others,* 1996 (1) ALD 374. However the Corporation went in appeal before D.B. which allowed the appeal setting aside the above judgment. The Court shall avoid entering into the satisfaction of the Commissioner and the role which it may play would be limited to the review of its actions on grounds *inter alia* of his doing something which in the nature of the things he would not have done, his actions are actuated with malice, he had acted on *non nest* grounds or has otherwise acted without jurisdiction. *Municipal Corporation of Hyderabad, Secunderabad Division and others v. M. Balatripura Sundari,* 1996 (2) ALD 529 (DB) = 1996 (2) ALT 630 = 1996 (1) LS 341.

Nature of licence fee:— A licence fee may be either regulatory or compensatory. When a fee is charged for rendering specific services certain element of *quid pro quo* must be there between the service rendered and the fee charged so that the licence fee is commensurate with the cost of rendering the service although not exactly in arithmetical equivalence. Licence fees can also be regulatory when the activities for which the licence is given required to be regulated or controlled. The fee charged for the regulation of such activity can be classified as a fee but not as a tax although no service is rendered. *Secunderabad Hyderabad Hotel Owners Association & Ors. etc. v. Hyderabad Municipal Corporation, Hyd. & Anr.,* 1999 (1) ALD SCSN 29.

522. Prohibition of corruption of water by chemicals etc.:— (1) No person engaged in any trade or manufacture specified in Part IV of Schedule P shall—

(a) wilfully cause or suffer to be brought or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the Corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid;

(b) wilfully do any act, connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place of water is fouled or corrupted.

(2) The Commissioner may, after giving not less than twenty-four hours previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits; and if upon such examination it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination, and or any measure which the Commissioner shall in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits, or by the person who has the management or control thereof, or through whose neglect for fault the said sub-section has been contravened : but if it appears that there has been no contravention of the said sub-section, that said expenses, and the compensation for any damage occasioned by the said laying open and examination shall be paid by the Commissioner.

523. Inspection of premises used for Manufacture etc.:— (1) The Commissioner may at any time, by day or by night, without notice, enter into or upon any premises used for any of the purposes mentioned in Section 521 and upon any premises in which a furnace is employed for the purpose of any trade or manufacture, and into any back-house in order to satisfy himself as to whether any provision of this Act or any bye-law made thereunder or any condition of any licence granted under this Act is being contravened, and as to whether any nuisance is created upon such premises.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry:

Provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provisions of this Act or some bye-law made under this Act.

[1][(3) Notwithstanding anything contained in this section and unless specified under this Act, the Municipal Commissioner or any authorised person on his behalf shall exercise all the powers conferred on him under this Act and under the Prevention of Food Adulteration Act, 1954 and shall also have the powers to close down the premises and also seize the machinery and material when there is reason to believe that an offence is committed against some bye-law made under this Act.]

524. Regulation of washing of clothes by washerman:— (1) The Commissioner may, by public notice, prohibit the washing of clothes by washerman in the exercise of their calling, except at such places as he shall appoint for this purpose;

and when such prohibition has been made, no person who is by calling a washerman shall wash clothes at any place not appointed for this purpose by the Commissioner, except for such person himself or for the owner or occupier of such place.

(2) The Commissioner shall provide suitable place for the exercise by washermen of their calling, and may require payment of such fees for the use of any such place as shall from time to time be determined by the Commissioner, with the approval of Standing Committee.

1. Added by Act No. 36 of 2007, w.r.e.f. 22.10.2007.

Maintenance and regulation of markets and slaughter-houses

525. What to be deemed Municipal Markets and Slaughter Houses:— All markets and slaughter-houses which belong to or are maintained by the Corporation shall be called 'municipal markets' or 'municipal slaughter-houses'. All other markets and slaughter-houses shall be deemed to be private.

Commentary

Allotees in Municipal Markets:— In *Abdul Salam vs. Municipal Corporation of Hyderabad* 1969(2) An.W.R. 301 Chinnappa Reddy J. held that—

"a person who is put in occupation of a stall, shop, mulgi etc., in a Municipal Market is mere licensee and that under Sec.534 of this Act, the Commissioner may from time to time, vary the change which he makes for such occupation". This judgment of the learned single judge was upheld in two Division Bench judgments. *Khaja Moinuddin Hassan vs. Special Officer, M.C.H.,* 1977 ALT 14 (NRC) = 1977(1) An. W.R. 329 = 1977 LR 55 = ILR 1977 AP 423.

Slaughter of animals whether a Fundamental Right:— In *Md. Hanif Qureshi vs. State of Bihar* AIR 1958 SC 731 the constitutional validity of the Bihar Preservation and Improvement of Animals Act, 1955 along with U.P.Cow Slaughter Act, 1955 was challenged as they deprive the fundamental right of butcher. The Supreme Court held:—

"A total ban on the slaughter of she buffaloes, bulls and bullocks (cattle or buffalo) after they cease to be capable of yielding milk or of breeding or working as draught animals, is not in the interest of general public and is invalid". After this judgment those Acts were amended introducing age of animals laying down that bull, bullock or she buffalo aged 25 or 20 years of age becomes useless and permanently unfit. These Acts were struck down as unreasonable and unconstitutional. AIR 1961 SC 448.

526. Provisions of new municipal markets and slaughter-houses:— (1) The Commissioner, when authorised by the Corporation in this behalf, may construct, purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter-house or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets and slaughter-houses and such stalls, shops, sheds, pens and other buildings or convenience for the use of the persons carrying

on trade or business in, or frequenting, such municipal markets or slaughter-houses, and provide and maintain in such municipal markets such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein as he shall think fit.

(2) Municipal slaughter-houses may be situated within or with the sanction of the Government, without the city.

527. Closure and disposal of markets and Slaughter Houses:— The Commissioner may where the municipal market and slaughter houses are situated within the city, with the sanction of the Corporation, and where it is situated without the city, with the sanction of the Government at any time, close such market or slaughter-house, and may dispose the premises so closed, subject to the sanction of the Corporation, where the property is of the Corporation.

528. Prohibition of sale in a municipal market without licence of the Commissioner:— (1) No person shall without licence from the Commissioner, sell or expose for sale any animal or article in any municipal market.

(2) It shall be lawful for the Commissioner, with the previous sanction of the Corporation by public notice from time to time, to prohibit within a distance of hundred yards of any municipal market the sale or exposure for sale of all or any of the commodities ordinarily sold in the said municipal market.

(3) Any notice issued under sub-section (2) may in like manner at any time be cancelled or modified by the Commissioner.

(4) Any person contravening this section may be summarily removed by the Commissioner or by any municipal officer or servant.

529. Opening of new private markets:— (1) The Corporation shall from time to time determine whether the establishment of new private markets shall be permitted in the city or in any specified portion of the city.

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for the sale of animals intended for human food, or any other article of human food, except, with the sanction of the Commissioner, who shall be guided in giving such sanction by the decisions of the corporation at the time in force under sub-section (1). The owner or occupier of a place in which a private market is established

shall, for the purposes of this sub-section, be deemed to have established such market.

(3) When the establishment of a new private market has been so sanctioned, the Commissioner shall cause a notice of such sanction to be affixed in such language or languages as the Corporation may time to time specify, on some conspicuous spot on or near the building or place where such market is to be held.

530. Private markets not to be kept or permitted to be kept open and no place to be used or permitted to be used as slaughter-house, without licence:— (1) No person shall without, or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf—

(a) keep open or permit to be kept open a private market;

(b) use or permit to be used any public place in the city as a slaughter-house or for the slaughtering of any animal intended for human food;

(c) use or permit to be used any place without the city whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in the city.

(2) The Commissioner shall not refuse, cancel or suspend any licence for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some regulation framed under Section 533 or with some bye-law made under this Act, at the time in force and shall not cancel or suspend any such licence without the approval of the Standing Committee.

(3) The Commissioner may with the previous approval of the Standing Committee cancel or suspend, any licence for failure of the owner of private market to give in accordance with the conditions of his licence, a written receipt for any stallage rent, fee, or other payment received by him or his agent from any person for the occupation or use of any stall, shop, standing, shed or open or other place therein.

(4) Nothing in this section shall be deemed to prevent the Commissioner from granting written permission for the slaughter of an animal in any public place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(5) When the Commissioner has refused, cancelled or suspended any licence to keep open a private market, he shall cause a notice of his having so done to be affixed in such language or languages as the Corporation may from time to time specify, on some conspicuous spot on or near the building or place where such market has been held.

531. Prohibition of sale in unauthorised private markets:— No person who knows that any private market has been established without the sanction of the Commissioner, or is kept open after a licence for keeping the same open has been refused, cancelled or suspended by the Commissioner, shall sell or expose for sale therein any animal or articles of food.

532. Provisions for requiring private market building and slaughter-houses to be properly paved and drained:— The Commissioner may, by written notice, require the owner, farmer or occupier of any private market or slaughter-house to cause—

(a) the whole or any portions of the floor of the market building, place or slaughter-house to be paved with dressed stone or other suitable material.

(b) such drains to be made in or from the market building, market place or slaughter-house of such material, size and description, at such level and with such outfall, as to the Commissioner may appear necessary.

533. Regulations to be framed for markets and slaughter-houses:— The Commissioner may, with the approval of the Standing Committee, from time to time, make regulations not inconsistent with any provision of this Act or of any bye-law made thereunder.

(a) for preventing nuisances or obstruction in any market building market place or slaughter-house or in the approaches thereto;

(b) fixing the days and the hours on and during which any market or slaughter-house may be held or kept open for use;

(c) for keeping every market-building, market place and slaughter-house in a clean and proper state, and for removing filth and refuse therefrom;

(d) requiring that any market building, market place or slaughter-house be properly ventilated and be provided with a sufficient supply of water ;

(e) requiring that in market buildings, and market places, passages be provided between the stalls of sufficient width for the convenient use of the public.

534. Levy of Stallages, rents and fees in municipal markets and slaughter-houses:— The Commissioner may—

(a) charge for the occupation or use of any stall, shop, standing, shed or open in a municipal market or slaughter-house and for the right to expose goods for sale in a municipal market, and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any municipal slaughter-house such stallages, rents and fees as shall from time to time, be fixed by him, with the approval of the standing committee, in this behalf; or

(b) with the approval of the Standing Committee, from the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time; or

(c) put up to public auction, or, with the approval of the Standing Committee, dispose of, by private sale the privilege of occupying or using any stall, shop, standing, shed or open, in a municipal market or slaughter-house for such term and on such condition as he shall think fit to impose.

Commentary

Fee for sale in the Market:— The Commissioner has power under Section 534 of the Act to auction the right to collect fees on the sale of the right to expose goods for sale in the municipal market. The Corporation is clearly entitled to collect fee from persons who bring fish from outside into the fish market and expose wet fish for sale in the open space in the market. They are not prohibited from auctioning the right to collect the fee for the expose of wet fish for sale from those who bring fish from outside into the market. *Begum Bazar Fish Market Association vs. M.C.H.*, 1982(2) ALT 372; AIR 1963 MP 240 ; 1982 (2) ALT 66 (DB)).

535. Removal of live cattle, sheep, goats or swine from any municipal slaughter-house, market or premises:— (1) No person shall without the written permission of the Commissioner and without the payment of such fees as may be specified by him, remove any live cattle, sheep, goats or swine from any municipal slaughter-house or from any municipal market or premises used or intended to be used for or in connection with such slaughter-house:

Provided that such permission shall not be required for the removal of any animal which has not been sold within such slaughter-house, market or premises and which has not been within such slaughter-house, market or premises for a period longer than that specified under orders made by the Commissioner in this behalf, or which has in accordance with any bye-law made thereunder, been rejected as unfit for slaughter at such slaughter-house, market or premises.

(2) Any fee paid for permission under sub-section (1) in respect of any animal removed to a Panjarapole shall, subject to the regulations made by the Commissioner in this behalf, be refunded on the production of a certificate from the Panjarapole authorities that such animal has been received in their charge.

536. Regulation and table of stallage rents to be posted up in markets and slaughter-houses:— (1) A printed copy of the regulations and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under Sections 533, 534 and 535 in such language or languages which the Corporation may from time to time specify, shall be fixed in some conspicuous spot in the market-building, market-place or slaughter-house.

(2) No person shall, without authority, destroy, pull down, injure or deface any copy of any regulation or table so affixed.

537. Power to expel persons contravening bye-laws or regulations:— The Commissioner may expel from any municipal market or slaughter-house any person who or whose servant has been convicted for contravening any bye-laws made under this Act, or any regulation made under Section 533, in such market or slaughter-house and may prevent such person, by himself or his servants from carrying on any trade or business in such market or slaughter-house or occupying any stall, standing, shed, pen or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

Sale of Articles of Food outside Markets

538. Prohibition of sale of animals, etc., except in market:— Except as hereinafter provided, no person, shall without a licence from the Commissioner, sell or expose for sale any four-footed animal or any meat or fish intended for human food, in any place other than a municipal or private market :

Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in, a vessel in which it has been brought direct after being caught at a river or lake.

Licensing of butchers

539. Butchers and persons who sell the flesh of animals to be licensed:— No person shall without or otherwise that in conformity with the terms of a licence granted by the Commissioner in this behalf—

(a) carry on within the city, or at any municipal slaughter-house the trade of a butcher;

(b) use any place in the city for the sale of the flesh of any animal intended for human food, or any place without the city for the sale of such flesh for consumption in the city.

540. Prohibition of import of cattle, etc., into the city without permission:—(1) No person shall without the written permission of the Commissioner bring into the city any cattle, sheep, goats or swine intended for human food, or the flesh of any such animal which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any Police Officer may arrest without warrant any person bringing into the city any animal or flesh in contravention of sub-section (1).

(3) Any animal brought into the city in contravention of this section may be seized by the Commissioner or by any municipal officer or servant and any flesh brought into the city in contravention of this section may be seized by the Commissioner or by any municipal officer or servant or by any Police Officer or in or upon Railway premises by any Railway servant and any animal or flesh so seized may be sold or otherwise disposed of as the Commissioner shall direct. The proceeds if any, shall belong to the Corporation.

(4) Nothing in this section shall be deemed to apply to cured or preserved meat.

Inspection of places of sale etc.

541. Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act is suspended:—(1) If the Commissioner shall have reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or

manner not duly authorised under the provisions of this Act, the Commissioner, may at any time, by day or by night, without notice, enter such place for purpose of satisfying himself as to whether any provision of this Act or if any bye-law made thereunder is being contravened thereat.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by such entry or by use of any force necessary for effecting such entry.

542. Commissioner to provide for inspection of articles exposed for sale for human food:— It shall be the duty of the Commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruits, vegetables, corn, bread, flour, dairy produce and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or for preparation for sale and intended for human food or for medicine resting with the party charged.

543. Unwholesome articles etc., to be seized:—(1) The Commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

(2) If any such animal or article appears to the Commissioner to be diseased or unsound or unwholesome or unfit for human consumption, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may seize and carry away such animal, article, utensil, or vessel, in order that the same may be dealt with as hereinafter provided and he may arrest and take to the nearest police station any person in charge of any such animal or article.

544. Disposal of perishable articles seized under Sec. 543:— If any meat, flesh, vegetable or other article of a perishable nature be seized under Section 543 and the same is, in the opinion of the Commissioner diseased, unsound, unwholesome or unfit for human consumption, as the case may be, the Commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

545. Disposal of animals and articles of a non-perishable nature seized under Section 543:—(1) Any animal and any article not of a perishable nature and any utensil or vessel seized under Section 543 shall be forthwith taken before a Magistrate.

(2) If it shall appear to such Magistrate that any such animal or article is diseased, unsound or unwholesome, or unfit for human food, or for medicine, as the case may be, or is not what it was represented to be or that such utensil or vessel or such kind or in such state as aforesaid, he may, and if it is diseased, unsound, unwholesome or unfit for human food and unfit for medicine, he shall cause the same to be destroyed at the charge of the person in whose possession it was at the time of its seizure in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for medicine, or for the preparation or manufacture of, or food containing, any such article as aforesaid.

546. Penalty for possession of food which appears to be diseased, unsound or unwholesome or unfit for human food:— In every case in which food, on being dealt with under Section 545, appears to the Magistrate to be diseased, unsound or unwholesome or unfit for human food, the owner thereof or the person in whose possession it was found not being merely bailee or carrier thereof, shall, if in any such case the provisions of Section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to rupees five hundred.

547. Applications for summons to be refused if not applied for within specified time:— In all prosecutions under Section 546, the Magistrate shall refuse to issue summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a specified time from the alleged date of the offence of which such person is accused.

[1][**548. Slaughter of animals in slaughter-houses:**—(1) No person shall slaughter or procure the slaughter of any animal for human consumption in a slaughter house, otherwise than on the authority of a certificate, granted by the Veterinary Officer that the animal is fit for slaughter.

1. Subs. by Act XLIII of 1956.

(2) The Veterinary Officer shall not grant certificate referred to in sub-section (1) if in his opinion—

(a) the animal whether male or female—

(i) has not attained the age of 3 years and in case of sheep or goat one year, or

(ii) is useful for the purpose of draught or any kind of agricultural operation,

(b) the animal, if male, is useful for the purpose of breeding;

(c) the animal, if female, is useful for giving milk or breeding offspring.

(3) Save as otherwise provided in this Act, the opinion of Veterinary Officer on all the questions on which he is required by sub-section (2) to form the opinion shall be final and shall not be questioned in any Court of Law.

(4) The certificate referred to in sub-section (1) shall be granted in such form and on payment of such fee as may be specified by the Corporation.

(5) Whoever does any act in contravention of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs.1000 or with both.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), every offence punishable under sub-section (5) shall be cognizable.

(7) Any certificate that the animal is fit for slaughter granted by any Veterinary Officer before the commencement of this Act and any fee realised therefor, within the limits of the City shall, notwithstanding there being no specific provision in respect thereof in Principal Act, or in any other law for the time being in force, be deemed always to have been validly granted and realised as if this Act were in force on the date on which such certificate was granted or such fee was realised and shall not be questioned in any Court of Law.

Prevention of spread of infectious diseases

549. Information to be given of the existence of infectious disease or continuous pyrexia of unknown origin:— Every medical practitioner who treats or becomes cognizant of the existence of any

infectious disease or any case of continuous pyrexia of unknown origin of more than four days duration in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the medical officer of health. The said information shall be communicated in such form and with such details as the said medical officer of health with the consent of the Commissioner, may from time to time require.

550. Any place may at any time be inspected for purpose of preventing spread infectious disease:— The Commissioner may at any time, by day or by night without notice or after giving such notice of his intention as shall, in the circumstances appear, to him to be reasonable inspect any place in which any infectious disease is reputed or suspected to exist and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

551. Prohibition of use of drinking of water likely to cause infectious disease:— (1) If it shall appear to the Commissioner that the water in any well, tank or other place is likely, if used for drinking, to endanger or cause the spread of any infectious disease he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

(2) No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

552. Commissioner may order removal of patient to hospital:— (1) The Commissioner or any police officer empowered by him in this behalf may, on a certificate signed by the executive health officer or by any duly qualified Medical Practitioner direct or cause the removal of any person who is, in the opinion of such Medical Officer of Health or other Medical Practitioner, without proper lodging or accommodation or who is lodged in a building occupied by more than one family, and who is suffering from infectious disease, to any hospital or place at which patients suffering from the said disease are received for medical treatment.

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

(3) No person who is removed to a hospital or place under sub-section (1) shall leave, or be removed from such hospital or place except with the permission of the officer-in-charge thereof.

553. Power to order detention in hospital of infected person without proper lodging to return to:— (1) Where a magistrate, not being a magistrate of the 3rd class, is satisfied, on the application of the Medical Officer of Health that the inmate of a public hospital who is suffering from an infectious disease would not, on leaving the hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spread of the disease by him, the magistrate may order him to be detained in the hospital at the cost of the Corporation.

(2) An order made under sub-section (1) may direct detention for a period specified in the order, but the magistrate may extend a period so specified as often as it appears to him to be necessary so to do.

(3) Any person who leaves a hospital contrary to an order under sub-section (1) may, in addition to any penalty which may be imposed for such contravention, be ordered by the Court to be taken back to the hospital.

(4) An order under this rule may be directed, in the case of an order for a person's detention, to the Officer-in-charge of the hospital and, in the case of an order made under sub-section (3) to the Medical Officer of Health and the officer-in-charge of the hospital or institution and the Medical Officer of Health may do, or authorize, all acts necessary for giving effect to the order.

554. Disinfection of building, etc.:— (1) If the Commissioner is of opinion that the cleansing or disinfecting of a building, or of part of a building, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any infectious disease he may, by written notice, require the owner or occupier of such building to clean or disinfect such building or part thereof or article therein, and if it shall appear to the Commissioner necessary, to vacate the said building for such time as shall be prescribed in the said notice.

(2) Provided that, if in the opinion of the Commissioner the owner or occupier is from poverty or other cause unable effectually to comply with such requisition, the Commissioner may cause the building or part of the building or article likely to retain infection to be cleansed or disinfected and defray the cost of so doing.

555. Destruction of huts and sheds, when necessary:— (1) If the Commissioner is of opinion that the destruction of any hut or shed

is necessary to prevent the spread of any infectious disease, he may, after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation may be paid by the Commissioner with the approval of the Standing Committee to any person who sustains substantial loss by the destruction of any such hut or shed; but; except as so allowed by the Commissioner, no claim for compensation shall lie for any loss or damage caused by the exercise of the power conferred by this section.

556. Place of disinfection may be provided:— (1) The Commissioner may provide a place, with all necessary apparatus and attendance, for the disinfection of clothing, bedding for other articles which have become infected and in his discretion may have articles brought to such place for disinfection, disinfected on payment of such fees as he shall from time to time fix, with the approval of the Standing Committee in this behalf, or, in any case in which he thinks fit, free of charge.

(2) The Commissioner may, from time to time, by public notice, appoint a place at which clothing, bedding or other articles which have been exposed to infection from an infectious disease may be washed; and no person shall wash any such article at any place not so appointed without having previously disinfected the same.

(3) The Commissioner may direct the disinfection or destruction of bedding, clothing or other articles likely to retain infection.

(4) The Commissioner may, in his discretion, give compensation for any article destroyed under sub-section (3).

557. Person suffering from infectious disease not to enter a public conveyance without notifying the same:— (1) No person who is suffering from infectious disease shall enter a public conveyance without previously notifying to the owner, driver or person incharge of such conveyance that he is so suffering.

(2) Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person incharge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance unless payment or tender of

sufficient compensation, for the loss and expenses he must incur in disinfecting such conveyance, is first of all made to him.

558. Provision of carriages for conveyance of patients:— The Commissioner with the sanction of the Corporation, may provide and maintain suitable conveyances for free carriage of persons suffering from any infectious disease; and when such conveyances have been provided, it shall not be lawful to convey any such person by any other public conveyance.

559. Provision as to carriage of persons suffering from infectious disease in public conveyance:— (1) No person who is suffering from an infectious disease shall—

(a) without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance;

(b) cause or suffer himself to be carried in a public conveyance contrary to the provisions of the last preceding section.

(2) No person shall go in company with, or take charge of, any person suffering as aforesaid, who causes or permits himself to be carried in a public conveyance in contravention of sub-section (1).

(3) No owner or driver or person incharge of public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid in contravention of the said sub-section.

560. Public conveyance which has carried a person suffering from infectious disease to be disinfected:— The owner, driver or person incharge of a public conveyance in which any person suffering as aforesaid has been carried shall immediately provide for the disinfection of the same.

561. Duty of owner, etc., of public conveyance in regard to cases of infectious disease:— (1) The owner, driver or conductor of a public conveyance used for the conveyance of passengers at separate fares, shall not convey therein a person whom he knows to be suffering from an infectious disease.

(2) The owner or driver of any other public conveyance, notwithstanding that no notice has been issued by the Commissioner under Section 558, may refuse to convey therein any person suffering from an infectious disease until he has been paid a sum sufficient to cover any loss and

expenses which will be incurred by him in connection with the disinfection of the conveyance.

(3) If a person suffering from an infectious disease is conveyed in a public conveyance, the person incharge thereof shall as soon as practicable and before permitting any other person to enter the conveyance cause the conveyance to be disinfected.

562. Infected articles, not to be transmitted, etc., without previous disinfection:— (1) No person shall, without disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any infectious disease.

(2) Nothing in this section shall be deemed to apply to a person who transmits with proper precautions, any such articles, for the purpose of having the same disinfected.

563. Infected building not to be let without being first disinfected:— (1) No person shall let a building or any part of a building, in which he knows or has reason to know that a person has been suffering from infectious disease, without first having such building or part thereof and every article therein likely to retain infection disinfected, to the satisfaction of the Medical Officer or Health Officer or of some duly qualified Medical Practitioner, as testified by such Officer's or Medical Practitioner's certificate.

(2) For the purpose of this section, keeper of a hotel or inn, shall be deemed to let part of his building to any person accommodated in such hotel or inn.

564. Closures of lodging and eating houses:— The Commissioner may on being satisfied that it is the public interest so to do, by written orders direct that any lodging house or any place where articles of food and drink are sold or prepared, stored or exposed for sale being a lodging house or place in which a case of an infectious disease exists or has recently occurred shall be closed for such period as may be specified in the order :

Provided that such lodging house or place may be declared to be open if the Medical Officer of Health certifies that it has been disinfected or is free from infection.

Special sanitary measures

565. Commissioner may take special measures on outbreak of any infectious disease:— (1) In the event of the city being at any time visited or threatened with an outbreak of any infectious disease, or in the event of any infectious disease breaking out or being likely to be introduced into the city amongst cattle, including under this expression sheep and goats, the Commissioner if he thinks the ordinary provisions of this Act and the rules thereunder or of any other law for the time being in force are insufficient for the purpose, may with the sanction of the Government—

(a) take such special measures, and

(b) by public notice make such temporary orders to be observed by the public or by any person or class of persons, as one specified therein and as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The Commissioner shall forthwith report to the Corporation any measures taken and any orders made by him under sub-section (1).

Commentary

Direction by Corporation to develop land :-In cases of emergency, it is competent for the Commissioner of Corporation to make such temporary orders to be observed by the public or by any person or class of persons for the purpose of abating nuisance, however the same does not enable the Commissioner to direct the owner of the property to level the land and construct wall to prevent stagnation of water. If any area is low-lying and likely to cause harm to public health, it is always open to the Commissioner to take such remedy and any measures to prevent mosquito menace and spread of diseases. However, no direction can be given to a owner of the property to develop the land in such a manner so that there would not be any stagnation of water. If the situation warrants, it is always open to the Corporation to acquire the land of the petitioner under Land Acquisition Act or by following the procedure under Section 146 of the Act. *G. Sambasiva Rao vs Vijayawada Municipal Corporation Vijayawada,* 2004 (5) ALD 516.

Disposal of the dead

566. Places for disposal of dead to be registered:— (1) Every owner or person having the control of any place already used for burying, cremating or otherwise disposing of the dead, shall apply to the Commissioner within a period of six months from the coming into force of this Act to register the same and the Commissioner shall cause the same to be registered.

(2) Such application shall be accompanied by a plan, bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor of the place to be registered, showing the locality, boundaries and extent of the same. The application shall also contain information as regards the name of the owner or person or community interested therein, the system of management and such further particulars as the Commissioner may require.

(3) The Commissioner may, on receipt, of such application and plan, register the said place in a register which shall be kept for this purpose.

(4) The Commissioner shall cause to be deposited in the Chief Municipal Office at the time of registration the plan referred to in sub-section (2).

(5) If the Commissioner is not satisfied with the plan or statement or particulars, he may refuse or postpone registration, until his objections have been removed.

(6) Every place vesting in the Corporation used for burying, cremating or otherwise disposing of the dead shall be registered in the register kept under sub-section (3), and a plan showing the locality, extent and boundaries thereof and bearing the signature of the City Engineer shall be deposited in the Chief Municipal Office.

Commentary

Disposal of dead bodies:— Permitting disposal of dead bodies in public parks is an act without jurisdiction. *S.R. Ramanujam v. Chief Secretary to Government of A.P.*, 1997 (2) ALT 512 = 1997 (3) ALD 114.

567. Provision of new places for disposal of dead:— (1) If the existing places for the disposal of the dead shall at any time appear to be insufficient or if any place is closed under the provisions of Section 570, the Commissioner shall, with the sanction of the Corporation, provide other fit and convenient places for the said purpose, either within or without the city and shall cause the same to be registered in the register kept under Section 566 and shall deposit in the Municipal Office, at the time of registration of each place so provided, a plan thereof showing the locality, extent and boundaries of the same and bearing the signature of the City Engineer.

(2) All the provisions of this Act and rules and bye-laws made thereunder shall apply to any place provided under sub-section (1) without the city and vesting in the Corporation as if such place were situated within the city.

568. New places for disposal of dead not to be opened without permission of Commissioner:— No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person for the said purpose without the written permission of the Commissioner who, with the approval of the Corporation may grant or withhold such permission.

569. Government may direct closing of place for disposal of dead:— (1) If, from information furnished by competent persons and after personal inspection, the Commissioner shall at any time be of opinion,

(a) that any place of public worship, is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any churchyard or burial ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is in such a state as to be or to be likely to become injurious to health or is otherwise no longer suitable for such use, he may submit his said opinion with the reason therefor, to the Corporation, which shall forward the same, with its opinion, for the consideration of the Government.

(2) Upon receipt of such opinion, the Government after such further enquiry, if any, as it shall deem fit to cause to be made, may, by notification published in the [1][Andhra Pradesh Gazette] and in the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead. Every order so made shall be noted in the register kept under Section 566.

(3) On the expiration of two months from the date of any such order of the Government, the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof in such language, or languages, as the Corporation may, from time to time specify, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

570. Government may sanction reopening of places which have been closed for disposal of dead:— (1) If, after personal inspection, the Commissioner at any time be of opinion that any place

1. Subs. by Act No. 5 of 1969.

formerly used for the disposal of the dead which has been closed under the provisions of Section 569 or under any other law or authority, has by lapse of time become no longer injurious to health, and may without inconvenience, or risk of danger be again used for the said purpose, he may submit his said opinion with the reasons therefor to the Corporation, which shall forward the same with its opinion for the consideration of the Government.

(2) Upon receipt of such opinion, the Government after such further inquiry, if any, as it shall deem fit to cause to be made, may by notification published as provided in Section 569 direct that such place be reopened for the disposal of the dead. Every order so made shall be noted in the register kept under Section 566.

571. Burials within places of worship and exhumation not to be made without permission of Commissioner:— (1) No person shall, without the written permission of the Commissioner under sub-section (2)—

(a) make any vault or grave or internment within any wall, or underneath any passage, porch, portico, plinth or verandah of any place of worship;

(b) make any internment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under Section 569;

(c) build, dig, or cause to be built or dug any grave, or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under Section 566;

(d) exhume any body, except under the provisions of the Code of Criminal Procedure, or any other law for the time being in force, from any place for the disposal of the dead.

(2) The Commissioner may in special cases grant permission for any of the purposes aforesaid subject to such general or special orders as the Government may, from time to time, make in this behalf.

(3) An offence against the section shall be deemed to be a cognizable offence within the meaning of Sections 149, 150 and 151 of the Code of Criminal Procedure, 1898.

572. Acts prohibited in connection with disposal of dead:— No person shall—

(a) retain a corpse on any premises, without cremating, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk or infection or injury to the public health as the Commissioner may, by public notice, from time to time, think fit to require;

(c) except when no other route is available carry a corpse or part of a corpse along any street which is for the carrying of corpses prohibited by a public notice issued by the Commissioner in this behalf;

(d) remove a corpse or part of a corpse, which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(e) whilst conveying a corpse or part of a corpse place or leave the same on or near any street, without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise in such manner that the surface of the coffin or, when no coffin is used, of the corpse or part of the corpse shall be at a less depth than six feet from the surface of the ground.

(g) build or dig, or cause to be built or dug, any grave or vault in any burial ground in any line not marked out for this purpose by or under the order of the Commissioner.

(h) build or dig, or cause to be built or dug, any grave or vault in any burial ground at less distance than two feet from the margin of any other grave or vault;

(i) without the written permission of the Commissioner, reopen for the internment of a corpse or of any part of corpse, a grave or vault already occupied;

(j) after bringing or causing to be brought to a crematorium any corpse or part of a corpse fail to cremate or cause the same

to be cremated within six hours from the time of the arrival thereof at such ground;

(k) when cremating or causing to be cremated any corpse or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or cremating of such corpse or part of a corpse to be removed or to remain on or near the place of cremation without its being completely reduced to ashes.

CHAPTER XV
Vital statistics

Registration of Births and Deaths

573. Appointment of Registrars:— For the purpose of registering births and deaths, the Commissioner shall, from time to time divide the city into as many wards as he shall think fit, and a Municipal Officer shall be Registrar of births and deaths of each such ward or group of wards.

574. Registrars to reside in their respective wards:— (1) Every Registrar shall reside within the ward of which he is Registrar and shall cause his name, together with the words "Registrar of Births and Deaths for the Ward of..." to be affixed in some conspicuous place at or near the outer door of his place of abode.

(2) A list showing the name and place of abode of every Registrar in the city shall be kept at the Chief Municipal Office and shall be open at all reasonable times to public inspection free of charge.

575. Register books to be supplied:— The Commissioner shall provide and supply to the Registrars a sufficient number of register books of births and of register books of deaths for the registration of the particulars specified in Schedules Q and R, respectively and the pages of each of the said books shall be numbered progressively from the beginning to the end thereof.

576. Registrars to inform themselves of all births and deaths:— (1) Each Registrar shall inform himself carefully of every birth or and death which shall happen in his ward and of the particulars concerning the same required to be registered according to the forms in the said

schedules, and shall, as soon after each such birth or death as conveniently may be, register the same in the book supplied for this purpose by the Commissioner, without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a Municipal Officer.

(2) Other Municipal Officers, besides the Registrars, may be appointed, with the duty of informing themselves of every birth or of every death in the ward to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the Registrar of the said ward or to such other person as the Commissioner directs.

577. Information of birth to be given within seven days:— It shall be the duty of the father and mother of every child born in the city and in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born, and of each person present at the birth and of the person having charge of the child, to give, to the best of his knowledge and belief, to the Registrar or other Municipal Officer appointed under Section 576, within seven days after such birth information of the particulars required to be registered concerning such birth:

Provided that, in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child and the Registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother.

578. Information respecting finding of new-born child to be given:— In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the Registrar or other Municipal Officer aforesaid, within seven days after the finding of such child, such information or the particulars required to be registered concerning the birth of such child as the informant possesses.

579. Officers to be appointed to receive information of deaths at places for disposal of dead:— (1) For every place for the disposal of the dead registered in the register kept under Section 566 a Municipal Officer shall be appointed, whose duty it shall be to receive information of the particulars required to be registered concerning the death of every person whose corpse is disposed of at such place.

(2) If the Commissioner shall not think fit to require the Municipal Officer so appointed to be in constant attendance at any place for the disposal of the dead for which he is so appointed, there shall be affixed to a conspicuous part of the entrance to such place a notice specifying the name of the officer so appointed for the said place and the address where he may be found.

580. Information of death to be given at the time when the corpse of the deceased is disposed of:— (1) It shall be the duty of the nearest relatives of any person dying in the city present at the death, or in attendance during the last illness of the deceased and, in default of such relatives, of such person presents at the death, and of the occupier of the premises in which, to his knowledge, the death took place, and, in default of the persons hereinbefore in this section mentioned of each inmate of such premises, and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the officer appointed under the last preceding section, information of the particulars required to be registered concerning such death.

(2) The said information shall be given at or about the time that the corpse of the deceased person is disposed of, and it shall be given in writing if the informant can write, and otherwise orally and the informant shall make known to the officer aforesaid his name, designation and place of abode, and shall attest the correctness of the information which he gives, to the best of his knowledge and belief, by his signature or mark.

581. Medical Practitioner who attended a deceased person to certify the cause of his death:— (1) Where a duly qualified medical practitioner attends an ill person upto the time of his death, the said practitioner shall, within three days of such person's death sign and forward to the Commissioner a certificate of the cause of such person's death, in the form of Schedule S or in such other form as shall from

time to time be determined by the Commissioner in this behalf, and the cause of the death as stated in such certificate shall be entered in the register, together with the name of the certifying medical practitioner.

(2) The Commissioner shall provide printed forms of the said certificate and any duly qualified medical practitioner resident in the City shall be supplied, on application, with such forms, free of charge.

582. Preparation of register, books of deaths and mortality returns, etc.:— (1) The information concerning deaths received by every officer appointed under Section 579 be entered by him in a register-sheet, which shall contain the particulars specified in Schedule R and shall be forwarded, at such intervals as shall be determined by the Commissioner, through the Registrar of the ward to the Chief Municipal Officer.

(2) From the said register-sheets and from the certificates furnished to him under Section 581 the Commissioner shall cause the register-books of deaths to be prepared and shall have prepared and published such tabular returns and statements as shall appear to him to be useful for sanitary or other purposes.

583. Correction of errors in registers of births or deaths:— (1) Any clerical error which may at any time be discovered in a register of births or in a register of deaths may be corrected by any person authorised in that behalf by the Commissioner.

(2) An error of fact or substance in any such register may be corrected by any person authorised as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the Commissioner, by the person requiring such error to be corrected, of a declaration on oath setting-forth the nature of the error and the true facts of the case, made before a Magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or in death of such persons, by two credible persons having knowledge of the case, and certified by such Magistrate to have been made in his presence.

(3) Except as aforesaid no alteration shall be made in any such register.

584. Registration of name of child or of alteration of name:— (1) When the birth of any child has been registered and the name, if any, by which it was registered is altered or, if it was registered without

a name, when a name is given to it, the parent or guardian of such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the registrar, such certificate, as hereinafter mentioned and the registrar upon the receipt of that certificate shall without any erasure of the original entry, forthwith enter in the register-book the name mentioned in the certificate as having been given to the child.

(2) The certificate shall be in the form of Schedule T, or as near thereto as circumstances admit, and, in the case of Christians, shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or, if the child is not baptised or is not a Christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism, shall deliver the certificate required by this section on demand on payment of a fee not exceeding one rupee.

CHAPTER XVI
Rules and Bye-laws

[1][**585. Power to make rules:—** (1) The Government may, by notification in the Andhra Pradesh Gazette, make rules for carrying out all or any of the purposes of this Act.

(2) In making any such rule, the Government may direct that a breach thereof shall be punishable with a fine which may extend to rupees five-hundred and if the breach is a continuing one a further fine which may extend to rupees twenty for every day after the first day during which the breach has been made.

(3) Every rule made under this Act shall immediately after it is made, be laid before [2][each House of the] State Legislature if it is in session and if it is not in session in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, [2][both Houses] agree in making any modification in the rule or in the annulment of the

1. Subs. by A.P. Act 22 of 1981 w.e.f. 16.6.1981.
2. Requires amendment as Legislative Council is abolished.

rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validation of anything previously done under that rule.]

Commentary

Subordinate Legislation:— In *Salmond on Jurisprudence*, 11th edition Page 142, it has been stated that there are five chief forms of subordinate legislation:

(1) Colonial,

(2) Executive,

(3) Judicial,

(4) Municipal, and

(5) Autonomous.

Municipal and autonomous subordinate legislations have the character of bye-laws and rules. AIR 1963 Bom. 156. Law does not include administrative orders which are traceable not to any law made either for the convenience of administration or for the benefit of individuals, though the power to make laws as well as these orders, was vested in the same authority the absolute rules. AIR 1964 SC 1043. In *Raj Kumar Narsing Pratap Singh vs. State of Orissa* AIR 1964 SC 1793 the Supreme Court considered the meaning of law and observed:

"The theorists may not find it easy to define a law as distinguished from executive orders, the main features and characteristics of law are well recognised.

Stated broadly, a law severally is a body of rules which have been laid down for determining legal rights and legal obligations which are recognised by Courts. In that sense, a law can be distinguished from a grant because, in the case of a grant, the grantor and the grantee both agree about making and acceptance of the grant, not so in case of law. Law in the case of an absolute monarch, is his command which has to be obeyed by the citizens whether they agree with it or not".

Rule:— Rule means a rule made in exercise of a power conferred by any enactment and includes a regulation made as a rule under any enactment. AIR 1969 All. 177. Explaining the purpose of 'rules' Craies on Statute Law, 6th edition at page 157 observed:

"Where the language of an Act is ambiguous and difficult to construe, the Court may for assistance in its construction refer to rules made under

the provisions of this Act, especially where such rules are by the statute authorising them, directed to be read as part of this Act. For not only is every part of the Statute itself to be taken into consideration in order to ascertain the meaning of any obscure expression, but recourse may(also) be had to rules which have been made under the ambiguous and doubtful on any point, and if we find that in the rules any particular construction has been put on the Act, it is our duty to adopt and follow the construction. These rules form a sort of contemporaneous exposition. AIR 1965 Mys. 227(FB).

Interpretation of Rules:— The rules cannot travel beyond the Act and must be read subject to its provisions. 1965(2) SCR 1029. The rules framed under an Act form part of the Act and the provisions thereof must be given effect to. The Courts are bound to give recognition to rules made under the provisions of a statute and meant by Legislature to be observed. 1968 ALT 257 of the impugned rule is plainly opposed to any provision in the Act, when it has to be struck down whatever may be the formalities observed in framing the rules. But the provision in the Act which calls for interpretation is capable of two reasonable interpretations, then that interpretation which accords with the impugned rule, should be accepted because that rule form a sort of contemporary *expositio.*

A statutory rule cannot enlarge the meaning or a section of a rule goes beyond what the section contemplates the rule must yield to the statute AIR 1960 SC 12. Rules are again well known species subordinate legislation laying down general rule of conduct and if they are passed by a body having the authority to do so, they are enforceable by courts or other authorities, AIR 1964 SC 648 at 666. Failure to lay down rules before both houses may not render the rules invalid. 1960 Ker. LJ. 1319. Building Rules framed by the Government in G.O.Ms.No.369 M.A. dated 22-4-1968 are ultra vires. *B.N. Chobe vs. Municipal Commissioner, M.C.H.,* 1971(2) An.W.R 202 = 1971 APHN 68 = 1971 (2) LR 24.

Building rules framed by Government are invalid. 1971(2) ALT 143.

Bye-Laws:— *Lord Russel of Killoweir, CJ in the well known case or Kruse vs. Jhonson.*1898(2) QB91, explained a bye-law as:

"A bye-law of the class we are here considering. I take to be an ordinance affecting the public, or some portion of public imposed by some authority clothed with statutory powers ordering some thing to be done or not to be done, and accompanies by some sanction or penalty for its non-observance".

It will be noticed that in that case the authority which made the bye-law had been set up by a statute.

Lindley L.J. in *London Association for Shop owners vs. London Docks Committee* 1892(3) Ch. 242 at 252, explained:

"A bye-law is not an agreement, but a law binding on all persons to whom it applies, whether they agree to be bound by it or not. All regulations made by a corporate body and intended to bind not only themselves and their officers and servants but members of the public who come within the sphere of their operation, may be properly called bye-laws".

Nature of Bye-Laws:— Once it is shown that in impugned bye-laws are within the competence of the Municipal Board, the fact that the preamble to the bye-laws mentions clauses which are not relevant, does not affect the validity of bye-laws. *Afzalullah vs. State of U.P.,* AIR 1964 SC 264. The expressions in the bye-laws are to have the same meaning as they have in the Act unless there is something repugnant in the context. If there is any such repugnance, the definition in the Act cannot be resorted to for interpreting the bye-laws. *Bagalkot City Municipality vs. Bagalkot Cement Company,* AIR 1963 SC 771.

Construction of Bye-Laws:— The bye-law has to be struck if it is patent by uncertain or unreasonable in the sense that it is not reasonably related to the purpose for which the bye-law can be made. *Municipal Board, Ghaziabad vs. Rizwan Baig,* AIR 1964 All 544.

Validity of bye-law:— Four elements are essential for a bye-law to be valid namely:

(1) it must be *ultra vires* the local authority who makes it.

(2) it must not be repugnant to law.

(3) it must be certain and positive in terms.

(4) it must be reasonable-Halsbury's Laws of England 3rd Edn.Page 515 Para 948.

The reasonableness and validity of bye-laws can be tested in courts AIR 1968 SC 1232 at 1247. The validity of bye-laws must be tested by reference to the question as to whether the Municipal Board has the power to make bye-laws. If the power is otherwise established, the fact that the source of the power has been incorrect by or inaccurately indicated in the preamble to the bye-law does not make the bye-laws invalid. AIR 1958 SC 232 at 236. A bye-law can be held to be invalid for uncertainty. This principle was followed in *Municipal Board vs. Rizwan.* AIR 1964 All.544.

Procedure:— Secs. 587 to 591 deal with the procedure for making bye-laws by the corporation. The procedure in short is this :

(1) The Commissioner shall lay draft before the corporation.

(2) The draft bye-laws shall be published in the Official Gazette and in the local newspapers and fix day for receiving objections giving six weeks time.

(3) Opportunity of having by himself or his attorney or through counsel shall be given 10 days before the meeting fixed for considering the objection.

(4) The bye-law is to be confirmed by the Government;

(5) Copies must be made available.

No bye-law, alteration or remission of a bye-law have effect unless until it has been sanctioned (confirmed) by the Government.

Modification of Bye-Laws:— The Government is given power to modify or repeal of bye-laws. Building bye-laws refusal for permission for construction of second floor on the ground of open space left even though for ground floor place is left is not correct. 1989(1) ALT 147.

Zoning Regulations:— The judicial character of the duty enjoined upon the authority has to be inferred from the nature of the duty itself, having regard to the facts and circumstances of the case. Regulation No.12 is couched in unambiguous language and it empowers the Government to accord exemptions and relaxations by superseding any of the powers given to the Urban Development Authority. *B. Geethanjali v. Government of Andhra Pradesh and Others,* 1996 (1) ALD 237.

586. Bye-laws for what purposes to be made:— The Corporation may from time to time make bye-laws not inconsistent with this Act with respect to the following:—

(1) Any matter relating to the proceedings of the Corporation, a Committee or a sub-committee, the holding and regulation of meetings, the conduct of debate, the inspection of minute-books and the supply of copies of minutes to Members or other persons on payment of fees or otherwise;

(2) regulating in any particular, not specifically provided for in this Act the construction, maintenance, protecting, flushing, cleansing and control of drains, ventilation shafts or pipes, [1][x x x] water-closets, privies, latrines, urinals, washing places, drainage works of every description whether belonging to or vesting in the Corporation or other persons, private streets and public streets;

(3) regulating all matters and things connected with the supply and use of water;

1. The words "Cesspools, Municipal Water Works, Private Communication pipes" omitted by Act No. 6 of 1982. The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.

(4) furnishing information and documents to be in connection with the layout of lands for building and private streets;

[1][(5) earmarking, regulating, supervision and use of parking places, public landing places, halting places for all vehicles of any description including motor vehicles, public and private cart stands and the levy of fees for the use of such of them as belong to the Corporation.]

(6) specifying the forms of notice under Sections 428 and 433 the information documents and plans to be furnished therewith in respect of different classes of structures or works, the manner in which and the persons by whom notices shall be signed and the manner in which plans, descriptions, structural drawings or structural calculations shall be drawn, prepared and signed;

(7) regulating the manner in which, the supervision under which, the agency through which and the conditions and restrictions under which the work of erecting or re-erecting buildings of particular classes and any work such as is described in Section 433 shall be carried out;

(8) the structure of walls, foundation, roofs, and chimneys, the number, width and position of staircases, the width of corridors and passages, the material dimensions and strength of floors and staircases and of all scantling, girders, posts and columns of buildings, for securing stability and the prevention of fires and the safety of the inmates in the event of fires and for purposes of health either generally or with reference to the type of the structure and the use to which it is intended to be put;

(9) the construction of scaffolding for building operations to secure the safety of the operatives and of the general public;

(10) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air, and of other means for the adequate ventilation of buildings;

(11) the provision and maintenance of suitable means of access to buildings and preventing encroachment thereon;

(12) the provision and maintenance of house-gullies and service passages;

1. Subs. by Act 10 of 1987.

(13) regulating the conditions on which frame buildings may be constructed;

(14) regulating the use of land as building sites and prescribing the minimum size of such sites either generally or for specified areas and prescribed set-backs from the street margin for all or particular classes of buildings on specified street or classes of streets or in specified localities;

(15) regulating the height of structures generally or with reference to the materials of which they are constructed or the width of the streets on which they front or the areas in which they are situated or the purposes for which they are intended to be used;

(16) regulating the number and height above the ground or above the next lower storey of the storeys of which a building may consist;

(17) specifying the form of the completion certificate required under Section 455 and the manner in which and the person by whom it shall be signed and subscribed;

(18) regulating the intervals at which, the manner in which and the persons by whom buildings shall be periodically inspected under Section 460;

(19) regulating the management, maintenance, control and use of dwellings intended for the poorer sections of the community vesting in the Corporation;

(20) specifying the qualifications and experience of licensed surveyors, architects, engineers, structural designers and plumbers;

(21) regulating in any particular not specifically provided for in this Act, conservancy and sanitation, the destruction of rodents and other vermin, preventive and remedial measures against mosquitoes, flies and other insects and pests;

(22) the control and supervision of all premises used for any of the purposes mentioned in Section 521 and of all trades and manufactures carried on therein and the regulating of the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of any such premises;

(23) the inspection of milch-cattle, and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of cattle sheds and dairies;

(24) securing the cleanliness of milk-stores, milk-shops and milk-vessels used by dairymen or milk sellers for containing milk;

(25) regulating the sale of milk in the city; the protection of milk against contamination and the prevention of the sale of contaminated milk;

(26) requiring notice to be given whenever any milch animal is affected with any contagious disease and determining the precautionary measure to be taken for protecting milch cattle and milk against infection or contamination;

(27) regulating the measures to be taken in the event of the outbreak of any disease among animals which is communicable to man and the supply of information to facilitate the taking of such measures;

(28) securing the efficient inspection of markets and slaughter-houses and of shops in which articles intended for human food are kept or sold;

(29) the control and supervision of butchers carrying on business within the city or at a municipal slaughter-houses without the city;

(30) regulating the use of any municipal market building, market place or slaughter-house or any part thereof;

(31) controlling and regulating the sanitary condition of markets and slaughter-houses and preventing the commission of cruelty to animals therein;

(32) the licensing of hand-carts, other than those exempted from taxation under Section 240 and the seizure and detention of any such hand-carts that have not been duly licensed;

(33) requiring notice to be given of the occurrence of cases of any infectious, epidemic or endemic disease, not being a dangerous disease, and determining the precautionary measures to be taken by persons suffering from or exposed to infection from, any such disease;

(34) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in safe sanitary condition, due regard being had to the religious usages of the several classes of the community;

(35) regulating the use of any place for the skinning and cutting up of the carcasses of animals;

(36) facilitating and securing complete and accurate registration of births and deaths;

(37) securing the protection of public parks, gardens, public parking places and open spaces vested in or under the control of the Corporation from injury or misuse, regulating their management and the manner in which they may be used by the public and providing for the proper behaviour of persons in them;

(38) regulating the use of barbed wire or other material for the fencing of land or premises abutting on any street, pathway or place which the public are entitled to use or frequent;

(39) regulating trade in rags, bones, or second-hand clothing, bedding or other similar articles, including measures for disinfecting on import or before removal, sale or exposure for sale or use in any manufacturing process of any such articles;

(40) regulating the holding of fairs and industrial exhibitions in the city;

(41) regulating and prohibiting the stocking of inflammable materials and the lighting of fires in any specified portion of the City;

(42) regulating the charges for services rendered by any municipal authority;

(43) regulating admission to, and use by members of the public of municipal hospitals, dispensaries, infirmaries, homes and similar institutions and the levy of fees therein;

(44) the protection of the property of the Corporation;

(45) regulating the inspection by members of the public of municipal records and the fees to be charged before such inspection is allowed;

(46) regulating the grant of certified copies or extracts from municipal records, and the fees chargeable for such copies or extracts;

(47) regulating the appointment by owners of buildings or lands in the City who are not resident therein, of agents residing in or near the city to act for such owners for all or any of the purposes of this Act or the rules, or bye-laws made thereunder; and

(48) carrying out generally the provisions and intentions of this Act.

Commentary

Government has no power to frame building bye-laws and corporation alone has that power. 1971 (2) ALT 143.

Power of the Corporation to make bye-laws regulating the use of public parking places :-The power vested in the Corporation to make bye-laws is a broad power subject to only condition that such bye-laws made should not be inconsistent with the provisions of the HMC Act. Section 586(5) read with Section 586(48) gives ample power to the Corporation to make bye-laws regulating the use of public parking places and levy fees on such parking places. *Ch. Madan Mohan and others vs Municipal Corporation of Hyderabad and another,* AIR 2003 AP 393 = 2003 (4) ALD 6.

587. Commissioner to lay draft bye-laws before the Corporation for its consideration:— It shall be the duty of the Commissioner either *suo motu* or at the instance of the Standing Committee from time to time to lay before the Corporation for its consideration a draft of any bye-law which he shall think necessary or desirable to be made for the furtherance of any purpose of this Act.

588. Hearing by Corporation of objections to proposed bye-laws:— (1) No bye-law shall be finally approved by the Corporation, unless notice of the intention of the Corporation to take the same into their consideration has been given by advertisement in the [1][Andhra Pradesh Gazette] and in the local newspapers six weeks at least before the day of the meeting at which the Corporation finally consider such bye-law.

(2) The Corporation shall, before approving any bye-law, receive and consider any objection or suggestion which may be made in writing by any person with respect thereto before the day of the said meeting; and any person desiring to object to a bye-law, on giving written notice to the Commissioner not less than ten days before the day of the said meeting, of the nature of his said objection may, by himself or his counsel, attorney or agent, be heard by the Corporation thereon at the said meeting.

Commentary

Even if the bye-laws are not published in the papers, since they are published in the gazette, inviting objections and a hearing is given to the objectors and even if there is a technical non-compliance, it does not vitiate the building bye-laws of the corporation of Hyderabad. *Natraj Construction Company vs. Government of A.P.*, AIR 1984 AP 59 (DB).

589. Bye-law to be confirmed by Government:— No bye-law made under Section 586 shall have the force of law unless and until sanctioned by the Government and published in the [1][Andhra Pradesh Gazette].

1. Substituted by A.P. Act 5 of 1969.

590. Printed copies of bye-laws to be kept on sale:— (1) The Commissioner shall cause all bye-laws from time to time in force to be printed, and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of a fee fixed with the approval of the Standing Committee.

(2) Notice of the fact of copies of the bye-laws being obtainable at the said price, and of the place where and the person from whom the same are obtainable, shall be given by the Commissioner from time to time by advertisement in the local newspapers.

(3) Boards, with the bye-laws printed thereon or with printed copies of the bye-laws affixed thereto, shall be hung or affixed in some conspicuous part of every municipal office and in such places of public resort, markets, slaughter-houses and other works or places affected thereby, as the Commissioner thinks fit, and the said boards shall from time to time be renewed by the Commissioner.

591. Boards for exhibiting bye-laws to be open to inspection and not to be injured:— (1) No Municipal Officer or servant shall at any reasonable time prevent the inspection of any board provided by the Commissioner, under the last preceding section by any person desiring to inspect the same.

(2) No person shall, without lawful authority, destroy, pull down, injure or deface any such board.

592. Government may modify or repeal bye-laws:— (1) If it shall at any time appear 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 shall 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 in the [1][Andhra Pradesh Gazette] modify or repeal such bye-law either wholly or in part.

(3) The modification or repeal of a bye-law under sub-section (2) shall take effect from such date as the Government shall in the notification direct or, if no such date is specified, from the date of the publication

1. Substituted by A.P. Act 5 of 1969.

of the said notification in the [1][Andhra Pradesh Gazette], except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

593. Making of standing orders by Commissioner:— (1) The Commissioner may make standing orders consistent with the provisions of this Act and the rules and bye-laws made thereunder in respect of the following matters, namely—

(A) (a) fixing nakas for the collection of octroi [2][x x x].

(b) regulating the mode and manner in which octroi [2][x x x] shall be collected.

(c) determining how octroi shall be calculated when no reliable evidence is available of the value of the goods imported;

(d) regulating the stamping, sealing or otherwise marking of imported goods;

(e) specifying the manner which refunds of octroi shall be claimed or made and the conditions under which agents shall be recognised for obtaining refunds of octroi;

(f) determining the supervision under which, the routes by which and the time within which goods intended for immediate exportation shall be conveyed out of the city and the fees payable by persons so conveying the goods;

(g) any other matter relating to the collection of octroi which is not provided for in this Act;

(B) determining the manner in which sales of movable property attached for the non-payment of municipal dues shall be held;

(C) (a) preventing nuisance or obstruction in any market building, market place, slaughter-house or stockyard or in the approaches thereto;

(b) fixing the days and the hours on and during which any market, slaughter-house or stock-yard may be held or kept open for use and prohibiting the owner of any private market from keeping it closed without lawful excuse on such days or during such hours;

1. Subs. by A.P. Act 5 of 1969.
2. The words "and tolls" omitted by Act 38 of 1961, w.e.f. 1.4.1961.

(c) prohibiting every vendor in a market from closing his shop, stall or standing to the public without lawful excuse or from withholding from sale any articles in which he normally deals;

(d) keeping every market-building, market-place, slaughter-house or stock-yard in a cleanly and proper state, and removing filth and refuse therefrom;

(e) requiring that any market-building, market-place, slaughter-house or stock-yard be properly ventilated and be provided with a sufficient supply of water;

(f) requiring that in market-buildings and market-places passages be provided between the stalls of sufficient width for the convenient use of the public;

(g) the marking or branding for purposes of identification of animals rejected for slaughter as discarded or unwholesome;

(h) regulating the method of slaughter at slaughter-houses;

(i) requiring the allotment in markets of separate areas for different classes of articles;

(j) generally regulating the orderly management and control of markets, slaughter-houses and stock-yards.

(2) No order made by the Commissioner under clause (A) of sub-section (1) shall be valid unless it is approved by the Corporation and confirmed by the Government, and no order made by the Commissioner under clause (B) or paragraph (e) of clause (C) of sub-section (1) shall be valid unless approved by the Corporation.

594. Posting of standing orders and table of stallage, rents etc.:— A printed copy of the standing orders shall be affixed in a conspicuous place in the Chief Municipal Office and a printed copy of the table of stallages, rents and fees, if any, in force in any market, slaughter-house or stock-yard under Sections 534 and 535 shall be affixed in some conspicuous spot in the market-building, market-place, slaughter-house or stock-yard.

595. Penalty for breach of bye-laws, or Standing Orders:— In making bye-laws or Standing Orders, the Corporation, or the Commissioner as the case may be, may provide that for any breach thereof the offender shall on conviction—

(a) be punished with fine which may extend to rupees one hundred, and in the case of a continuing breach with fine, which may extend to rupees ten for every day during which the breach continues, after conviction for the first breach;

(b) be punished with fine, which may extend to rupees ten for every day during which the breach continues, after receipt of written notice from the Commissioner or any Municipal Officer duly authorised in that behalf to discontinue the breach ; and

(c) in addition to the imposition of such fine, be required to remedy the mischief so far as lies in his power.

Commentary

Standing Order:— The Concise Oxford Dictionary describes standing order as established orders for conduct of business. The Industrial Employment (Standing Orders) Act, 1946 in Section 2(h) defines standing orders as rules relating to matters set out in the Schedule. Taking that definition on 'Standing Orders' in this section means rules relating to matters set out in clauses A, B and C.

These standing orders are to be approved by the Corporation, except on matters mentioned in sub-paras (a) to (d) and (f) to (j) of clause (c) of sub-section (1). The standing orders in Para A are to be approved by the Corporation and confirmed by the Government. Both Bye-laws and standing orders are mandatory.

Matters for bye-laws.	**Matters for Standing orders**
Proceedings of corporation committee or sub-committee	Nakas for collection of octroi.
Construction, maintenance, control etc. of drains, privies, water closets, drainage works etc.	Manner of collection of octroi. Slanting etc., of imported goods.
Supply and use of water.	
Lay out of lands, buildings and Private streets.	Refund of octroi. Routes for exportation of goods.
Public and Private cart Stands.	Matters connected with octroi.
Submitting of plans etc. for constructions.	Payment of Municipal dues and recovery by sale.
Erecting, re-erecting of buildings or works.	Prevention of nuisance, opening and closing of market, slaughter house etc.

Structure of wall, buildings columns etc.

Open space regulation. Access to buildings.

Maintenance of house-qualities and passages.

Manner of frame buildings set-backs.

Height of structures and storeys.

Completion of construction and certificate.

Inspection of buildings.

Dwellings for poor.

Surveyors, Architects.

Engineers-Qualifications.

Conservancy and sanitation.

Dangerous and offensive trader regulation.

Milk supply and Dairies.

Regulation.

Cleanliness.

Measures in outbreak of epidemics, disease of animals.

Supervision, butchery market, slaughter house.

Disposal of dead and carcasses.

Registration of births and deaths.

Parks, Gardens etc.

Fairs and Exhibition-

Charges for ferries.

Hospitals and dispensaries

Cleanliness of markets, slaughter house etc.

Ventilation of market etc.

Lay out and passages in the market.

Rejection of animals as discarded.

Regulating of slaughter houses.

Demarcation of areas for classes of goods in the market.

Orderly management and control of markets.

Grant of certified copies of record.

The court should be eager to hold that an act or omission is a continuing wrong or default unless there are words in the statute concerned which make out that such was the intention of the legislature. Where the wrong complained of is the omissions to perform a positive duty requiring a person to do a certain act the test to determine whether such wrong is a continuing one is where the duty in question is one which requires him to continue to do this Act".

Furnishing false information.

Omission to give information to Commissioner when denuded

Disobedience to order of the Commissioner or any servant authorised.

Fraudulent claim to property to prevent seizure are made offences punishable under the Indian Penal Code.

Electoral Offences:— They are classified as offences by persons conducting the election, and offences by candidates; their agents and voters.

Election Officers	*Section*	*Candidates or Voters*	*Section*
(1) Preparation of false list of Voters or making false entries.	599	Prohibition of votings on election day	600
		Disturbance at election voting	601
(2) Maintenance of secrecy of voting	602	Prohibition of canvassing in or near polling station	604
(3) Officers not to act for candidates	603	Disorderly conduct near polling station	605
(4)		Misconduct at polling station	606
(5)		Illegal hiring or supply of conveyance	607
(6)		Removing ballot papers	608
(7) Breach of official duty	610	Making false declaration	609
(8)		Other electoral offences	610

Protection of property.

It is seen that there is no overlapping of subjects between the bye-laws and standing orders.

CHAPTER XVII
Offences and Penalties

596. Certain offences punishable with fine:— Whoever—

(a) contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of the table in the Schedule U, or

(b) fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be punished, for each such offence, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

[1][Provided that the fine imposed shall, in no case be less than fifty percent of the said amount.]

Explanation:— The entries in second column of the said table headed "Subject" are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

1. **Added by Act No. 9 of 2008, w.r.e.f. 15.12.2007.**

597. Continuing Offences:– Whoever, after having been convicted of–

(a) contravening any provision of any of the sections, sub-sections or clauses mentioned in the first column of the table in ScheduleV;

(b) failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

continues to contravene the said provision or to neglect to comply with the said requisition, or fails to remove or rectify any work or thing done in contravention of the said provision, as the case may be, shall be punished, for each day that he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

[1][Provided that the fine imposed shall, in no case be less than fifty percent of the said amount.]

Explanation:— The entries in the second column of the said table headed "Subject" are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses the numbers of which are given in the first column.

598. Offences punishable under the Indian Penal Code:— Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned and whoever fails to comply with any requisitions lawfully made upon him under any of the said sections, sub-sections or clauses, shall be deemed to have committed an offence punishable under the section of the Indian Penal Code hereinbelow in this section respectively specified as the section of the said Code under which such person shall be punishable, namely:—

Sections of this Act.	Sections of the Indian Penal Code under which offenders are punishable.
[2][Section 12, sub-section (6)]	176 or 177 as the case may be
Section 213, sub-secs. (1) and (2) and Section 243.	176 or 177 as the case may be
Section 216, sub-sec. (3)	177
Section 514, cls. (a), (b), (c) and (d) and Section 515	207
Section 565, sub-section (1)	188

1. Added by Act No. 9 of 2008, w.r.e.f. 15.12.2007.

2. Subs. by Act 28 of 2005, w.e.f. 22.06.2005.

Electoral Offences

[1][**599. Promoting enmity between classes in connection with election:—** 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 or enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to three thousand rupees.]

[1][**600. Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll:—** (1) No person shall-

(a) convene, hold, attend, join or address and public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematography, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, 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 during the period of fortyeight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine or with both.

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

601. Disturbances at election meetings:— (1) Any person who at a public meeting to which this section applies 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 together, shall be punishable [1][with imprisonment which may extend to six months or with fine which may extend to two thousand rupees.]

[2][(1-A) An offence punishable under sub-section (1) shall be cognizable.]

1. Subs. by Act 28 of 2005, w.e.f. 22.06.2005.
2. Ins. by Act 28 of 2005, w.e.f. 22.06.2005.

(2) This section applies to any public meeting of a political character held in any Ward between the date of the issue of a notification under this Act calling upon the Ward to elect a member or members and the date on which such election is held.

(3) 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 to him immediately his name and address, and if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

[1][**601A. Restrictions on the printing of pamphlets, posters etc.:—** (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 addresses of the printer and the publisher thereof.

(2) No person shall point 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, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document-

(i) where it is printed in the capital of the State, to the Election Authority, and

(ii) in any other case, to the District Magistrate of the district in which it is printed.

(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 printing 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

1. Ins. by Act 28 of 2005, w.e.f. 22.06.2005.

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 sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both.]

602. Maintenance of secrecy of voting:— (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not, except for some purpose authorised by or under any law, communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

603. Officers, etc., at elections not to act for candidates or to influence voting:— (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 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 giving of vote for the furtherance of the prospects of the elections of a candidate.

(2) No such person as aforesaid, and no member of a police force shall endeavour—

(a) to persuade any person to give his vote at an election; or

(b) to dissuade any person from giving his vote at an election;

(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 punishable with imprisonment which may extend to six months or with fine or with both.

[1][(4) An offence punishable under sub-section (3) shall be cognizable.]

1. Ins. by Act 28 of 2005, w.e.f. 22.06.2005.

604. Prohibition of canvassing in or near polling stations:— (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 [1][one hundred meters] 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; or

(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 punishable with a fine which may extend to rupees two hundred and fifty.

(3) An offence punishable under this section shall be cognizable.

605. Penalty for disorderly conduct in or near polling stations:— (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 place in the neighbourhood, thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(b) shout or otherwise act in a 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 wilfully aids or abets the contravention of the provisions of sub-sec. (1) shall be punishable with imprisonment 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

1. Subs. for "one hundred yards" by Act 28 of 2005, w.e.f. 22.06.2005.

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.

606. Penalty for misconduct at the polling station:— (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 by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that 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 punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

[1]**[606A. Penalty for failure to observe procedure for voting:—** If an elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation.]

[2]**[607. Penalty for illegal hiring or procuring of conveyance at elections:—** If any person is guilty of any such corrupt practice as is specified in sub-section (7) of Section 17 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.]

[3]**[607A. Penalty for Government Servants etc. for acting as election agent, polling agent or counting agent:—** If any person in the service of the State or Central Government or a Local Authority or a Corporation owned or controlled by the State or Central Government

1. Ins. by Act 28 of 2005, w.e.f. 22.06.2005.
2. Subs. by Act 28 of 2005, w.e.f. 22.06.2005.
3. Sections 607-A to 607-C Ins. by *Ibid.*

acts as an election agent of a candidate at an election held under this Act, he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

607B. Prohibition of going armed to or near a polling station:— (1) No person other than the Returning Officer, any Police Officer and any other person appointed to maintain peace and order; at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) An offence punishable under sub-section (2) shall be cognizable.

607C. Offence of booth capturing:— (1) Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explanation:— For the purposes of this sub-section and Section 617-D "booth capturing: includes, among other things, all or any of the following activities, namely:—

(a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(b) taking possession of polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;

(c) coercing or intimidating or threatening directly or indirectly threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

(e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

(2) An offence punishable under sub-section (1) shall be cognizable.]

608. Removal of ballot papers from polling station to be an offence:— (1) Any person who at any election [1][unauthorisedly] takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to rupees five hundred 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 and 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 upon the person arrested on search shall be made over for safe custody to a police officer by presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

609. Making false declaration:— If a person makes in, or in connection with any nomination of a candidate for election or any return election expenses, a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

[2][610. Breaches of official duty in connection with elections:– (1) if any person to whom, this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine, which may extend to five hundred rupees.

1. Subs. for "fraudulently" by Act 28 of 2005, w.e.f. 22.06.2005.
2. Subs. by *Ibid.*

(2) An offence punishable under sub-section (1) shall be cognizable.

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

(4) The persons to whom this section applies are the District Election Officers, 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 candidatures, or the recording or counting of votes at an election and the expression "official duty" shall for the purposes of this section be construed accordingly but shall not include duties imposed otherwise than by or under this Act.]

[1][**610A. Liquor not to be sold, given or distributed on polling day:–** (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

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

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed]

611. Other offences and penalties therefor:— (1) A person shall be guilty of an electoral offence if at any election he—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

1. Ins. by Act 28 of 2005, w.e.f. 22.06.2005.

[1][(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or]

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall—

(a) if he is 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 punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "Official duty" shall not include any duty imposed otherwise than by or under this Act or rules made thereunder.

(4) An offence punishable [1][under sub-section (2)] shall be cognizable.

[1][**612. Penalty for offences not otherwise provided for:–** Whoever does any act in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or passed, thereunder and not otherwise provided for in this Act shall, on conviction be punished with imprisonment which may extend to two years or and with fine which may extend to two thousand rupees or with both.]

1. Subs. by Act 28 of 2005, w.e.f. 22.06.2005.

Offences other than electoral offences

613. Punishment for acquiring share or interest in contract, etc., with the Corporation:— Any Member who knowingly acquires; directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Corporation, not being a share or interest such as, under clause (h) of Section 22, it is permissible for a Member to have, without being thereby disqualified for being a Member, and any Commissioner, Deputy Commissioner, Municipal Officer or servant who knowingly acquires directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Corporation, not being a share or interest such as, under clause (h) of Section 22, is permissible for a member to have, without being thereby disqualified for being a member, shall be deemed to have committed the offence made punishable by Section 168 of the Indian Penal Code.

614. Punishment of offences against Section 348:— (1) Whoever, contravenes any provision of sub-section (1) of Section 348 shall be punished with imprisonment which may extend to one month, or with fine which may extend to rupees one hundred or with both.

(2) When any person is convicted under sub-section (1) the Magistrate who convicts him may order the immediate removal of any building or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall be punished, with imprisonment which may extend to one month, or with fine which may extend to rupees one hundred or with both.

615. Punishment of offences against Section 518:— Whoever contravenes any provision of Section 518, whether the person so offending be the owner or occupier of the premises in which a furnace is situated or the agent or some person employed by the owner or occupier for managing the same, shall be punished with fine which may extend on a first conviction to rupees one hundred and, on a second or subsequent conviction, to a sum equal to double the amount to which it might have extended on the last preceding conviction.

616. Extent of penal responsibility of agents and trustees of owner:— No person who receives the rent of any premises in any capacity

described in sub-clause (a) of Clause (39) of Section 2, shall be liable to any penalty under this Act for omitting to do an act as the owner of such premises if he shall prove that the default is caused by his not having funds of, or due to owner sufficient to defray the cost of doing the act required.

617. Punishment of offences relating to Octroi:— The law for the time being in force for the punishment of offences relating to the levy or payment of customs duties and the grant of drawbacks, in connection therewith and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the levy, payment and refund of Octroi, and any omission or misdescription in passing for exports any goods in respect of which refund of Octroi may be claimable, shall be punishable as is such omission or misdescription had been made in passing the said goods for import.

Commentary

Sections 596 to 617 contain provisions relating to offences and penalties including electoral offences.

Schedule V laid down the contraventions and penalties.

Schedule V laid down the contraventions the repetition of which is a continuing offence and penalties for every day of continuance.

Continuing Offence:— In the *Commissioner of Wealth Tax vs. Suresh Sethi,* (1981) 2 (SCC) 790 the Supreme Court while considering the meaning of 'Continuing offence' laid down as follows:

"A liability in law ordinarily arises out of an act of commission or an act of omission. Ordinarily a wrongful act or failure to perform an act required by law to be done becomes a completed act of commission or omission, as the case may be, as soon as the wrongful act is committed in the former case and when the time prescribed by law to perform an act expires in the latter case and the liability arising therefrom sets fastened as soon as the act of commission or omission is completed. The extent of that liability is ordinarily measured according to law in force at the time of such completion. In the case of acts amounting to crimes the punishment to be imposed cannot be enhanced at all under the Constitution by a subsequent legislation by reason of Article 20(1) of the Constitution.

The distinctive nature of a continuing wrong is that the law that is violated makes the wrong doer continuously liable for penalty. A wrong or default which is complete but whose effect may continue to be felt even after its completion is however not a continuing wrong or default."

Procedure for prosecution against officers.

Section 612 laid down that the court shall not take cognizance of offences under Sections 603, 604 and 611(2) without sanction by the Government. Before sanction an enquiry must be conducted by the Government whether offences are cognizable.

Liability of Agents of Owners:— Section 617 engrafts a protection to person other than owners who for purposes of this Act are deemed to be owners under Sec. 2(39) to escape prosecution if they prove that the offence was committed due to lack of funds of the owner or due to the owner to pay that amount.

Offences Relating Octroi:— Sec. 617 lay down the provisions for payment, levy and collection of customs duties relating to octroi.

Customs Act, 1962:— Chapter XIV deals with penalties for evasion of customs duties. It provides for confiscation of the goods also. Chapter X deals with drawbacks. The power of confiscation available under the Customs Act, 1962 is not expressly mentioned in Section 617. Hence it is submitted that the Municipal authorities have no power similar to customs officers under Sections 118 to 127 of the Customs Act relating to confiscation and adjudication.

[1][CHAPTER XVII-A
Election Expenses

617-A. Application of chapter:– This chapter shall apply to candidates of any election held under this Act.

617-B. Account of election expenses:– (1) Every candidate, at any election held under this Act shall, either by himself, or by his election agent, keep a separate and correct account of all expenditure incurred in connection with the election, between the date on which the candidate concerned has been nominated, and the date of declaration of the result of the election, both dates inclusive (hereinafter in this chapter referred to as 'Election Expenses').

Explanation 1:– 'Election Expenses' for purpose of this Act shall mean all expenses in connection with the election,–

(a) incurred, or authorized by the contesting candidate, or by his election agent;

(b) incurred by any association, or body of persons, or by any individual (other than the candidate or his election agent), aimed at promoting or procuring the election of the candidate concerned; and

1. Chapters XVII-A & XVII-B ins. by Act 28 of 2005, w.e.f. 22.06.2005.

(c) incurred by any political party, by which the candidate is set up, so as to promote or procure his election:

Provided that any expenses incurred by any political party as part of its general propaganda, (which is distinguishable from its election campaign, for the promotion or procuring the election of a particular candidate), by words, either written or spoken, or by signs or visible representations, or by audiovisual devises, or through print or electronic media or otherwise, shall not constitute 'election expenses' for purposes of this Act.

Explanation II:– (1) For the removal of doubts, it is hereby declared that any expenses incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (9) of Section 17(1)(B) in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenses in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.

(2) The account of election expenses shall contain such particulars, as may, by order, be specified by the State Election Commission.

(3) The total of the said expenses shall not exceed such amount, as may, by order, be specified by the State Election Commission.

617-C. Lodging of account with the District Election Authority:– Every contesting candidate at an election shall, within forty five days from the date of declaration of the result of the election, lodge with the District Election Authority, an account of his election expenses, which shall be a true copy of the account kept by him, or by his election agent, under Section 617B.

CHAPTER XVIIB

Appointment of Observers

617-D. Appointment of Observers:– (1) The State Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a ward or group of wards, of a Municipal Corporation and to perform such other functions as may be entrusted to him by the State Election Commission in relation thereto.

(2) The Observer nominated under sub-section (1) shall have the power to direct the Returning Officer for the ward or for any of the wards for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result, if in the opinion of the Observer, booth capturing has taken place at a large number of polling stations or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station cannot be ascertained.

(3) Where an Observer has directed the Returning Officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the State Election Commission and thereupon the State Election Commission shall, after taking all material circumstances into account, issue appropriate directions under Section 59A or Section 63A or Section 65.

(4) It shall be competent for the State Election Commission to appoint an election expenditure observer for a group of wards of a Municipal Corporation, so as to ensure that the provisions of Chapter XVIIA are strictly adhered to and in that behalf the Commission may issue such instructions as it deems fit, from time to time, to such Observers.]

CHAPTER XVIII
Licensing of Surveyors and Plumbers

618. Grant of licences to Surveyors and Plumbers:— (1) The Commissioner may grant to any person he thinks fit a licence to act as a surveyor [1][x x x] for the purposes of this Act. Each such licence shall be for a renewable period of one year.

(2) If any applicant for a licence to act as a surveyor is a licentiate of Civil Engineering or a person who has passed some test of professional qualification equivalent to that for a licentiate of Civil Engineering, his application shall not be refused by the Commissioner, except with the approval of the Standing Committee and upon the ground that the applicant is unfit, through incompetency, misconduct or other grave reason, to hold such licence.

1. The words "or as plumber" omitted by A.P. Act 6 of 1982. The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.

(3) If the Commissioner refuses any application for a licence under this section he shall, at the request of the applicant, furnish such applicant with his reasons, for such refusal in writing under his signature, without charge.

Commentary

Effect of Amendment by Act 6 of 1982:— HMWSS Act, 1982 does not contain any provision for modifying Section 618 of the Hyderabad Municipal Corporation Act. It cannot be said that merely because the power and necessity to grant licences to the plumbers is given to the Water Supply and Sewerage Board, such power cannot be exercised by the Corporation. The power and need of the Corporation to license plumbers had been suspended by necessary implication only in areas where Water Supply and Sewerage Boards were established to carry out that function. *B. Udaya Bhaskara Rao and others v. Executive Engineer, Municipal Corporation of Rajahmundry, E.G. Dist. and another,* 1997 (5) ALT 159.

Licensed surveyor - Cancellation of licence:—Requirement of issuing notice before such cancellation of licence of a licenced surveyor, has to be read into provisions of statute. An Order cancelling licence not preceded by any show cause notice calling upon the petitioner to give his explanation as to allegations of his collecting less charges and paying to the Corporation while approving building plan is violative of principles of natural justice and doctrine of fairness. The persons whose rights are likely to be curtailed should be given notice. While interpreting the provisions of a statute, there is presumption that the Legislature always intended the law enforcing authorities to act reasonably and in a fair manner, even though such a requirement is not explicitly stated in the statute. *P. Ravindra Babu vs Municipal Corporation, Visakhapatnam and others*, AIR 2002 AP 332.

619. Bye-laws may be made for guidance of licensed surveyors [1][x x x]:— The Bye-laws may be made from time to time for the guidance of licensed surveyors [1][x x x] and a copy of all bye-laws so made in force for the time being, on the back of every licence granted to a surveyor. [1][x x x].

620. [2][x x x]

621. [2][x x x]

Authors' Note:— Sections 620 & 621 though repealed by Act No. 6 of 1982 continue to be in force in so far as other Municipal Corporations are concerned. The repeal is restricted to the Municipal Corporation of Hyderabad. And hence the repealed Sections 620 & 621 are given hereunder.

1. The words "and plumber" omitted by A.P. Act 6 of 1982. The amendment is applicable only to Hyderabad Municipal Corporation and not other Corporations.
2. Omitted by A.P. Act 6 of 1982.

620. Fees and charges of licensed plumbers to be determined by the Corporation:— *The Corporation may from time to time determine the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act, and no licensed plumber shall demand or receive more than the fee or charge so determined for any such work.*

621. Licensed plumber to be bound to execute work properly:— *No licensed plumber shall execute work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.*

CHAPTER XIX
Procedure
Licences and Permissions

622. Licences and written permission to specify conditions, etc., on which they are granted:— (1) Whenever it is provided in this Act that a licence or a written permission may be given for any purpose, such licence or written permission shall specify the period for which and the restrictions and conditions subject to which, the same is granted, and shall be given under the signature of the Commissioner or of a municipal officer empowered under Section 119 to grant the same.

(2) *Fees to be Chargeable:—* For every such licence or written permission a fee may be charged at such rate as shall from time to time be fixed by the Commissioner, with the sanction of the Corporation.

(3) *Licences and written permission may be revoked, etc.:—* Subject to the provisions of sub-sections (2) and (3) of Section 530 any licence or written permission granted under this Act may at any time be suspended or revoked by the Commissioner, if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted or if the said person is convicted of an infringement of any of the provisions of this Act or of any bye-law made hereunder in any matter to which such licence or permission relates.

(4) *Power to order the discontinuance of the use of premises for unlicensed trades:—*

(a) If any premises are used without obtaining a licence for any of the purposes specified in schedules or having obtained a licence is being used in contravention of the terms of such licence or is continued to be used after licence thereof has been suspended or revoked by the Commissioner, the Commissioner may at any time by written notice require that the same shall be discontinued by the person so using it.

(b) If within the period specified in such written notice, the requisitions contained therein are not carried out by the person or owner, as the case may be, any officer authorised by the Commissioner in this behalf may enter the premises and cause the usage as such thereof to be discontinued.

(c) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or for the use of any force necessary for the purpose of effecting an entrance under this section.

(5) Every person to whom any such licence or written permission has been granted shall at all reasonable times while such written permission or licence remains in force, if so required by the Commissioner produce such licence of written permission.

(6) Every application for a licence or permission shall be addressed to the Commissioner.

(7) The acceptance by or on behalf of the Commissioner of the fee for a licence or permission shall not by itself entitle the person paying the fee to the licence or permission.

Commentary

Power conferred on Commissioner to fix rate of fee is not arbitrary and unguided. ILR 1975 AP 1057.

Nature of licence fee:— A licence fee may be either regulatory or compensatory. When a fee is charged for rendering specific services certain element of *quid pro quo* must be there between the service rendered and the fee charged so that the licence fee is commensurate with the cost of rendering the service although not exactly in arithmetical equivalence. Licence fees can also be regulatory when the activities for which the licence is given required to be regulated or controlled. The fee charged for the regulation of such activity can be classified as a fee but not as a tax although no service is rendered. *Secunderabad Hyderabad Hotel Owners Association & Ors. etc. v. Hyderabad Municipal Corporation, Hyd. & Anr.,* 1999 (1) ALD SCSN 29.

Enhancement of licence fees :- Licence fees is based on rental value. It can be subsequently enhanced. Commissioner without the sanction of the Corporation is competent to enhance the licence fee. *Vijaya Durga Enterprises, Vijayawada vs Municipal Corporation of Vijayawada and others,* 2002 (2) ALD 760.

Additional fees :-Additional fees can be levied for delayed payment of licence fee. *Vijaya Durga Enterprises, Vijayawada* vs *Municipal Corporation of Vijayawada and others,* 2002 (2) ALD 760.

623. Licence required for dealing in dairy products:— No person shall without, or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf.

(a) carry on within the City the business of a dairyman,

(b) use any place in the City as a dairy or for the sale of any dairy produce.

624. Licence for sale in public place:— Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall use any public place or any public street for the purpose of hawking or exposing for sale, any article whatsoever whether it be for human consumption or not.

625. Licence for use of skill in handicraft or rendering services for purposes of gain in public place or street:— Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall, for purposes of gain use any public street for the purposes of using his skill in any handicraft or in rendering service to and for the convenience of the public.

Commentary

Fee and Licence Fee:— The words 'licence fee' in a section do not necessarily mean a fee in return of service. In fact in our constitution Article 110(2) contained expressions 'fees for licence' and 'fees for services'. The same expressions are found in Article 199(2). Therefore a provision for the imposition of licence fee does not necessarily lead to the conclusion that the fee must be only for services rendered. AIR 1965 SC 1107. If there is a statutory authority and sanction for the imposition and realisation of the fee, it cannot be assailed on the ground that there is not quid *pro quo*. AIR 1967 Cal. 174.

Seligmen in his famous work 'Essays on Taxation' at pages 406, and 409 described the two kinds of fees as follows :

(i) In the first class of cases, the Government simply grants a permission or privilege to a person to do something which otherwise a person would not be competent to do and extract fees either nearly or moderate from that person in return for the privilege that is conferred. A most common illustration of this type of cases is furnished by the licence fees for motor vehicles. Here the costs incurred by the Government in maintaining an office or borrow for the granting of licences may be very small and the amount of imposition that is levied if based really not upon the costs incurred by the Government but upon the benefit that the individual receives. In such cases according to all the writers on the public finance,

the tax element is predominant and if the money paid by the licence holders goes for the up keep of roads and other matters of general public utility, the licence fee cannot but be regarded as a tax.

(ii) In the other cases, the Government does some positive work for the benefit of persons and the money is taken as the return for the work done or services rendered. If the money thus paid is set apart and appropriated specifically for the performance of such work and is not merged in the public revenues for the benefit of the general public, it can be counted as fees but not a tax. There is really no generic difference between the tax and fees. The taxing power of state may manifest itself in three different forms known respectively as special assessment, fees and taxes".

Principles of Natural Justice in Licence Cases:— There is a distinction between the initial grant of licence and cancellation of an existing licence. On a grant of a licence a person gets right to carry on the activity for which such licence is granted and if that right is sought to be taken away by cancellation of the licence principles of natural justice come into play and he should be heard before cancelling the licence already granted. But in the case of initial grant of licence an applicant for such licence does not acquire any such right to carry on such activity unless the licence is granted. The licencing power is the exercise of Police Power which consists of power to regulate the citizens' right to carry on any trade or profession that is to down reasonable conditions subject to which the trade or profession may be carried on, with the growing complexity of social life, licencing is being used as a great preventive device for the protection of the life, health and safety of citizens in situations where the judicial sanction which is penal or remedial is inadequate is or ineffective. Thus to punish an aeroplane pilot for competence after he has caused an accident is far less sufficient than to levy him the right to be pilot in the first place unless he meets certain qualifications. AIR 1960 SC 430.

In our Constitution the granting of a licence with respect to a trade which is not inherently dangerous can not be regarded as a privilege. A citizen has the right to carry on such trade subject to such restrictions as may be imposed by the State provided they are reasonable and a law which empowers an administrative authority to refuse a licence at his discretion, even though the applicant complied with the conditions specified in the statute must be regarded as unreasonable. AIR 1961 SC 705 at 714. A power to refuse a licence, AIR 1954 All 144, or cancel or revoke a licence, AIR 1960 SC 418, without giving the person interested an opportunity of being heard against the action proposed is an unreasonable restriction of the fundamental right under Article 19(1)(g). In *Krishna Chand vs. Commissioner of Police*, AIR 1961 SC 705, it was held that a law which does not provide for an opportunity before licence is refused or cancelled will not be un-reasonable. Sri Durgadas Bash in his treatise. The Indian Constitution, 5th edition Page 779 commented on this decision and pointed out that it must be reconsidered.

In the American Administrative law by Kenneth Club Davis, 3rd edition, Page 184 it is observed "Licenses that were once regarded as privileges have become rights". In America mostly licensing laws contained provisions for hearing before refusal or grant of licences. Prof. S.A. De. Smith in his Judicial Review of Administrative Action, 2nd edition at page 72 quoted certain Australian and Newzealand cases wherein it was held that public bodies invested with discretionary powers to grant permits or licences have been held not to be subject to an implied duty to afford a hearing to the applicants, partly on the ground that they were only dispensing privileges. But to cases of non-renewal principles of natural justice are applied. For revocation or cancellation principles of natural justice are applicable. But the important question is whether a right to do under a licence is a privilege or right. If it is a right, before the right is denied principles of natural justice apply. In *Swadeshi Cotton Mills vs. Union of India*, AIR 1981 SC 818 the Supreme Court ruled:

"If the Statute conferring power is silent with regard to the giving of a predecisional hearing to the person affected and the administrative decision taken by the authority involves civil consequences of a grave nature, and no full review or appeal on merits against that decision is provided, courts will be extremely reluctant to construe such a statute as excluding the duty of affording even a minimal hearing, shorn of all its formal trappings and dilatory features at the predecisional process or trust rate the need of utmost promptitude. In short the rule of fair play must not be jettisoned save in very exceptional circumstances where compulsive necessity so demands." It remains still a debatable issue whether before refusing a licence opportunity must be given or not.

Cancellation or Revocation:— Section 530 is made applicable to cancellation or revocation of licences in the approval of the Standing Committee is necessary.

Revision:— Section 679 provides a revision to the Government against any order of the Commissioner.

Public Notices and Advertisements

626. Public notices how to be made known:— Whenever it is provided by this Act that public notice shall or may be given of anything, such public notice shall be in writing under the signature of the Commissioner or of a municipal officer empowered under Section 119 to give the same and shall be given wide publicity in the locality to be affected thereby affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in the local newspapers or by any two or more of these means and by any other means that he shall think fit.

627. Advertisements how to be made:— Whenever it is provided by this Act that notice shall be given by advertisement in the local newspapers or that a notification or any information shall be published

in the local newspapers such notice, notification or information shall be inserted, if practicable in at least two newspapers, in such language or languages as the Corporation may from time to time specify in this behalf published in the City.

628. Consent, etc., of Commissioner, may be proved by written document under his signature:— Whenever under this Act the doing or the committing to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner or of a Deputy Commissioner or any municipal officer, a written document signed by the Commissioner or by such Deputy Commissioner or municipal officer, purporting to convey or set forth his consent, approval, declaration, opinion or satisfaction shall be sufficient evidence of such consent, approval, declaration, opinion or satisfaction.

Service of notices, etc.

629. Notice, etc. by whom to be served or presented:— Notices, bills, schedules, summons and other such documents required by this Act or by any regulation or bye-law made under this Act to be served upon or issued, or presented or given to any person, shall be served, issued or presented or given by municipal officers or servants or by other persons authorised by the Commissioner in this behalf.

630. Service how to be effected on owners of premises and other persons:— When any notice, bill, schedule, summons or other such documents is required by this Act, or by any regulation or bye-law made under this Act, to be served upon or issued or presented or given to any person such service, issue or presentation shall except in the cases otherwise expressly provided for in Section 657 be effected—

(a) by giving or tendering to such person the said notice, bill schedule, summons or other documents; or

(b) if such person is not found, by leaving the said notice, bill, schedule, summons or other documents at his last known place of abode in the city or by giving or tendering the same to some adult male member or servant of his family; or

(c) if such person does not reside in the City, and his address elsewhere is known to the Commissioner by forwarding the said notice, bill, schedule, summons or other documents to him by post under cover bearing the said addresses ; or

(d) if none of the means as aforesaid be available by causing the said notice, bill, schedule, summons or other documents to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

Commentary

Sections 630(b) and 631(b):— Bill of property tax - Service of - Owner of property absent at residence — Bill left on a table asking maid servant to give it to owner of property - Validity of service.

The Hyderabad Municipal Corporation Act attaches great importance to the service of the bill on the person liable to pay. That is why in Sections 630 and 631 various modes of service are provided. The Act enables the Corporation Officials to leave the bill in the premises or give or tender it to an adult male member or servant of the family, only when the person liable is not found and not when he is absent. There is a vital difference between a person being absent and a person not being found. The owner or occupier of the premises is not expected to be in the house all the time though it is his residence. If he is absent from his residence when the Corporation official goes to serve the bill, it cannot be said that he is not 'found'. Reading Sections 266, 630 and 631 of the Act, together it is clear that a bill for tax can be left in the residence of the person liable on 'if he is not found' despite diligent and reasonable effort made by the Corporation Official to find him.

Where the bill collector had gone to the house of the petitioner only once and finding him absent in the house, left the bill with the maid servant, there is no sufficient service and hence the subsequent demand cannot be enforced, as it is invalid. *Raj Kumar vs. Commissioner (Now Special Officer) Municipal Corporation of Hyderabad,* 1976(1) A.P.L.J. 18: 1976(2) An. W.R. 36.

631. Service on owner or occupier of premises how to be effected:— When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or bye-law made under this Act, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein and the service, issue or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section but as follows, namely:—

(a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier to any one of the owners or occupiers of such building or land; or

(b) if the owner or occupier or no one of the owners or occupiers is found by giving or tendering the said notice, bill, schedule, summons or other document to some adult male member or servant of the family of the owner or occupier or of any one of the owners or occupiers; or

(c) if none of the means aforesaid be available by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

632. The three last sections inapplicable to Magistrate's summonses:— Nothing in the three last preceding sections applies to any summons issued under this Act by a Magistrate.

633. Service of bills for taxes by post:— Notwithstanding anything containing in Sections 629, 630 and 631 a bill for any municipal tax may be served upon the person liable therefor by sending it by ordinary post with a prepaid letter under a certificate of posting, addressed to such person at his last known abode or place of business in the City and every bill so sent shall be deemed to have been served on the day following the day upon which the letter was posted and, in proving such service, it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

Commentary

See commentary under Section 630.

634. Signature on notices, etc. may be stamped:— (1) Every licence, written permission, notice, bill, schedule, summons or other document required by this Act or rule or bye-law made thereunder to bear the signature of the Commissioner or of any municipal officer shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or of such municipal officer, as the case may be, stamped thereupon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the municipal fund under Section 171.

635. Power of Commissioner to call for information as to ownership of premises:— (1) The Commissioner may, in order to facilitate the service, issue, presentation, or giving of any notice, bill, schedule, summons or other such document upon or to any person, by written notice require the owner or occupier of any premises, or of any

635. Power of Commissioner to call for information as to ownership of premises:— (1) The Commissioner may, in order to facilitate the service, issue, presentation, or giving of any notice, bill, schedule, summons or other such document upon or to any person, by written notice require the owner or occupier of any premises, or of any portion thereof to state in writing, within such period as the Commissioner may specify in the notice, the nature of his interest therein and the name and address of any other person having an interest therein, whether as freeholder, mortgagee, lessee or otherwise, so far as such name and address is known to him.

(2) Any person required by the Commissioner in pursuance of sub-section (1) to give the Commissioner any information shall be bound to comply with the same and to give true information to the best of his knowledge and belief.

Unauthorised Works

636. Work or thing done without written permission of the Commissioner to be deemed unauthorised:— (1) If any work or thing requiring the written permission of the Commissioner under any provisions of this Act, or any rule, regulation or bye-law is done by any person without obtaining such written permission or, if such written permission is subsequently suspended or revoked for any reason by the Commissioner, such work or thing shall be deemed to be unauthorised and subject to any other provision of this Act the Commissioner may at any time, by written notice, require that the same shall be removed, pulled down or undone as the case may be, by the person so carrying out or doing if the person carrying out such work or doing such thing is not the owner at the time of such notice then the owner at the time of giving such notice shall be liable for carrying out the requisitions of the Commissioner.

(2) If within the period specified in such written notice the requisitions contained therein are not carried out by the person or owner, as the case may be, the Commissioner may remove or alter such work or undo such thing and the expenses thereof shall be paid by such person or owner as the case may be.

Commentary

Notice for removing unauthorised construction:— Notice issued by Corporation to owner of a building under Section 636 for removing unauthorised construction within 24 hours of receipt of notice was held to be not illegal. 1990 (2) ALT 514.

Demolition of Unauthorized structure – notice:- Sections 452 and 636 of the Act empowers the Corporation to take necessary action, in case any construction is made either without permission or in deviation of the sanctioned plan. Where the action under the said provisions entails in demolition, the Corporation is required to be specific and clear as to the nature of deviation.

Vague and uncertain description will make the Notice nebulous not capable of compliance. *Musunuru Rajani vs Vijayawada Municipal Corporation, Vijayawada,* 2005 (3) ALD 87.

Deviations :-If the deviations are major in nature and cause hardship to the public in general, or to the neighbours in particular, the question of permitting such deviations to remain does not arise even if the owner of the premises is prepared to pay any compounding fee.

However, if such deviations are trivial and do not cause hardship to the public or neighbours, occasions are not lacking, when the violators are let of by levying compound fee. A Full Bench of AP High Court in *3 ACES* vs *Municipal Corporation of Hyderabad*, (1994) 3 Andh LT 73 : (AIR 1995 Andh Pra 17) has taken such a view. However, this question needs to be decided by the concerned local authority and not by any Court. *Abdul Wahab vs Municipal Corpn. of Vijayawada,* AIR 2004 AP 462.

Power of Entry

637. Commissioner, etc. may enter any premises for purposes of inspection, survey or execution of necessary work:— The Commissioner or any other officer authorised by him in this behalf may enter into or upon any building or land, with or without assistants or workmen in order to make inspection or survey or to execute any work which is authorised by this Act or by any regulation or bye-law framed under this Act to be made or executed, or which it is necessary for any of the purposes, or in pursuance of any of the provisions of this Act or of any such regulation or bye-law, to make or execute:

Provided that—

(a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise;

(b) except when it is in this Act otherwise expressly provided, no building which is used as a human dwelling shall be so entered unless with the consent of the occupier thereof, without giving the said occupier not less than twenty four hours, previous written notice of the intention to make such entry, and unless for any sufficient reason it shall be deemed inexpedient to furnish such information of the purpose thereof;

(c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

638. Power to summon Witnesses:— The Commissioner shall have the power of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents and every person required by the Commissioner to furnish any information shall be legally bound to do so within the meaning of Section 176 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

Enforcement of orders to execute works, etc.

639. Works, etc. which any person is required to execute may in certain cases be executed by the Commissioner at such person's cost:— (1) When any requisition or order is made, by written notice, by the Commissioner or by any municipal officer empowered under Section 119 in this behalf, or under any section, sub-section or clause of this Act, mentioned in sub-section (2), a reasonable period shall be specified in such notice for carrying such requisition or order into effect, and if, within the period so specified, such requisition or order or any portion of such requisition or order is not complied with, Commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made; and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following, namely:—

Section 300, sub-section (5)
Section 302
Section 303
Section 305, sub-section (1), clause (b)
Section 316, sub-section (2)
Section 322, sub-section (1)
Section 325
Section 335
Section 352, sub-section (2)
Section 353, sub-section (5)

Section 354, sub-section (3)
Section 355, sub-sections (1) & (2)
Section 359
Section 394
Section 397, sub-section (2)
Section 398
Section 400
Section 406
Section 416
Section 417, sub-section (2)
Section 418, sub-section (1), clause (d)
Section 420, sub-section (3)
Section 421, sub-section (3)
Section 422, sub-section (1)
Section 429, sub-section (2)
Section 445, sub-section (2)
Section 453
Section 454
Section 456
Section 483, sub-sections (1), (2), (3) and (4)
Section 493
Section 494
Section 495
Section 496
Section 497
Section 502
Section 504
Section 505, sub-section (2)
Section 508
Section 509, sub-section (1)
Section 519, sub-section (1)
Section 532
Section 554, sub-section (1).

(3) The Commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

640. Recovery of expenses by removals by the Commissioner under Sections 405, 413, 456 and 504:— (1) The expenses incurred by the Commissioner in effecting any removal under Section 405 or sub-section (3) of Section 413 or in the event of a written notice issued under Section 406 or Section 456 or 504 not being complied with under Section 639, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) But, if the expenses of removal are in any case paid before the materials are sold, the Commissioner shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any incurred by the Commissioner in respect thereof or in respect of the intended sale or disposal thereof.

(3) If the materials are not claimed by the owner thereof they shall be sold by auction or otherwise disposed of as the Commissioner thinks fit if perishable, forthwith and if other than perishable, as soon as conveniently may be after one month from the date of their removal whether the expenses of the removal have in the meantime been paid or not and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and if necessary of the removal, be paid to the credit of the Municipal Fund, and shall be the property of the Corporation.

Recovery of expenses by the Commissioner

641. Expenses recoverable under this Act to be payable on demand; and if not paid on demand may be recovered as an arrear of property tax:— (1)(a) Whenever under this Act, or any rules or bye-laws made thereunder the expenses of any work executed or of any measure taken or thing done by or under order of the Commissioner or of any municipal officer empowered under Section 119 in this behalf are payable by any person, the same shall be payable on demand.

(b) If not paid on demand the said expenses shall be recoverable by the Commissioner subject to the provisions of sub-section (2) of Section 650 by distress and sale of the goods and chattels of the defaulter, as if the amount thereof were a property tax due by the said defaulter.

(2) If the said expenses are due in respect of some work executed or thing done to, upon or in connection with some building or land or of some measure taken with respect to some building or land or in respect of some work executed or thing done or measure taken for giving effect to any requisition or order made under sub-section (2) of Section 496 and the defaulter is the owner of such building or land or of the premises referred to in sub-section (2) of Section 496, as the case may be, the amount thereof may be demanded from any person who at any time, before the said expenses have been paid, occupies the said building, or land or premises under the said owner; and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the goods and chattels of the said person, as if the amount thereof were a property-tax due by him:

Provided as follows, namely—

(i) unless the said person neglects or refuses, at the request of the Commissioner truly to disclose the amount of the rent payable by him in respect of the said building, land or premises and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any large sum than, upto the time of demand, is payable by him to the owner on account of rent of the said building, land or premises; but it shall rest upto the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;

(ii) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(iii) nothing in this section shall effect any agreement made between the said person and the owner of the building, land or premises in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

(3) Instead of recovering any such expenses as aforesaid in any manner hereinafter provided, the Commissioner may, if he thinks fit and with the approval of the Standing Committee take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the

whole amount due with interest thereon, at such rate not exceeding nine per centum per annum as the Standing Committee may fix from time to time, within a period of not more than five years.

642. What expenses may be declared to be improvement expenses:— If the expenses to be recovered have been incurred in respect of any work mentioned in any of the sections-clause (c) of 296, 300, 302, clause (b) of sub-section (1) of 305, sub-section (1) of 323, 335, 353, clause (a) of sub-section (3) of 354, 394, sub-section (1) of 453, 495, 504 and 532, the Commissioner may, if he thinks fit and with the approval of the Corporation, declare such expenses to be improvement expenses and on such declaration being made, such expenses together with interest thereon payable under Section 643, shall be a charge on the premises in respect of which or for the benefit of which the expenses have been incurred.

643. Improvement expenses by whom payable:— (1) Improvement expenses shall be recoverable in instalment of such amount not being less for any premises than twelve rupees per annum and at such intervals as will suffice to discharge such expenses, together with interest thereon at the rate of six per centum per annum within such period not exceeding thirty years as the Commissioner, with the approval of the Corporation, may in each case determine.

(2) The said instalment shall be payable by the occupier of the premises on which the expenses and interest thereon are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises so long as the same continue to be unoccupied.

(3) *Proportion of improvement expenses may be deducted from rent:—* Where the occupier by whom any improvement expenses together with interest thereon are paid holds the premises on which the expenses together with interest thereon are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses and interest thereon as aforesaid from the rent payable by him to his landlord, and, if he holds at a rent less than the rack-rent he shall be entitled to deduct from the rent payable by him such proportion of three-fourths of the amount paid by him on

account of such expenses and interest thereon as aforesaid as his rent bears to the rack-rent.

(4) And if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired otherwise, he may deduct from the rent so payable by him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord holding for a term of which less than twenty years is unexpired of the same premises both receiving and liable to pay rent in respect thereof :

Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

644. Redemption of charge of improvement expenses:— At any time before the expiration of the period for the payment of any improvement expenses together with interest thereon the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Commissioner such part of the said expenses and such interest due, if any, as may not have been already paid or recovered.

645. Recovery of instalments due under Sections 641 and 643:— Any instalment payable under sub-section (3) of Section 641 or Section 643 which is not paid when the same becomes due may be recovered by the Commissioner by distress and sale of the goods and chattels of the person by whom it is due as if it were a property tax due by the said person.

646. In default of owner the occupier of any premises may execute required work and recover expenses from the owner:— Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act, the occupier, if any, of such building or land may, with the approval of the Commissioner, execute the said work, and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

647. Limitation of liability of agent or trustee of owner:— No person who receives the rent of any premises in any capacity described

in paras (i), (ii) and (iii) of sub-clause (a) of clause (39) of Section 2 shall be liable to do anything which is by this Act required to be done by the owner, unless he has sufficient funds of or due to the owner to pay for the same.

Commentary

Improvement Expenses:— The expenses incurred on:

1. Connecting private drains with Municipal drains-Section 296.
2. Drains through land of others-Section 300.
3. Drainage of undrained premises-Section 302.
4. Provision of water closet, urinal privy etc.-Section 323(1).
5. Repairs etc. Section 335.
6. Connection to Municipal water works-Section 353.
7. Fitting of cistern in a private water supply-Section 534(3).
8. Levelling and draining of private streets-Section 394.
9. Cutting or opening of unauthorised buildings-Section 453.
10. Preventing nuisance in unoccupied or abandoned house-Section 495.
11. Filling in pools etc., which are nuisance - Section 504.
12. Paving of private market buildings and slaughter houses-Section 532.

This amount is recoverable as house tax.

Any person other than an owner is liable to pay this amount if he proves that he has no money belonging to the owner.

Payment of Compensation

648. Compensation for damages may be paid by the Commissioner:— In any case not otherwise expressly provided for in this Act, the Commissioner may, with the previous approval of the Standing Committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act in the Commissioner or to municipal officer or servant.

649. Compensation to be paid by offenders against this Act for any damage caused by them:— (1) If, on account of any act or omission any person has been convicted of an offence against any rule, or bye-law made thereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Corporation,

compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

Commentary

Liability of the Commissioner:— By the exercise of powers under this Act if any person suffers damage the Commissioner is authorised to pay compensation with the previous approval of the Standing Committee. The condition precedent is that the damage must be the result of acts in exercise of powers under this Act. This section embodies the principle that any exercise of power will not result in damage to another and cause him loss. In *Rajendra Bushama Baksai vs. Chairman Municipal Corporation of Naihati,* AIR 1934 Cal. 501, the Municipality was made to pay damages without proof of special damages to the plaintiff for entering into a house without complying with the provisions of the Bengal Municipal Act.

Measures of Damages:—One of the fundamental Rules in awarding damages is that the damage complained of must be such as would flow from the breach of duty in the ordinary and usual course of things and on remoteness of connection between the breach and the loss claimed is one of this grounds for refusing to grant damages. Secondly the party entitled to damages is required by law to take steps in mitigation of damages. General damages mean compensation for any loss or damage which naturally arose in the usual course of things from the breach, or such as the law will presume to be direct, natural or probable consequence of the breach complained of. AIR. 1958 A.P. 533. They must be the natural result of just consequence fairly attributable to the breach itself that is arising according to the usual course of things including reasonable human conduct from the breach. 10.QB 111.

Dispute regarding compensation:—Amounts demanded by the Commissioner towards expenses under Section 641 or money spent to protect the public from a dangerous work under Sec.422 can be disputed before the Judge. On raising a dispute the Commissioner shall refer the dispute to the Judge and pending adjudication the demand stands deferred. This procedure applies to all demands of amounts by the Commissioner besides amounts under Sections 641 and 422.

These proceedings does not bar the remedy by way of civil suit in the court of competent jurisdiction.

Recovery of expenses or compensation in case of dispute

650. In cases falling under Section 641 disputes to be determined by the Judge:— (1) If, when the Commissioner demands payment of any expenses under Section 641 his right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Commissioner in taking temporary measures under sub-section (2) of Section 422 the necessity for such temporary measures is disputed, the Commissioner shall refer the case for the determination of the Judge.

(2) Pending the Judge's decision the Commissioner shall defer further proceedings for the recovery of the sum claimed by him and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby ascertained to be due.

651. Amount of expenses or compensation to be determined in all cases of dispute by the Judge:— If, in any case not falling under Section 641, any person is required by this Act, or by any rule or bye-law framed under this Act, to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in Sections 650 and 667, by the Judge of the Small Causes Court on application being made to him for this purpose at any time within one year from the date when such expenses of compensation first became claimable.

652. Expenses or compensation awarded by Judge to be recovered, if necessary, as if they were due under a decree of the Court:— If the amount of any expenses or compensation be ascertained in accordance with the last preceding section is not paid by the person liable to pay the same on demand, it shall be recoverable as if the same were due under a decree of the Court.

653. Persons liable for expenses or compensation may be sued for recovery thereof:— Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings

have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, be recovered by a suit brought against the person liable for the same in any Court of competent jurisdiction.

CHAPTER XX
Appeal from certain orders

Appeals to the Judge

654. Appeals to the Judge:— Appeal shall lie to the Judge against the orders of the Commissioner in the following cases, namely:

(1) an order refusing to empty private drains into a municipal drain under Section 297;

(2) an order enforcing drainage of undrained premises under Sections 302 and 303;

(3) an order declining to remove a shaft or pipe under Section 317;

(4) an order requiring a building to be set forward under Section 386;

(5) an order requiring the owner or occupier to repair, protect or enclose a place found to be dangerous under Section 422;

(6) an order requiring a dangerous structure to be pulled down, secured or removed under Section 456;

(7) an order requiring a tree to be secured, lopped or cut down under Section 457;

(8) an order requiring a tank, pond, well, holestream, dam or bank to be filled, removed, repaired, protected or enclosed under Section 458;

(9) an order requiring any building to be vacated under Section 462;

(10) an order directing the demolition of building under Sections 498 and 499;

(11) an order requiring the removal of a hut or shed under Section 502;

(12) an order requiring certain works to be carried out in the wall and floors of a building under Section 503;

(13) an order requiring certain measures to be taken for filling up of pools, etc. under Section 504;

(14) an order requiring any private water source to be repaired, cleansed or protected under Section 506:

Provided that no such appeal shall lie unless it is filed within one month from the date of the order of the Commissioner.

655. Appeals against demolition orders:— (1) On an appeal being made against a demolition order made under Section 498 or 499, the Judge may make such order either confirming, quashing or varying the order as he thinks fit and he may, if he thinks fit, accept from an appellant any such undertaking as might have been accepted by the Commissioner, and any undertaking so accepted by the Judge shall have the like effect as if it had been given to and accepted by the Commissioner under Section 498 or 499;

(2) An appeal shall lie to the High Court from a decision of the Judge on an appeal under this section, within one month of such decision, when the rateable value entered in the Commissioner's assessment book in accordance with the provisions of this Act, of the premises to which the demolition order appealed against wholly or partially relates, exceeds rupees two thousand.

(3) A decision passed by the Judge under this section if an appeal does not lie therefrom under sub-section (2) or if no appeal, is filed, and the decision of the High Court, in appeal, if an appeal is filed, shall be final.

(4) Any order against which an appeal might be brought under sub-section (1) shall, if no such appeal is brought becomes operative on the expiration of a period of thirty days from the date of such order and shall be final and conclusive as to any matters which could have been raised on such an appeal and any such order against which an appeal is brought shall, if and so far as it is confirmed by the Judge of the High Court under sub-section (2) as the case may be become operative as from the date of the final determination of the appeal.

(5) For the purposes of this section, the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision conforming the order appealed against and, subject as aforesaid an appeal shall be deemed to be finally determined on the date when the decision of the High Court is given or in case where no appeal is brought to the High Court, upon the expiration of the period within

which such an appeal might have been brought, or in case where no appeal lies to the High Court on the date when the decision of the Judge is given.

656. Appeals against decision of the Judge regarding payment of expenses for works executed:— (1) An appeal shall lie to the High Court from a decision of the Judge regarding the amount or payment of expenses of any work executed, when the amount of the claim in respect of which the decision is given exceeds rupees two thousand:

Provided that no such appeal shall be heard by the High Court unless it is filed within thirty days from the date of the decision of the Judge.

(2) The decision of the Judge regarding the amount or payment of expenses for any work executed, if no appeal is filed under this section, and the decision of the High Court in such appeal if an appeal, is filed, shall be final.

(3) When an appeal is filed under sub-section (1) in respect of a decision regarding the amount or payment of expenses for any work executed, the Commissioner shall defer proceedings for the recovery of the amount determined by the Judge to be due pending the decision, shall proceed or recover only such amount, if any, as shall be thereby determined to be due.

Proceeding before the Judge

657. Remedy of owner of building or land against occupier who prevents his complying with any provisions of this Act:— (1) If the owner of any building or land is prevented by the occupier thereof from complying with provisions of this Act or of any bye-law made thereunder or with any requisition made under this Act, or bye-law in respect of such building or land, the owner may apply to the Judge.

(2) The Judge on receipt of any such application may make written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition may also, if he thinks fit, direct that the cost of such application and order be paid by the occupier.

(3) After eight days from the date of any such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to

the owner for the purpose aforesaid as shall be specified in the said order, and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

(4) Nothing in this section shall affect the powers of the Commissioner under any provision of this Act to cause any premises to be vacated.

658. Power to summon witnesses and compel production of documents:— (1) For the purposes of any inquiry or proceeding under this Act, the Judge may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents, by the same means and, as far as is possible, in the same manner as is provided in the case of the Small Causes Court by [1][The Andhra Pradesh (Telangana Area) Small Causes Court Act, 1330 F. (Act VI of 1330 F.)] and in all matters relating to any such inquiry or proceeding the said Judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made fails to appear, notwithstanding that he has been duly summoned for this purpose, the said Judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding as determined by the said Judge, shall be payable by such parties and in such proportions as the Judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of this Court:

Provided that if such inquiry or proceeding relates to a dispute regarding expenses declared to be improvement expenses under Section 642, the amount of the costs directed by the said Judge to be paid by the owner or occupier of the premises in respect, or for the benefit of which the improvement expenses were incurred shall be a charge on such premises and may also be recovered in the manner provided in Section 643.

1. Subs. for the original short title by A.P. Act 9 of 1961.

659. Fees in proceedings before the Judge:— (1) The Government may, from time to time by notification in the [1][Andhra Pradesh Gazette,] determine what fee, if any, shall be paid—

(a) on any application or appeal made under this Act to the Judge; and

(b) previous to the issue, in any inquiry or proceeding of the said Judge under this Act, or any summons or other process:

Provided that the fees, if any, determined under clause (a) shall not, in case in which the value of the claim or subject matter is capable of being estimated in money, exceed the fees at the time being levied, under the provisions of the [2][Andhra Pradesh (Telangana Area) Small Causes Court Act, 1330F in cases in which the value of the claim or subject-matter is of like amount.

(2) The Government may from time to time by a like notification determine by what person any fee determined under clause (a) shall be payable.

(3) No application or appeal shall be admitted by the said Judge, until the fee if any, prescribed therefor under clause (a), has been paid.

660. Exemption of poor persons from fees:— The Judge may, whenever he thinks fit, receive an application or appeal made under this Act, by or on behalf of a poor person, may issue process on behalf of any person without payment or a part payment of the fees determined under Section 659.

661. Repayment of half fees on settlement before hearing:— Whenever any application or appeal under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by said Judge to the parties by whom the same have been respectively paid.

662. Authority to Judge to delegate certain powers:— The Judge may—

(a) delegate either generally or specially to any other Judge of the said Court power to receive applications, appeals and references under this Act, and to discharge any other duty in connection

1. Subs. by A.P. Act 5 of 1969.
2. Subs. for the original short title by A.P. Act 9 of 1961.

with such applications, appeals and references, except the hearing and adjudication thereof;

(b) if for any reason, it shall be necessary so to do, delegate to any other Judge of the said Court the hearing and adjudication of the said application.

Commentary

Appeals:—Against the following orders appeal lies to the Judge i.e., Chief Judge Small Causes Court in the twin cities of Hyderabad and Secunderabad. In the corporations of Visakhapatnam and Vijayawada Government have reserved powers to adopt the section of this Act with necessary modifications.

Appealable orders are listed out in Sec. 654.

Second Appeal:— In case of demolition of houses whose rateable value is more than two thousand rupees an appeal will lie to the High Court against the orders of the Judge. Similarly against an order of expenses if the amount exceeds two thousand rupees appeal lies to High Court.

Procedure:—The procedure applicable to the Court will govern the appeals in the Court of Chief Judge of Small Cause Court and High Court.

Limitation:—Time for filing appeal is 30 days from the date of the order.

Owners action against occupier:—Owner can move the Judge and seek enforcement of provisions of the Act removing the obstruction by the occupier from implementation of the provisions under this Act. The Judge's powers are the same under the Small Causes Courts Act.

Municipal Magistrate:— All offences under Act are cognizable by the Municipal Magistrate to be appointed by the Government under Sec. 664.

Limitations for filing cases:—Cases must be filed within six months of the commission for an offence under Sec. 213 and three months for all other offences.

Hearing in Absentia:—Section 666 empowers the Municipal Magistrate to hear the case and pass orders in the absence of the accused after satisfactory service if he absents without sufficient cause.

Nuisance:—In *Starges vs. Bridgaman*, (1879) 11 Ch.D. 852, Their Lordships observed:

'Whether anything is a nuisance or not, is a question to be determined, not merely by an abstract consideration of the thing itself, but in reference to its circumstances, what would be nuisance in Belgrave Square would not necessarily be so in Bermondsey: and where a locality is devoted to a particular

trade or manufacture carried on by traders or manufacturers in a particular and established manner not constituting a public nuisance, Judges and juries would be justified in finding and may be trusted to find, that the trade or manufacture so carried on that locality is not a private or actionable wrong'. So in considering the question of nuisance, the Magistrate should apply his mind to the nature of the locality, that is whether it might be called a factory area and all other surrounding circumstances before he comes to a decision on the point.

Power and duty of the Magistrate:—Debabrata Mukerjee.J. in an unreported case, namely Crl. RC No. 1478 of 1955 (Cal) dealing with a similar section in the Calcutta Act observed:

'The words of Sec. 583.... leave wide discretion to the magistrate to direct such steps as he might feel advised to do, to be taken either for the purpose of abating the nuisance or for preventing or remedying the same. In extreme cases, the remedy may be removal; but there are cases, quite conceivably, where remedy may be provided by adequate steps to abate or to prevent the nuisance.' The Magistrate should first of all address himself to the question of abatement before direction for removal of the nuisance. It is his duty to see what step should be considered to be adequate for the purpose of either abating, preventing, removing or remedying the nuisance.

Compounding of Offences:— If there is a provision in this Act for compounding an offence it will prevail over the general law namely Criminal Procedure Code, otherwise offences under other laws are not compoundable. In *Trikaundas Udeshi vs. Bombay Municipal Corporation*, AIR 1954 Bom.427, it was held that offences under the Bombay Municipal Corporation Act, 1888 are not compoundable.

Proceeding before Magistrate

663. Cognizance of offences:— All offences against this Act, or against any rule or bye-law thereunder, whether committed within or without the city shall be cognizable by a Magistrate appointed under Section 664 or until such appointment by a First Class Magistrate having jurisdiction in the city and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment thereby repealed, by reason only of his being liable to pay any Municipal Tax or of his being benefited by the Municipal fund.

Commentary

Meaning of the expression "cognizance" see the undernoted cases, 14 Cr.L.J. 425, AIR 1951 SC 207, 1988 Cr.L.J. 308, 1971 SCC (Cri.) 628, 1984 Cr.L.J. 1065, 1978 Cr.L.J. 811, 1986 Cr.L.J. 1154, 1988 Cr.L.J. 129.

664. Appointment of a Magistrate of the First Class:— (1) The Government may with the consent of the Corporation create one or more posts of Magistrates and invest them with the powers of First Class Magistrates for the trial of offences against this Act, or against any rule, regulation or bye-law made thereunder and may appoint any person to such post and may also appoint such ministerial officers for the Court of any such Magistrate as it may think necessary.

(2) Such Magistrate or Magistrates and their establishment shall be paid such salary, pension, leave allowances and other allowances as may, from time to time, be fixed by the Government.

(3) The amounts of the salary and other allowance as fixed under sub-section (2), together with all other incidental charges shall be reimbursed to the Government by the Corporation, who shall also pay to the Government such contribution towards the pension, leave and allowances of such Magistrate or Magistrates and their establishment as may from time to time be fixed by the Government:

Provided that the Government may, with the concurrence of the Corporation, direct that in lieu of the amounts payable under this section the Corporation shall pay to the Government annually, on such date as may be fixed by the Government in this behalf, such fixed sum as may be determined by the Government in this behalf.

665. Limitation of time within which complaints of offences punishable under this Act shall be entertained:— No person shall be liable to punishment for any offence made punishable by this Act, unless complaint of such offence is made before a Magistrate within the time hereinafter fixed in that behalf namely—

(a) if the offence be against the provisions of Section 213, within six months next after the commission of such offence;

(b) if the offence be against the provisions of Sections 299, 313, 337, 352(1), 353(5), 354(3)(a)(b), 363, 366, 371(1),(2) or 516 or any bye-laws made under Section 586, within three months next after the commission or discovery of such offence;

(c) if the offence be against any other provision of this Act, within three months next after the commission of such offence.

666. Power of Magistrate to hear cases in absence of accused:— If any person summoned to appear before a Magistrate to answer a charge of an offence punishable under this Act or any rule, or bye-law made thereunder fails to appear at the time and place mentioned in the summons, and if service of summons is proved to the satisfaction of the Magistrate and no sufficient cause is shown for the non-appearance of such person the Magistrate may hear and determine the case in his absence.

667. Complaint concerning nuisance:— (1) Any person who resides in the city may complain to a Magistrate of the existence of any nuisance, or that in exercise of any power conferred by Sections 294, 317, 319, 320 or 482 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the Magistrate after making such inquiry as he thinks necessary, may if he sees fit, direct the Commissioner—

(a) to put in force any of the provisions of this Act or to take such measures as to such Magistrate as shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to pay the complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation, for the complaint's loss of time in prosecuting such complaint.

(3) It shall be incumbent on the Commissioner to obey every such order.

(4) Nothing contained in this Act shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by Sections 298, 317, 320 or 482 to recover damages for the same.

668. Appeal to the Court of Session from order passed under Section 667:— (1) An appeal shall lie to the Court of Session from an order passed by the Magistrate under Section 667 within thirty days of the date thereof.

(2) The said Court may, when disposing of an appeal under sub-section (1) direct by whom and in what proportions, if any, the costs

of the appeal are to be paid, and costs so directed to be paid may, on application, to a Magistrate of the First Class having jurisdiction in the city, be recovered by him, in accordance with the direction of the said Court, as if they were a fine imposed by himself.

(3) When an appeal has been preferred to the said Court under the section, the Commissioner shall defer action upon the order of the Magistrate until such appeal has been disposed of and shall thereupon forthwith give effect to the order passed in such appeal by the said Court, or, if the order of the Magistrate has not been disturbed by the said Court, then to his order.

Arrest of Offenders

669. Offenders against this Act may in certain cases be arrested by police officers:— Any police officer may arrest any person who commits in his view any offence against this Act or against any regulation or bye-law made under this Act, if the name and address of such person be unknown to him and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be determined in custody after his true name and address are ascertained or, without the order of a Magistrate, for any longer time, not exceeding at the most twenty-four hours from the arrest, than is necessary, for bringing him before a Magistrate competent to take cognizance of his offence.

Commentary

Unauthorized constructions - police officer :-Section 669 empowers the Police Officer to arrest a person who is committing offence under the said Act and as per Section 681 it shall be the duty of Police to help the Corporation Officials in discharge of their functions. This leads to an inference that when an unauthorized construction is being made or a construction is being made in breach of building permission, Bye-Laws or Building Regulations, as complained to Police Officer, the Police Officer can arrest the person and stop construction work duly bringing the same to the notice of the Municipal Commissioner. The anxiety of the Legislature in enacting these provisions is to see that the provisions of the Act are strictly adhered to. *Advocate General vs State of A.P. and others,* 2004 (1) ALD 708.

Miscellaneous

670. Code of Civil Procedure to apply:— (1) Save as expressly provided by this Chapter the provisions of the Code of Civil Procedure, 1908, relating to appeals from original decrees shall apply to appeals to the Judge from the orders of the Commissioner and the provision of the said Code relating to appeals from Appellate decrees shall apply to appeals to the High Court.

(2) All other matters for which no specific provision has been made under this Act shall be governed by such rules as the Government may from time to time make after consultation with the High Court.

Commentary

Applicability and Scope:— It covers all appeals against orders of Commissioner under Act or, if confined to appeals mentioned in Section 654 of the Act. See Municipalities, Hyderabad Municipal Corporations Act (II of 1956), Sections 282(2)(d) and 670. 1975 (1) An.W.R. 25.

[1][**670-A. Assessment etc., not to be questioned:—** (1) No assessment or demand made, and no charge imposed under the authority of this Act shall be questioned or effected by reason of any clerical error or by reason of any mistake (a) in respect of the name, residence, place of business or occupation of any person or (b) in the description of any property or thing or (c) in respect of the amount assessed, demanded or charged; provided, that the provisions of this Act have been in substance and effect, complied with; and no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any court :

Provided that the person or property so assessed or charged is reasonably ascertainable.

(2) Notwithstanding anything contained in sub-section (1), no suit shall be entertained by any court of law unless the assessee pays fifty percent of the tax levied and demanded.]

671. Limitation:— (1) In computing the period of limitation fixed for an appeal or application referred to in this Act the provisions of Sections 5, 12 and 13 of the [2][Indian Limitation Act, 1908] shall so far as may be, apply.

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1. Added by Act 3 of 1994.
2. See now Limitation Act, 1963 (36 of 1963) since 1908 Act is repealed.

(2) When no time is fixed by this Act for the presentation of an appeal or application such appeal or application shall be presented within thirty days from the date of the order in respect of or against which the appeal, or application is presented.

Commentary

Applicability of Limitation Act:— Section 671 of the Act permits application of Section 5 of the Limitation Act but only in case of appeals and applications under the Act. Since the Election Petition in question was neither an appeal nor an application but was an original proceeding, it was held that Section 671 is not applicable to election petition filed under Section 71 of the Act. *Chukka Yesuratnam v. Shaik Saidulu and others,* 2001 (3) ALD 66 (DB).

Election petition is also an application within the meaning of Section 671 and hence provisions of Section 5 of Limitation Act are applicable. The harmonious interpretation of various provisions of the Act would clearly show that the election petition was intended to be taken, by the Legislature, as an application for the purpose of limitation in terms of Section 671. *Shaik Saidulu @ Saida vs. Chukka Yesu Ratnam and others,* 2002 (2) ALD 7 (SC).

Applicability to Election Petitions:— A person retired as District Judge and notified as Election Tribunal to decide the dispute is only a *persona designata* and cannot be equated with a Court. Since the mandatory provision that election petition has to be filed within two months was not complied with, it was held that the Tribunal had committed an error by condoning the delay in filing the election petition. *Tatineni Tulasi Lavanya v. Gogineni Sujatha and others,* 2001 (2) ALD 110 (DB). See also 2001 (3) ALD 66 (DB).

672. Execution of orders of the Judge and the High Court:— (1) All orders of the Judge shall be executed in same manner as if they were decrees of the Court of Small Causes passed under the [1][Andhra Pradesh (Telangana Area) Small Causes Court Act.]

(2) All orders of the High Court shall be executed as if they were decrees of the High Court.

673. Application of Criminal Procedure Code:— The provisions of the Code of Criminal Procedure, shall so far as may be, apply to all matters investigated, inquired into, tried, appealed against and otherwise dealt with under this Act before Magistrate.

1. Subs. for the original short title by Act 9 of 1961.

[1][673-A. Oath of allegiance to be taken by [2][Member]:—] (1) Every person who is elected to be a [2][Member] shall, before taking the seat, make at a meeting of the corporation an oath or affirmation of his allegiance to the Constitution of India in the following form namely:—

"I, ... having become a [2][Member] of the Corporation swear in the name of the 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) Any such [2][Member] who fails to make, within three months from the date on which his term of office commences or at one of the first three meetings held after the said date, whichever is later, the oath of affirmation laid down in sub-section (1), shall cease to hold office and his seat shall be deemed to have become vacant.

(3) No such [2][Member] shall take his seat at a meeting of the Corporation or do any act as such [2][Member], unless he has made the oath or affirmation as laid down in this section.

(4) Where a person ceases to hold office under sub-section (2) the Commissioner shall report the same to the Corporation at its next meeting and on application of such person made within thirty days of the date on which he has ceased to be a [2][Member] under that sub-section on the Corporation may grant him further time which shall not be less than three months for making the oath or affirmation and if he makes the oath or affirmation within the time so granted, he shall, notwithstanding anything in the foregoing sub-sections, continue to hold the office.]

Legal Proceedings

674. Provisions respecting Institution, etc., of Civil and Criminal actions and obtaining legal advice:— The Commissioner may:

(a) take, or withdraw from, proceedings against any person who is charged with—

(i) any offence against this Act;

1. Added by Act 17 of 1994.

2. **Subs. for the words "Mayor/Member" by Act 14 of 2008, w.r.e.f. 06.08.2005.**

(ii) any offence which affects or is likely to affect any property or interest of the corporation or the due administration of this Act;

(iii) committing any nuisance whatsoever;

(b) compound any offence against this Act, which under the law at the time in force may legally be compounded;

(c) defend any election petition brought under Section 7;

(d) defend, admit or compromise any appeal against a rateable value or tax brought under Section 282;

(e) take, withdraw from, or compromise proceedings under Sections 649(2), 650, 651 and 652 for the recovery of expenses or compensation claimed to be due to the Corporation.

(f) withdraw or compromise any claim for a sum not exceeding rupees five hundred against any person in respect of penalty payable under a contract entered into with such person by the Commissioner, or, with the approval of the Standing Committee any such claim for any sum exceeding rupees five hundred;

(g) defend any suit or other legal proceeding brought against the Corporation or against the Commissioner or a Deputy Commissioner, or a Municipal Officer or servant in respect of anything done or omitted to be done by them respectively, in their official capacity.

(h) with the approval of the Standing Committee, admit or compromise any claim, suit or legal proceeding brought against the Corporation or against the Commissioner or a Deputy Commissioner or Municipal Officer or servant, in respect of anything done or omitted to be done as aforesaid;

(i) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the Corporation or of the Commissioner;

(j) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the Corporation or the Standing Committee to

obtain for any of the purposes mentioned in the foregoing clauses of the section or for securing the lawful exercise or discharge of any power, or duty vesting in or imposed upon any Municipal Authority or any Municipal Officer or servant:

Provided that the Commissioner shall not defend any suit or legal proceedings under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the Corporation shall determine to have instituted and prosecuted.

Commentary

Scope:— Suit instituted by Commissioner without prior approval of the Standing Committee-Effect-Subsequent approval sufficiency.

Plaintiff (the Commissioner of the Hyderabad Municipal Corporation) instituted the suit against the defendants for recovery of unpaid instalments and excess collections in respect of a contract for collection of Thai Bazari fees entered into with the Municipality. The defendants contended that as the previous approval of the Standing Committee of the Municipality was not obtained for the institution of the suit, the suit was not maintainable. The trial Court overruled the objection and decreed the suit. Defendants preferred appeal to the High Court.

Held, it cannot be said that the want of previous approval of the Standing Committee vitiates the suit and that the subsequent approval does not cure the defect, if any. The absence of previous approval does not go to the root to the suit and the approval of the Standing Committee obtained subsequent to the commencement of the suit is sufficient compliance with Section 674 of the Hyderabad Municipal Corporations Act. *D. Tirupathiah vs. The Municipal Corporation of Secunderabad*, 1965(2) An. WR 166

CHAPTER XXI

Control

675. Government's power to call for records:— The Government may at any time require the Corporation or Commissioner—

(a) to produce any extract from any proceedings of the Corporation, the Standing Committee or any other Committee constituted under this Act, record, correspondence, plan or other document;

(b) to furnish any return, plan, estimate, statement of account or statistics;

(c) to furnish or obtain any report and the Corporation or the Commissioner as the case may be, shall furnish the same without unreasonable delay.

676. Government's power to cause inspection to be made:— The Government may depute any officer to inspect or examine any Municipal Department, Office, service, work or thing and to report thereon and any officer so deputed may for the purposes of such inspection or examination exercise all the powers conferred by S. 675.

677. Government's power to require the performance of duties:— If on receipt of any information or report obtained under Section 675 or 676 or otherwise, the Government is of opinion—

(a) that any duty imposed or any Municipal Authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner; or

(b) that adequate financial provision has not been made for the performance of any such duty,

the Government may by an order direct the Corporation or Commissioner within a period to be specified in the order to make arrangements for the proper performance of the duty or to make financial provision for the performance of the duty as the case may be, to the satisfaction of Government :

Provided that unless in the opinion of the Government the immediate execution of such order is necessary, the Government shall before making an order under this section give the Corporation an opportunity of showing cause why such order should not be made.

Commentary

Government's power:—Under Section 677 the Government has ample power to call upon the Municipal authority to perform its functions properly. Section 252 casts a duty on the Municipal authority to levy octroi on the articles mentioned in Schedule H at the rates specified therein. The Government is quite within its jurisdiction to issue instructions requiring the Corporation to conform to Section 252. *Raja Rameswar Rao vs. Commissioner of Income Tax*, AIR 1960 A.P. 42.

678. Government's power to appoint a person to take action in default:— (1) If within the period fixed by an order issued under Section 677 any action directed under that section has not been duly taken, the Government may by order—

(a) appoint some person to take action so directed;

(b) fix the remuneration to be paid to him; and

(c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Fund.

(2) For the purpose of taking the action directed as aforesaid the person appointed under sub-section (1) shall have power to make such contracts as are necessary, may exercise any of the powers conferred on any Municipal Authority by or under this Act and specified in this behalf in the order issued under sub-section (1) and shall be entitled to protection under this Act as if he were a Municipal Authority.

(3) The Government may direct by notification that any sum of money which may in its opinion be required for giving effect to the orders so issued be borrowed by debenture on the security of all or any of the said taxes at such rate of interests and upon such terms as to the time of re-payment and otherwise as may be specified in the notification.

(4) The provisions of Sections 149 to 168 shall as far as may be, apply to any loan raised in pursuance of this section.

679. Powers of revision:— (1) The Government may at any time for the purposes of satisfying itself as to the correctness, legality, propriety or regularity of any proceeding of or order passed by the Commissioner or any officer subordinate to him call for and examine the record and pass such orders with reference thereto as it thinks fit.

(2)(a) Where the Government is of opinion that the execution of any resolution or order passed by the Corporation or the doing of any act which is about to be done or is being done by or on behalf of the Corporation is in contravention of or in excess of powers conferred by this Act or of any law for the time being in force or is likely to lead to a breach of peace it may by order in writing suspend the execution of such resolution or order or prohibit the doing of any such act :

Provided that before suspending such resolution under this clause the Government shall communicate to the Corporation the grounds on

which it proposes so to do, fix a reasonable period for corporation to show cause against the proposal and consider its explanation and objection, if any;

(b) A copy of such order shall forthwith be sent to the Corporation by the Government;

(c) The Government may at any time on representation by Corporation or otherwise revise, modify or revoke any order passed under clause (a).

Commentary

Review:— The Government can review an order passed by it under clause (a) of sub-section (2) but it cannot review an order passed under sub-section (1). Power to review must be specifically conferred by status.

Writ Jurisdiction:— Against an order by Government in its jurisdiction, the High Court can issue a writ as it is a judicial order where as an order of a Commissioner sanctioning a building is an administration order in which the High Court cannot interfere. *Dundoo Balakrishna Murthy vs. Municipal Commissioner, Secunderabad,* AIR 1961 AP 489.

Revision:— A plain reading of sub-section (1) of Section 679 would reveal that it is competent for the Government to call for the records in relation to a *'proceeding or order passed by the Commissioner* or other Officer subordinate to him and examine the same as to its legality, propriety or regularity of the said proceeding or order. It is also competent to the Government to suspend the execution of a resolution or order under clause (a) of sub-section (2). This would show that a proceeding, order or a resolution of the Corporation including a resolution passed by the Standing Committee is amenable to the jurisdiction of the Government under Section 679. As the exercise of such revisional power at the instance of an aggrieved party on an application is not specifically prohibited, it would be reasonable to construe that such revisional power can be exercised even on an application by an aggrieved person.— *Sabavat Rukman Naik vs. Government of A.P.,* 2004 (1) ALD 49.

[1][**679-A. Government's power to cancel or suspend resolutions etc.:—** (1) The Government may, either *suo motu* or on representation of any councillor, the Mayor or the Commissioner, by order, in writing—

(i) cancel any resolution passed, order issued, or licence or permission granted; or

1. Sections 679-A to 679-D added by Act 33 of 1986.

(ii) prohibit the doing of any act which is about to be done, or is being done, in pursuance or under colour of this Act, if in their opinion—

(a) such resolution, order, licence, permission or act has been passed, issued, granted or authorised in accordance with law;

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other enactment; or

(c) the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause financial loss to the Corporation, danger to human life, health or safety or is likely to lead to a riot or breach of peace or is against public interest:

Provided that the Government shall, before taking action under this section on any of the grounds referred to in clauses (a) and (b), give the authority or person concerned an opportunity for explanation:

Provided further that nothing in this sub-section shall enable the Government to set aside any election which has been held.

(2) If, in the opinion of the Government, immediate action is necessary on any of the grounds referred to in clause (c) of sub-section (1) they may suspend the resolution, order, licence, permission or act as the case may be, for such period as they think fit pending the exercise of their power under sub-section (1).

Commentary

Notice:— Merely because local residents were enjoying the lands as a playground that does not mean the petitioner was not put in possession. The petitioner himself said in the petition that he was to be in possession by respondents 2 and 3 which averment was not challenged by the respondents in their counter. In the present case, the whole thrust of the respondents was that the respondent No.1 had power under Section 679-A of the Act to cancel the earlier action of granting lease and the impugned memo was issued in view of the representation made by the public that construction of Auditorium on the leased land would interfere with their privacy and disturb the tranquility of the area. Therefore the impugned memo passed by the Government was set aside as being in contravention of the proviso to Section 679-A of the Act. The said proviso

is mandatory in nature and does not admit of our exception. *Kalasagaram (Regd.) Secunderabad Cultural Association rep. by its General Secretary, Sri V.R. Rajagopal v. State of Andhra Pradesh rep. by its Secretary, Municipal Administration and Urban Development Department, Hyderabad and others,* 1998 (1) ALD 595 DB.

[1][**679-AA. Government's power to suspend Mayor or Deputy Mayor or Member:—** (1) The Government may, either *suo motu* or on a representation of a Mayor or Deputy Mayor or Member or Commissioner or employee of the Municipal Corporation, by notification, in the Andhra Pradesh Gazette, suspend the Mayor or the Deputy Mayor or a Member, who in their opinion wilfully misbehaved or manhandled any other Member or Officer or employee of the Corporation or destroyed the property of the Corporation or used un-parliamentary language or abused his position in the course of meetings of the Corporation or during the discharge of any duty vesting upon the Mayor or Deputy Mayor or any member or officer or employee, so as to lead to a situation in which the Municipal Administration cannot be carried on in accordance with the provisions of this Act or the financial stability of the Council is threatened.

(2) The Government shall, before taking action under sub-section (1) give the Mayor or the Deputy Mayor or the Member concerned an opportunity for explanation, and the notification issued under the said sub-section (1) shall contain a statement of the reasons for the action taken by the Government.

(3) The Government may *suo motu* or on an application made by the Mayor or the Deputy Mayor or the Member revoke the order of suspension issued under sub-section (1).]

Commentary

Wilful :-The term "wilful" connotes such conduct on the part of a person who acts in such a manner knowing fully well about the consequences of such injury or such behaviour. If a person's conduct results in damage to the property, the same can never be treated as wilful misbehaviour. Section 679AA refers to wilful misbehaviour or wilful destruction of property. Wilful conduct contemplated under Section 679-A has to be strictly proved. Orders of suspension cannot be passed on mere surmises. *Amjadullah Khan v. Government of A.P. Municipal Administration and Urban Development Department,* 2003 (6) ALD 204.

1. Inserted by A.P. Act 13 of 1999, w.e.f. 20.04.1999.

679-B. Government's power to remove Mayor or Deputy Mayor:— (1) The Government may, by notification in the Andhra Pradesh Gazette, remove the Mayor or the Deputy Mayor who, in their opinion wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, bye-laws, regulations or lawful orders issued thereunder or abuses his position of the powers vested in him.

(2) The Government shall when they propose to remove the Mayor or the Deputy Mayor under sub-section (1), give the Mayor or the Deputy Mayor concerned an opportunity for explanation, and the notification issued under the said sub-section shall contain a statement of the reasons of the Government for the action taken.

(3) Any person removed under sub-section (1) from the office of Mayor or from the office of Deputy Mayor shall not be eligible for election to either of the said offices until the date on which notice of the next ordinary elections to the Corporation is published in the prescribed manner.

679-C. [1][x x x]

679-D. Government's power to dissolve the Corporation:— (1) If, in the opinion of the Government, the Corporation is not competent to perform, or persistently, makes default in performing the duties imposed on it by or under this Act or any other law for the time being in force or exceeds or abuses its position or powers or a situation exists in which the municipal administration cannot be carried on in accordance with the provisions of this Act or the financial stability or credit of the Corporation is threatened, the Government may, by notification in the Andhra Pradesh Gazette, direct that the Corporation be dissolved with effect from a specified date and reconstituted either immediately or with effect from another specified date not later than [2][six months] from the date of dissolution; and the notification shall be laid before the Legislative Assembly of the State.

(2) [1][x x x]

(3) For purposes of reconstitution of a dissolved Corporation under this section, the vacancies in the office of all the elected councillors shall be deemed to be [3][casual vacancies.]

1. Omitted by A.P. Act 17 of 1994.
2. Subs. for the words "two years" by *ibid.*
3. Subs. for the words "ordinary vacancies" by *ibid.*

(4) Before publishing a notification under sub-section (1), the Government shall communicate to the Corporation the grounds on which they propose to do so fix a reasonable period for the Corporation to show cause against the proposal and consider its explanation or objections, if any, [1][and the mayor of the corporation shall also be given a reasonable opportunity of being heard].

[2][x x x]

(5) On the date fixed for the dissolution of the Corporation under sub-section (1), all its councillors including ex-officio councillors as well as its Mayor, Deputy Mayor shall forthwith deemed to have vacated their offices as such.

(6) During the interval between the dissolution and reconstitution of the Corporation, all or any of the powers and functions of the Corporation and of its Mayor and of the Standing Committee may be exercised and performed as far as may be, and to such extent as the Government may determine, by such person as the Government may appoint in that behalf, and any person who is not a District Collector or Revenue Divisional Officer may, if the Government so direct, receive payment for his services from the municipal fund; the Government may determine the relations of such person with the District Controlling Officers and with themselves and the Government may direct the Commissioner to exercise and perform any powers and duties under this Act in addition to his own.

[3][(7) The Members including the ex-officio Members of the reconstituted corporation shall enter upon their office on the date fixed for its reconstitution and the term of office of the elected members shall continue only for the reminder of the period for which the dissolved corporation would have continued had it not been dissolved].

(8) The Government may reconstitute the Corporation before the expiry of the period notified under sub-section (1) or sub-section (2).

[4][Provided that where the reminder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any elections under this clause].

(9) When the Corporation is dissolved under this section, the Government, until the date of the reconstitution thereof, and the reconstituted Corporation thereafter, shall be entitled to all the assets and be subject to

1. Added by A.P. Act 17 of 1994.
2. Proviso omitted by *Ibid.*
3. Subs. by *Ibid.*
4. Proviso added by *Ibid.*

all the liabilities of Corporation as on the date of the dissolution and on the date of the reconstitution respectively.]

Commentary

Constitution of GHMC:— Proposed constitution of Greater Hyderabad Municipal Corporation is not *ultra vires* the provisions of the Constitution and Sections 3 and 679-D of the 1955 Act and Sections 3 and 62 of the 1965 Act do not suffer from any constitutional infirmity. Before taking final decision for creation of Greater Hyderabad Municipal Corporation, the State Government will duly consider the objections raised by the petitioners and other persons and then pass appropriate order. In order to obviate any grievance of the petitioners, it would be proper to give them opportunity to file additional objections within a period of 15 days from today and direct the State Government to consider the same before finally deciding the issue of Greater Hyderabad Municipal Corporation. *Mohd. Moazam Khan and others v. Government of Andhra Pradesh and others,* 2008 (5) ALD 585 = 2008 (4) ALT 443 (DB).

[1][**679-E. Power to give directions:**— The Government may from time to time give such directions not inconsistent with the provisions of the Act or the rules made thereunder to the Corporations as it may consider necessary for carrying out the purposes of this Act.]

[2][**679-F. Power to transfer functions of the Corporation to the Andhra Pradesh Industrial Infrastructure Corporation:**— Notwithstanding anything contained in this Act, or in any other law for the time being in force relating to the Municipal Corporations, the Government may, in consultation with the Corporation and also the A.P. Industrial Infrastructure Corporation, by notification in the A.P. Gazette, and subject to such restrictions and conditions including those relating to the remittance of such percentage of the property tax to the Corporation and to such control and revision as may be specified therein direct that any power or function vested in the Corporation by or under this Act shall be transferred to and exercised and performed by the Andhra Pradesh Industrial Infrastructure Corporation.]

CHAPTER XXII

Supplemental Provisions

680. Councillors, etc. to be deemed to be public servants:— The Commissioner and Deputy Commissioner and every councillor and every officer or servant appointed under this Act and every person appointed to make a valuation under sub-section (1) of Section 285 and every contractor or agent

1. Inserted by Act No. 20 of 1989, w.e.f. 01.11.1980.
2. Inserted by Act 3 of 1994.

for the collection of any Municipal Tax and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860.

Commentary

For "public servant" within the meaning of Section 21 IPC see the under noted cases. AIR 1964 SC 492 ; 1959 Cr.LJ 1127 ; AIR 1971 SC 2479 ; 1972 Cr.LJ 1247 ; 1975 Cr.LJ 1490 ; 1976 SCC (Cri.) 589 ; 1976 SCC (Cr.) 272 ; 1979 (3) SCR 254 ; AIR 1980 SC 522 ; 1986 Cr.LJ 14 ; 1984 Cr.LJ 613 ; AIR 1986 SC 312.

681. Co-operation of Police:— The Commissioner of Police shall, as far as may be, co-operate, by himself and through his subordinates, with the Commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the city.

(2) It shall be the duty of every Police Officer in the city to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act, or against any rule or bye-law made under this Act and to assist the Commissioner, or any Municipal Officer or servant, reasonably demanding his aid for the lawful exercise of any power vesting in the Commissioner or in such Municipal Officer or servant under this Act.

Commentary

Unauthorized constructions - police officer :-Section 669 empowers the Police Officer to arrest a person who is committing offence under the said Act and as per Section 681 it shall be the duty of Police to help the Corporation Officials in discharge of their functions. This leads to an inference that when an unauthorized construction is being made or a construction is being made in breach of building permission, Bye-Laws or Building Regulations, as complained to Police Officer, the Police Officer can arrest the person and stop construction work duly bringing the same to the notice of the Municipal Commissioner. The anxiety of the Legislature in enacting these provisions is to see that the provisions of the Act are strictly adhered to. *Advocate General vs State of A.P. and others,* 2004 (1) ALD 708.

682. Assistance for the recovery of rent on land:— For the purpose of the recovery of any amount due on account of rent from any person to a Corporation in respect of any land vested in or otherwise held by such Corporation the Corporation shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of Sections 72 and 73 of [1][the Andhra Pradesh (Telangana Area) Land Revenue

1. Subs. for the original short title by Act 9 of 1961.

Act, 1317 F (Act VIII of 1317 F)] and the Corporation as superior holder shall be entitled, for the recovery of every such amount to all the assistance to which under the said section a superior holder is entitled for the recovery of rent or land revenue payable to him by an inferior holder.

683. Measurement of distances:— The distances mentioned in this Act shall be measured in a straight line on a horizontal place.

684. Informalities and errors in assessments, etc. not to be deemed to invalidate such assessment, etc.:— (1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or in any notice, bill, schedule, summons or other documents issued under this Act, or under any rule or bye-law made thereunder, may at any time as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, schedule, summons or other document invalid or illegal, if the provisions of this Act and of the rules and bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

Commentary

Saving provision :-Section 684 of the Act contemplates that informalities and errors in assessments, *etc.*, not be deemed to invalidate such assessment *etc.* It further contemplates that if the provisions of this Act and the rules and bye-laws made thereunder have, in substance and effect been complied with, the informalities will not render the assessment, distress, notice *etc.* as -invalid or illegal. In a case though the publication under Section 218 of the Act was not given, the owners of the premises were served with special notices under Section 220(2) of the Act with regard to increase in the property tax and they have availed of remedy available under the Act by way of filing their objections, it was held no special damage or prejudice has been caused to the owners of the buildings. When such is the case, the validating provisions under Section 684 of the Act cures the procedural defect committed in not publishing the notice as envisaged under Section 218 of the Act. *Vijayawada Municipal Corporation vs Jumma Masjid Wakf, Patamatalanka, Vijayawada and others,* 2004 (2) ALD 484.

685. Protection of persons acting under this Act against suits:— (1) No suit shall be instituted against the Corporation or against the Commissioner or a Deputy Commissioner or against any officer or servant, appointed under this Act, in respect of any act done in pursuance of execution

or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act—

(a) until the expiration of the one month next after notice in writing has been, in the case of the Corporation, left at the Chief Municipal Office and in the case of the Commissioner or of a Deputy Commissioner or of a Municipal Officer or servant delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney or agent, if any, for the purpose of such suit; or

(b) unless it is commenced within six months next after the accrual of the cause of action;

(2) At the trial of any suit—

(a) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid ;

(b) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with costs.

(3) Where the defendant in any such suit is a Municipal Officer or servant, payment of the sum or of any part of any sum payable by him in or in consequence, of the suit whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the previous sanction of the Standing Committee from the Municipal Fund.

Commentary

Suit notice Mandatory:— In *Bansilal vs. Special Officer, M.C.H.*, 1981(2) ALT 59. Justice Rama Rao held—

'Section 685 of the Hyderabad Municipal Corporation Act expressly provides that unless the period of one month next after the delivery of the notice expires, the institution of the suit is barred. It is the matter pertaining to the jurisdiction of the Court to entertain the suit before the expiry of the prescribed limit. The obligation is cast upon the Court to reject the plaint where the suit appears to be barred by any provision of law. In view of the unequivocal bar contained in the section the considerations of hardship and prejudice are not germane and the suit filed before the expiry of one month period is not maintainable'. The learned Judge observed that the Legislature may amend this provision on lines of Section 80 CPC. It is submitted that such an amendment is necessary.

In respect of any act done:—In *Devi Singh vs Municipal Corporation Hyderabad,* AIR 1964 A.P. 360 constraining Section 447 of the 1950 Act the Supreme Court observed:

The question whether a notice under the aforesaid section was necessary has to be decided on the averments made. The whole controversy entered between the parties is centered round on the question whether the bazaar was the property of the plaintiff and was in his possession at the time of the suit. That had nothing to do with any act done or purported to be done in pursuance of or in execution of any of the provisions of the Corporation Act. We would accordingly hold that under the aforesaid section notice was necessary before institution of suit for injunction against the corporation.

In *Municipal Council Masulipatnam vs. G. Krishna Rao*, 1932(2) KB 595 the Division Bench reviewed the entire case law and held that the expression intended execution in S. 350(1) of AP Municipalities Act, 1965 covered the case of a person who though his act may be wrongful, nonetheless is purporting to exercise his power under the provisions of the Act. In *Bett vs. Receiver of Octropolitan Police District*, (1932)2 K.B. 595, it was doubted whether the Act protected a public officer who while rightly apprehending the facts takes a mistaken view as to his legal obligation and executes or intends to execute some other function which he has no duty to perform on the other hand if a public officer made an honest mistake of fact and did that which it would have been his duty to do if his view of the fact was correct he would be acting in the intended execution of duty. The suit referred to in this section must be in respect of anything done already in execution of intended Act. *Hyderabad Municipality vs. T.V. Sarma,* AIR 1972 A.P. 96. A suit filed against an order refusing permission for construction is not barred by limitation even though it is filed beyond six months. *Municipal Corporation vs. T.V. Sarma,* 1972(2) APLJ 23 (SN).

A suit without issuing notice as required under the section is not maintainable. *Lalithraj vs. M C.H.*, 1987 (2) ALT 6 (NRC); *Dawarunnissa Begum vs. Commissioner, M.C.H.,* 1983 (1) ALT 51 (NRC) = 1983(1) APLJ 10 (NRC).

No suit is maintainable without issuing notice under Section 685 of the Act, as made applicable to Municipal Corporation of Warangal It is further to be noticed that in view of the definition under Order II Rule 2 CPC [*sic* Section 2(2)], rejection of the plaint is a decree; as such an appeal lies under Section 96 CPC. When a regular appeal is provided against the order of rejection of plaint, the petitioner cannot challenge the validity of the impugned order in revision filed under Article 227 of the Constitution of India. Further, the judgment relied on by the learned Counsel for the respondents in the case of *Mohd. Adbul Basith 's* case, 2010 (3) ALD 47, wherein the learned Judge has taken a view that rejection of the plaint on any ground even other than the ground mentioned under Order VII Rule 11 CPC, amounts to decree within the meaning of Section 2(2) of the Code of Civil Procedure, 1908; hence, a regular appeal lies, but such an order cannot be questioned in a revision petition, supports the case of the respondents *Neela Swaroopa v. Gunda Radhika and another,* 2010 (6) ALD 531 = 2010 (4) ALT 751.

A landlord cannot be restrained from making construction on the basis of approved plan by corporation on the ground that tenant was not given hearing under Calcutta Municipal Corporation Act, 1951. *Kumuda Sundari Properties (Pvt.) Ltd. vs. Namdang Tea Co. Ltd.,* AIR 1986 Cal. 266.

Improper notice — Whether a bar to file second suit:— Where a suit was filed against corporation without issuing proper statutory notice under Section 685 of the Act, and an application to grant permission to withdraw the suit was filed and before permission was granted second suit was filed, the filing of second suit does not operate as a bar to grant permission to withdraw the first suit. *Faiz Khan vs. Municipal Corporation, Hyderabad,* 1998 (2) ALT 219.

Suit for injunction:— Where the suit filed by the plaintiffs was only for injunction against the Corporation to restrain the Corporation from doing a future act it was held that the trial Court rightly relied on *T.V. Sharma's* case, AIR 1972 AP 96, and came to the conclusion that the facts and circumstances of the above case are applicable to the facts and circumstances of the present case also, as in the present case the officials of the defendant Corporation have interfered with the possession of the plaintiffs over the suit schedule property and trespassed into the suit schedule property along with Urban Forestry Officials and tried to plant trees without following due process of law and therefore the suit filed by the plaintiffs without issuing notice under Section 685 of HMC Act to the defendant Corporation and in view of the *mala fides* on the defendant Corporation and its officials in demolishing the watchman room constructed in the suit land and entering into the premises for plantation, the present suit is maintainable. There is no necessity of issuing any notice under Section 685 of the Act prior to filing of the suit. *Viqarunnissa Begum (died) and others v. Municipal Corporation of Hyderabad,* 2010 (3) ALD 47 = 2009 (2) ALT 652.

686. Savings in respect of certain provisions of [1][the Andhra Pradesh (Telangana Area) Land Revenue Act]:— Notwithstanding the provisions of Sections 50, 57, 61 and 62 of [1][the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317] F1. (Act VII of 1317F.)]—

(i) the use of any land for any purpose to which it may lawfully be put under the provisions of this Act, shall not be prohibited;

(ii) it shall be sufficient for any occupant of land assessed or held for the purpose of agriculture to show to the satisfaction of the Collector that he has complied with all the requirements of this Act and of the rules, regulations and bye-laws to entitle such occupant to permission under Section 61 of the Land Revenue Act subject to the condition of the payment of altered assessment and fine, if any, for the use of his holding or part thereof for any purpose unconnected with agriculture.

1. Short title subs. by Act 9 of 1961.

[1][**686-A. Construction of references in other Acts:**— Any reference to the Hyderabad Municipal Corporations Act, 1955 in any law for the time being in force in the State of Andhra Pradesh shall be construed to be a reference to the Greater Hyderabad Municipal Corporation Act, 1955.]

[2][**CHAPTER XXII-A**

686-A. Disclosure of information to the general public: (1) The Corporation shall maintain and publish all its records duly catalogued and indexed in a manner and form which facilitates the municipal authority to disclose the required information at quarterly, half yearly, yearly intervals to the public in such manner as may be prescribed.

(2) The manner of disclosure of information to general public and other stakeholders shall be -

(i) by publishing important information through newspapers;

(ii) through internet;

(iii) by placing the information through the notice boards of the corporation;

(iv) by placing the information through the notice boards of the Ward Committee Offices;

(v) through printed material and

(vi) any other mode as may be prescribed.

(3) The following information shall be disclosed by the Municipal Corporation, namely:—

(i) basic particulars of the Corporation;

(ii) statement showing the composition of the Corporation;

(iii) mode of accessibility of the minutes of the meeting of the Corporation;

(iv) directory containing the designations of the officers and employees;

(v) particulars of officers who are competent to grant concessions, permissions, permits, and authorizations for each branch of activity relating to Corporation;

(vi) particulars of officers responsible for delivery of various services and their contact phone numbers;

(vii) financial statements of balance sheet, income and expenditure and cash flow on a quarterly basis within two months of the end of each quarter;

1. **Added by Act No. 13 of 2008, w.e.f. 10.07.2008.**
2. **Ins. by Act No. 7 of 2008, w.e.f. 26-8-2009 vide GOMs.No. 532, MA(MA&UD) UBS Dept., dt. 24-8-2009.**

(viii) statutorily audited financial statements of the financial year within six months of the end of the financial year;

(ix) service levels being provided for each of the services, namely, water supply, drainage, sewerage, solid waste management, roads, parks, and play grounds, street lights by the Corporation;

(x) particulars of all plans, proposed expenditures, actual expenditures on major services provided or activities performed;

(xi) details of subsidy programmes and the manner and criteria of identification of beneficiaries for such programmes;

(xii) list of beneficiaries of all welfare and subsidy programmes;

(xiii) particulars of Master Plan, Development Plan or any other plan concerning the development of Corporation area;

(xiv) particulars of major works together with information on the value of works, time of completion and details of contracts.

(xv) details of Corporation funds:

(a) income generated in the previous year from taxes and non-taxes, i.e., water charges, rents from Corporation buildings, fees from markets and slaughter houses, fees from variuos categories of licences, building permit fee, betterment charges, other town planning receipts, encroachment fee, parking fee and other miscellaneous items;

(b) taxes and non-taxes remained uncollected during the previous year and the reasons there for;

(c) list of defaulters who have arrears of property tax exceeding one lakh of rupees per annum;

(d) assigned revenues transferred from State Government, i.e., entertainment tax, surcharge on stamp duty and profession tax during the previous year;

(e) plan and non-plan grants released by Government during the previous year;

(f) grants released by Government for implementation of schemes, projects and programmes, assigned or entrusted to the Corporation, the nature and extent of utilization during the previous year;

(g) money raised through donations or contributions from the public during the previous year;

(h) annual budget;

(i) budget allocations made during the year for the welfare of Scheduled Castes, Scheduled Tribes, Women and Children together with the extent of utilization in the previous year;

(j) budget allocation made during the year for the slum areas together with the extent of utilization in the previous year;

(k) such other information, as may be prescribed.]

CHAPTER XXIII

Repeal of enactments

687. Repeal, etc.:— The Hyderabad Municipal Corporation Act, 1950 (No. XXXVI of 1950), and the Hyderabad and Secunderabad Municipal Committees' (Composition and Elections) Regulation, 1359F. (XI of 1359 F), and all enactments amending the same are hereby repealed, provided that—

(a) any corporation constituted under the enactments so repealed (hereinafter referred to in this section as the said corporation) shall be deemed to have been constituted under this Act, and Councillors of the said corporation shall continue to hold office till the first meeting of the Corporation under clause (b) of Section 88 is held;

(b) any appointment, notification, notice, tax, order, delegation, instruction, direction, scheme, licence, permission, permit, certificate, rule, regulation, bye-law or form made, published, issued, imposed or granted or deemed to have been made, issued, given, published, imposed or granted under the said enactments and still in force shall so far as it is not inconsistent with this Act be deemed to have been respectively made, published, issued, given, imposed and granted under this Act;

(c) any right, privilege, obligation or liability acquired, accrued or entered under the said enactments shall be deemed to have been acquired accrued or entered under this Act;

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, liability, penalty, forfeiture, or punishment as aforesaid may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed, and

(e) all references made in any Act to any of the said enactments shall be read as if made to this Act or the corresponding portion thereof.

SCHEDULE A

[1][Forms 1 to 6]

FORM 7

[See Section 35]

Whereas the ..... ward of Municipal Corporation of the City of ..... has been called upon to elect a member [2][x x x] on or before .....

I, ... the Returning Officer of the said ward..... do hereby given the following:—

Public Notice

(i) [2][x x x]

(ii) Nomination papers may be delivered to the undersigned at his office at..... or, if he is unavoidably prevented from receiving the same to..... at..... . They should be presented between 11 a.m. and 3 p.m. on on before..... (date).

(iii) Forms of nomination paper may be obtained at the offices of the persons above-mentioned between the hours of..... (hour) and ..... (hour) from..... (date) to..... (date).

(iv) The nomination papers will be taken up for scrutiny at..... (hours) on ..... (date) in ..... (place).

(v) The withdrawal to be made on ..... date.....

(vi) In the event of the election being contested, the poll will take place on ..... between the hours of..... and.....

Date

Address Returning Officer

FORM 8

Nomination Paper

[See Section 36]

Election to the Municipal Corporation of the City of ..... 19 .....

1. Name of the Ward .....

2. Name of Candidate.....

---

1. Forms 1 to 6 omitted by A.P. Act 15 of 1975.
2. Omitted by A.P. Act 5 of 1969.

3. Father's/Husband's Name.....

4. Age.....

5. Address.....

6. If the candidate is a member of the [1][Scheduled Castes or Scheduled Tribes] [2][or Backward Classes.] .....

7. Ward in the list of voters in which the name of candidate is included .....

8. Serial number of the candidate in the ward list of the ward in which his name is included .....

9. Name of the proposer .....

10. Serial number of the proposer in the ward list of the ward.....

11. Signature of the proposer.....

Declaration by candidate

I hereby declare that I agree to this nomination.

Date: Signature of Candidate.

FORM 9

Form of Notice of withdrawal

[See sub-section (1) of Section 40]

To

The Returning Officer, ...

for ..... ward of the Municipal Corporation of the City of.....

I,..... of..... a candidate nominated at the election in the above ward do hereby give notice that I withdraw my candidature .....

Dated this ..... day of ..... 19 .....

Place: Signature of Candidate.

This notice of withdrawal was delivered to me at my office at..... (hours) .....(date) by..... the candidate/the candidate's proposer/election agent who has been authorised in writing by the candidate to deliver it.

Returning Officer.
(Asst. Returning Officer)

1. Subs. by Act 17 of 1979.
2. Inserted by Act 9 of 1987.

[1][FORM 10]

[2][SCHEDULE B]

[3][SCHEDULE C]

[See Section 130]

Officers and servants of the Corporation belonging to Local Government Services:

1. Commissioner
2. Special Commissioner
3. Additional Commissioners
4. Zonal Commissioners
5. Joint Commissioners
6. Deputy Commissioners
7. Assistant Commissioners
8. Chief Engineer
9. Superintending Engineers
10. Executive Engineers
11. Deputy Executive Engineer
12. Chief Medical Officer of Health
13. Medical Officer of Health
14. Civil Assistant Surgeons
15. Additional District Medical Officer of Health
16. Chief Entomologist
17. Senior Entomologist
18. District Extension and Mass Media Officer
19. Chief City Planner
20. Additional City Planner
21. Land Scape Architect
22. Assistant City Planners
23. Examiner of Accounts
24. Assistant Examiner of Accounts
25. Accounts Officer-cum-Financial Advisor

1. Omitted by Act 28 of 2005, w.e.f. 22.06.2005.
2. Schedule B omitted by A.P. Act 3 of 1994.
3. Schedule C substituted by Act No. 25 of 2007, w.r.e.f. 04.05.2007.

26. Divisional Accounts Officer
27. Public Relation Officer
28. Estate Officer
29. Chief Valuation Officer
30. Valuation Officers
31. Assistant Directors (Veterinary)
32. Chief Horticulturist
33. Senior Horticulturist
34. Junior Horticulturist
35. Chief Transport Officer
36. Land Acquisition Officer
37. Forest Officer
38. Foreman
39. Metropolitan Magistrate].

SCHEDULE D

[1][See Section 157]

Form of Debenture

No. for Rs. .....

By virtue of the Hyderabad Municipal Corporations Act, 1955, we, the Municipal Corporation of the City of Hyderabad, in consideration of the sum of Rs..... paid to us by A.B. of ..... for the purposes of the said Act, promise to pay to the said A.B., his heirs, executors, administrators, and assigns, the said sum of ..... together with interest at the rate of ..... per centum per annum payable half-yearly on the ..... day of ..... and ..... day of .....

And, by way of security for the said payment, we do hereby grant the Municipal Corporation of the city of Hyderabad, in consideration of and assign upto the said A.B., his heirs, executors, administrators and assigns such proportion of the moneys arising or accruing by virtue of the said Act from (the taxes mortgaged) as the sum aforesaid doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said (taxes), to hold to the said A.B., his heirs, executors, administrators and assigns from the day of the date hereof until the sum aforesaid with interest for the same at the rate aforesaid shall be fully paid and satisfied;

1. Inserted by Hyd. Act XLIII of 1956.

And it is hereby declared that the said principal sum shall be repaid on the ..... day of ..... 19..... at ..... (place of payment).

Dated this ..... day of ..... 19 .....

(To be sealed with the common seal of the Corporation).

(Signed)

Municipal Commissioner on behalf of the Corporation.

This debenture has been sealed with the common seal of the Municipal Corporation of the City of..... in our presence.

(Signed)

1.

2. Members of the Standing Committee.

SCHEDULE E

[See Section 194]

Duties and Powers of the Municipal Examiner of Accounts

1. (1) The municipal examiner of accounts shall audit the accounts of the Corporation as hereinafter provided, with the assistance of the Assistant Auditor or clerks and servants appointed under this Act.

(2) In the discharge of his functions under this article the municipal examiner of accounts shall—

(i) audit the accounts of expenditure from the revenue of the Corporation, expenditure on account of loan works and expenditure incurred out of special funds and shall ascertain whether money shown therein as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it;

(ii) audit the accounts of debts, deposit, sinking funds, advances, suspense and remittance transactions of the Corporation and report upon the results of verification of the balances relating thereto.

(3) The municipal examiner of accounts shall examine and audit the statements of accounts relating to the commercial services, conducted in any department of the Corporation, including the trading, manufacturing and

profit and loss accounts, and the balance sheets where such accounts are maintained under the orders of the Corporation or the Standing Committee and shall certify and report upon these accounts.

(4) The municipal examiner of accounts shall, in consultation with the Standing Committee, and subject to any directions given by the Corporation, determine the form, and manner in which his reports on the accounts of the Corporation shall be prepared and shall have authority to call upon any officer of the Corporation to provide any information necessary for the preparation of these reports.

2. (1) The municipal examiner of accounts may take such queries and observations in relation to any of the accounts of the corporation which he is required to audit and call for such vouchers, statements, returns and explanations in relation to such accounts as he may think fit.

(2) Every such query or observation as aforesaid shall be promptly taken into consideration by the officer or authority to whom it may be addressed and returned without delay with the necessary vouchers, documents or explanations to the municipal examiner of accounts.

(3) The powers of the municipal examiner of accounts with regard to disapproval of, and the procedure with regard to settlement of objections to expenditure from the revenues of the Corporation shall be such as may be determined by orders made by the Standing Committee in consultation with the municipal examiner of accounts and sanctioned by the Corporation.

3. If the municipal examiner of accounts considers it desirable that the whole or any part of the audit applied to any accounts which he is required to audit shall be conducted in the office in which these accounts originate he may require that these accounts, together with all books and documents having relation thereto, shall at all convenient times be made available in the said offices for inspection.

4. The municipal examiner of accounts shall have power to require that any books or other documents relating to the accounts, he is required to audit shall be sent for inspection by him:

Provided that if the documents are confidential he shall be responsible for preventing disclosure of their contents.

5. The municipal examiner of accounts shall have authority to give directions on all matters relating to audit, particularly in respect of the method and the extent of audit to be applied and the raising and pursuing of objections.

6. Sanction to expenditure accorded by the municipal examiner of accounts shall be audited by an officer to be nominated by the Corporation.

SCHEDULE F

FORM 1

[See Section 208]

Form of Notice of Transfer to be given when the Transfer has been effected by Instrument

To

The Municipal Commissioner
for the City of .....

I, A.B., hereby give notice, as required by Section ..... of the Hyderabad Municipal Corporations Act, 1955, of the following transfer of property:—

Date of Notice

Date of Instrument

Name of Vendor or Assignor

Name of Purchaser or Assignee

Amount of consideration

Description of the property

Of what it consists

Situation

No. in Assessment Book

Collector's No.

Dimensions of land

Boundaries

If instrument has been registered, the date of Registration

Remarks.

FORM 2

[See Section 208]

Form of Notice of Transfer to be given when the transfer has taken place otherwise than by Instrument

To

The Municipal Commissioner
for the City of .....

I, A.B., hereby give notice as required by Section..... of the Hyderabad Municipal Corporations Act, 1955, of the following transfer of property:—

Date of Notice

Name in which the property is at present entered

in the Commissioner's Records

To whose name it is to be transferred

Description of the property

Of what it consists

Situation

No. in Assessment Book

Collector's No.

Dimensions of Land

Boundaries

Remarks.

SCHEDULE G

[See Section 239]

Type of vehicle	Maximum Annual Tax	
(1)	(2)	
Vehicle Tax	With Pneumatic tyres	Without Pneumatic tyres
	Rs.	Rs.
[1][x x x]		
9. Four-wheeled animal drawn vehicle with or without springs	28.00	36.00
10. Two wheeled horse drawn vehicle which is not a tonga	26.00	28.00
11. Two-wheeled tonga with springs constructed to be drawn by one or more animals.	20.00	22.00
12. Jhatka	19.00	21.00
13. Shakram	18.00	20.00
14. Cart		15.00
15. Thela		14.00
16. Rickshaw		20.00
17. Cycle		8.00
18. Tricycle other than children's tricycle		6.00
19. Trailer		20.00
20. Ladis		15.00
21. Boats		28.00

1. Items 1 to 8 omitted by A.P. Act 18 of 1965.

Particulars	Maximum Annual Tax
1	2
Animal Tax	
1. Race horse	50.00
2. Horse (not being a race horse), Pony or mule of a height of 12 hands or upwards	12.00
3. Horse (not being a race horse), pony and mule of a height of less than 12 hands	8.00
4. Bullock or buffalo kept for draught or pack purposes	6.00
5. Donkey or ass kept for draught or pack purposes or for riding	4.00
6. Elephant	5.00
7. Camel	5.00
Vehicle Tax	Minimum Annual Tax
[1][x x x]	
11. Four wheeled animal drawn vehicles with spring including 4 wheeled Victoria and Landoes:—	
(a) Private	15.00
(b) Taxi	22.40
12. Two-wheeled animal drawn vehicles with spring including Baggies, Jhatkas, Tongas and Shakrams:—	
(a) Private	10.00
(b) Taxi	15.10
13. Hand drawn carts used for carrying goods:—	
(a) Private	4.00
(b) Taxi	6.00
14. Single Bullock Cart:—	
(a) Private	3.00
(b) Taxi	4.00

1. Items 1 to 10 omitted by A.P. Act 18 of 1965.

Particulars	Minimum Annual Tax
1	2
15. Double Bullock Cart:—	
(a) Private	4.00
(b) Taxi	5.00
16. Thela	6.00
17. Tongas without spring:—	
(a) with Pneumatic Tyres	5.00
(b) without Pneumatic Tyres	6.00
18. Cycle:—	
(a) Private	11.20
(b) Taxi	3.70
19. Cycle Rickshaw:—	
(a) Private	10.40
(b) Taxi	15.60
20. Transport Rickshaw (private)	31.40
21. Tricycles other than children's tricycle	
(a) Private	3.00
(b) Taxi	6.00
22. Trailer	10.00
23. Ladis	12.00
24. Boats	16.00
Animal Tax	
1. Race Horse	25.00
2. Each horse not being a race horse, pony of a height of twelve hands or upwards	3.00
3. Each horse not being a race horse, pony or mule of a height of not less than 12 hands	2.80
4. Each donkey or ass kept for draught or pack purpose or for riding	1.80
5. Each bullock or buffalo kept for draught or pack purpose	1.20
6. Camel	2.00
7. Elephant	4.00

SCHEDULE H

[See Section 252]

Articles liable to Payment of Octroi

Articles	Maximum Rates of Octroi leviable
1	2
Grain of all sorts	2 annas per maund
Flour of all sorts	75 per cent of the rate for the time being levied on the grain from which the flour is prepared.
Wines spirits	1 Rupee per imperial gallon
Beer	2 annas per imperial gallon
Sugar, molasses and gur	12 annas per cwt
Ghee	1 Rupee per quarter
Ghee substitutes (of whatever composition) which are not pure ghee but which resemble pure ghee and are capable of being used as substitutes for pure ghee, including hydrogenated vegetable oil:	1 Rupee per quarter
Timber, exclusive of railway sleepers	3 per cent of its market value
Plywood or any other kind of wood prepared by artificial process	3 per cent of its market value
Firewood	9 annas per ton
Charcoal	1 Rupee per ton
Tea	Re. 0-0-6 per lb
Coal	Re. 0-7-0 per ton
Dates, dry	Re. 0-12-0 per cwt.
Dates, wet	Re. 0-8-0 per cwt.
Cement	Re. 1-0-0 per ton
Iron and Steel	Re. 2-8-0 per ton
Paper—	
(a) For cards or other like purposes	Re. 1-0-0 per cwt.
(b) Strawboards	Re. 0-3-0 per cwt.

Articles	Maximum Rates of Octroi leviable
1	2
Edible—	
(a) Bacon and Ham	
(b) Table Butter	
(c) Fruits (canned, tinned, bottled, boxed or cartoned)	
(d) Fish (canned, tinned, bottled, boxed or cartoned)	
(e) Cheese	
(f) Confectionery	
(g) Jams and Jellies	– 6¼ per cent ad valorem
(h) Milk condensed & preserved	
(i) All sorts of farinaceous foods	
(j) Pickles	
(k) Cocoa and chocolates	
(l) Biscuits and cakes	
(m) Lard	
(n) Fruit juices and all beverages	
(o) All kinds of food & drink not specifically provided for (canned, tinned, bottled. boxed or cartoned)	
(p) Whole milk powder	
(q) Skimmed milk powder	
(r) Mawa and milk cream	

SCHEDULE I

[1][x x x]

1. Schedule I omitted by A.P. Act 22 of 1987.

SCHEDULE J

[See Section 258]

Where the payment for admission excluding the amount of entertainment tax:

(i) does not exceed three rupees	Not less than twelve and half per cent and not more than twenty per cent on payments for admission.
(ii) exceeds three rupees but does not exceed seven rupees.	Not less than twenty one per cent and not more than twenty four per cent on payments for admission.
(iii) exceeds seven rupees	Twenty five per cent on payments, for admission.

SCHEDULE K

[See Section 268]

Form of Notice of Demand

To

AB

residing at.....

Take notice that the Municipal Commissioner for the City of..... demands from (you) the sum of..... due from (you) on account of (here describe the premises, vehicle or animal or account of which the tax is leviable) or the half-year (or quarter) commencing (or ending on) the ..... day of ..... 19 ....; and that if the said sum is not paid into the municipal office at ..... or if sufficient cause for non-payment of the sum is not shown to the satisfaction of the Commissioner within fifteen days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this ..... day of ..... 19 ....

(Signed)

Municipal Commissioner for
the City of .....

SCHEDULE L

[See Section 269]

Form of Distress Warrant

To (here insert the name of the officer charged with the execution of the Warrant)

Whereas A.B. of ..... has not paid, or shown sufficient cause, to my satisfaction, for the non-payment of the sum of..... due for the tax mentioned in the margin for the half-year (or quarter) commencing (or terminating) on the ..... day of ..... 19...., although the said sum has been duly demanded in writing from the said AB, and fifteen days have elapsed since the service of the notice of demand;

This is to command you to distrain the goods and chattels of the said A.B. (or, as the case may be, and goods and chattels on the premises in respect of which the said tax is due) to the amount of the said sum of..... and such further sum as may be sufficient to defray the cost of recovering the said amount; and if within seven days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the said sum of..... and the cost of recovering the same, to return the surplus, if any, and if the same be demanded within one year from the date of the sale, to the person whom you shall find in possession of the said goods and chattels.

If sufficient distress cannot be found of the goods and chattels of the said A.B. (or on the said premises, as the case may be), you are to certify the same to me together with this warrant.

Dated the ..... day of ..... 19 .....

(Signed)

Municipal Commissioner for
the City of .....

SCHEDULE M

[See Section 271]

Form of Inventory and Notice

To

A.B. .....

residing at .....

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the sum of..... due for the tax mentioned in the margin for the half-year (or quarter) commencing (or terminating) on the ..... day of ..... 19 .....; and that unless you pay into the municipal office at..... the amount due, together with the costs of recovery, within seven days from the day of the date of this notice, the goods and chattels will be sold.

Dated this ..... day of ..... 19 .... .

(Signature of the Officer executing the warrant)

Inventory

(Here state particulars of the goods and chattels seized.)

SCHEDULE N

[See Section 273]

Tables of fees payable in Distraints

Sum distrained for	Fees
	Rs.p.
Under 5 Rupees	0.25
Rupees 5 and Under 10 Rupees	0.50
Rupees 10 and Under 15 Rupees	0.75
Rupees 15 and Under 20 Rupees	1.00
Rupees 20 and Under 25 Rupees	1.25
Rupees 25 and Under 30 Rupees	1.50
Rupees 30 and Under 35 Rupees	1.75
Rupees 35 and Under 40 Rupees	2.00
Rupees 40 and Under 45 Rupees	2.25
Rupees 45 and Under 50 Rupees	2.50
Rupees 50 and Under 60 Rupees	3.00
Rupees 60 and Under 80 Rupees	3.75
Rupees 80 and Under 100 Rupees	4.50
Above 100 Rupees	5.00

The above fees are to include all expenses except when peons are kept in charge of property distrained, in which case four annas (O. 25) must be paid daily for each peon so employed.

SCHEDULE O

[See sub-section (3) of Section 339]

Drainage Completion Certificate

I do hereby certify that the following work (insert full particulars of the work)..... has been completed to my satisfaction; that the workmanship and the whole of the materials used are good; and that no provision of the Act or the bye-laws, and no requisition made, condition prescribed or order issued thereunder, has been transgressed in the course of the work.

Dated : (Signed)

SCHEDULE P

PART I

Articles which shall not be kept without a licence in or upon any premises

[See Section 521]

Blood

Dynamite

Blasting powder

Fulminate of mercury

Gun-cotton

Nitro-glycerine

Phosphorus

Part II

Articles which shall not be kept without a licence, in or upon any premises in quantities exceeding at any one time maximum quantities hereunder set opposite such articles respectively

Articles	Maximum quantity which may be kept at any one time without a licence
1	2
Bidi leaves	4 cwts.
Camphor	½ cwts.
Celluloid	4 cwts.

1	2
Celluloid goods	4 cwts.
Chemicals, liquid—	4 gals.
Chemicals, non-liquid	¼ cwts.
Chlorate of Potash—	¼ cwts.
Cinematograph films	20 lbs.
Copra	4 cwts.
Cotton refuse and waste	4 cwts.
Cotton seed	4 bags not exceeding 4 cwts.
Dry leaves (Patravalie, etc.)	4 cwts.
Esas	1 cwts.
Gunpowder	5 lbs.
Matches for lighting	1 gross boxes
Methylated spirit—	10 gals.
Packing stuff (Paper cuttings, straw, etc.)	4 cwts.
Paints	5 cwts.
Old paper (waste) including old newspapers, periodicals, magazines, etc., kept for sale or for other than domestic use	4 cwts.
Petroleum as defined in the Petroleum Act, 1934	10 gals.
Dangerous Petroleum as defined in the same Act	3 gals.
Oil (other sorts)	15 gals.
Oil seeds other than cottonseed	1 ton
Resin	¼ cwts.
Saltpetre	¼ cwts.
Sulphur	¼ cwts.
Tar, pitch, dammer or bitumen	½ cwts.
Turpentine	1 gal.
Varnish	20 gals.

PART III

Articles which shall not be kept without a licence, in or upon any premises, for sale or for other domestic use

Acetylene gas	Hoy
Ashes	Hemp
Bamboos	Hessain cloth (Gunny bag cloth)
Bones	Hides (dried)
Coconut fibre	Hides (raw)
Carbide of Calcium	Hoofs
Charcoal	Horns
China grass	Jute
Coal	Khokas wooden boxes
Coke	or barrels (manufacturing and storing)
Fat	Offal
Fins	Rags
Firewood	Sandalwood
Fireworks	Skins
Fish (dried)	Straw
Flax	Tallow
Grass	Timber
Gunny bags	Wool (raw)
Hair	

PART IV

Trades or operations connected with trade which shall not be carried in or upon any premises without a licence.

[See Sections 521 and 522]

Baking.

Casting metals.

Dyeing cloth or yarn, in indigo or other colour.

Keeping of eating-houses.

Keeping of sweetmeat shops except in premises already licensed as an eating-house.

Keeping of hair dressing saloons or barber's shops.

Tanning pressing or packing hides or skins, whether raw or dried.

Manufacturing, packing, pressing, cleaning, cleansing, melting or preparing by any process whatever any of the following articles:—

[1][Aerated waters or mineral water or packaged drinking water]	Gunpowder
Bidis (indigenous cigarettes)	Ice
Blasting powder	Lime
Bones	Matches for Lighting
Bricks or tiles	Offal
Candles	Oil-cloth
Catgut	Paper
Cotton or cotton refuse	Pitch
or cottonseed	Pottery
Cow dung cakes	Rags
Dammer	Soap
Dynamite	Sugar
Fat	Tallow
Fireworks	Tar
Flax	Vegetable Oil
Gas	Wood
Ghee	

SCHEDULE Q

[See Section 575]

Particulars to be specified in the Register of Births

Serial Number	
Date of birth	Ward
	Ward No. of house (i.e. distinguishing number under clause (a) of Section 214).
	Street or Wadi No. of house in street or wadi.
Parents	Names (and surnames, if any)
	Occupation or profession
	Place of birth

1.Subs. for "Aerated water" by Act No. 36 of 2007, w.r.e.f. 22.10.2007.

	Duration of residence in the City of	Years Months Days
Mother being unmarried	Only wife now alive One of two wives, both now alive One of three or more wives all now alive	
Child	Born alive Still born Sex Race, Caste or Nationality, Name if any	

Note:— In the case of the birth of a Hindu, the particular sub-division of his caste should be given. Christians should be separated into those of pure European parentage, those of mixed blood, viz., Indo-Europeans; and those of pure Asiatic parentage, viz., Native Christians, Negro-Africans or Siddis should be registered as such and not as Mussalmans; In the case of Europeans, their religions should be specified.

SCHEDULE R

[See Section 575]

Particulars to be specified in the Register of Deaths

Serial Number	
Date of Birth	
Abode	Ward Sub-division Ward No. of house (i.e., its distinguishing No. under Clause (a) of Section 214) Street or wadi No. of house in street or wadi
Duration of residence in	Years Months Days
If a stranger to or lately arrived, where from	Village Taluka District

Name (and surname, if any)

Sex

Race, caste or Nationality

Age.....	Years
	Months
	Days
	Still-born

Occupation or profession of deceased or of his or her family

If in the city of	Ward
	Street or wadi
Place of birth	No. of house
If out of the city of	Village
	Taluka
	District

Country to which family belongs

Cause of death

Duration of disease	Years
	Months
	Days
	Hours

Name and residence of Medical Attendant.....

Place of disposal of dead, No.	Buried
	Burnt
	Exposed

SCHEDULE S

[See Section 581]

Certificate of Cause of Death

I do hereby certify that I attended the deceased..... during his last illness, and that the cause of his death was, to the best of my belief (here state particulars).

(Signed)

Date: Medical Designation or Diploma

SCHEDULE T

[See Section 584]

Form certifying Name given Baptism

I, ... of.....do hereby certify that on the ..... 19 ...., I baptized by the name of..... a male child produced to me by..... as the ..... of ..... and declared by the said ..... to have been born at..... on the..... 19.... .

Dated: (Signed by officiating Minister)

Form certifying Name given not in Baptism

I, ... do hereby certify that the ..... male child, born on the ..... 19...., at..... to ..... and his wife, and registered in the ward of..... on the..... 19...., has received the name of.....

Dated: (Signed by Father or Mother, etc.)

SCHEDULE U

(See Section 596)

Section, sub-section or clause	Subject	Fine which may be imposed
1	2	3
Section 12, sub-section (7)	Requisition by Commissioner	One hundred rupees
Section 196	Requisition by auditor appointed for special audit	One hundred rupees
Section 207	Notice to be given of transfer of title	Fifty rupees
Section 208	Requisition to produce instrument of transfer	Fifty rupees
Section 210	Notice to be given of the erection of new building, etc.	Fifty rupees
Section 244	Notice to be given by person becoming possessed of a vehicle or animal liable to tax.	Fifty rupees
Section 248, sub-section (3)	Return to be forwarded by an owner or person in charge of a dog.	Fifty rupees
Section 298	Connections, with municipal drains, etc., not to be made except in conformity with Section 296 or 297.	One hundred rupees
Section 301	Owner of land to allow others to carry drains through the land.	Five thousand rupees
Section 302	Requisition to enforce drainage of undrained premises within a hundred feet of a municipal drain.	Five thousand rupees
Section 303	Requisition to enforce drainage of undrained premises not situated within a hundred feet of a municipal drain.	Five thousand rupees
Section 305 sub-section (1),	Direction limiting use of drain or notice requiring the construction of a	Fifty rupees

clause (b)	distinct drain.	

1. **Subs. by Act No. 9 of 2008, w.r.e.f. 15-12-2007.**

1	2	3
Section 306	New buildings not to be erected without drains.	Ten thousand rupees
Section 308	Excrementitious matter not to be passed into cess-pool.	One hundred rupees
Section 309	Owners of drains to allow use thereof, or joint ownership therein, to others.	Ten thousand rupees
Section 313	Drains not to pass beneath buildings	Ten thousand rupees
Section 314	Provisions as to position of cess-pools	Two hundred rupees
Section 316 sub-section (2)	Requisition to cover or ventilate drain or cess-pool	Two thousand rupees
Section 321 sub-section (1)	Water-closets and privies not to be in contravention of terms prescribed.	Two thousand rupees
Section 322	Buildings newly erected or re-erected to be provided with water-closet and other accommodation.	Ten thousand rupees
Section 323, sub-section (1)	Requisition to enforce provision of privy water closet.	Five thousand rupees
Section 324	Requisition to provide privy accommodation for factories etc.	Ten thousand rupees
Section 325	Requisition respecting unhealthy privies	Five thousand rupees
Section 326	Provisions as to privies	Two thousand rupees
Section 327	Provisions as to water-closets	Two thousand rupees
Section 328	Position of privies and water-closets	Two thousand rupees
Section 329	Provisions as to use of places for bathing or washing clothes or domestic utensils.	One thousand rupees
Section 335	Requisition to effect sanitary repairs, etc.	Fifty rupees
Section 337	Prohibition of acts contravening the provisions of Chapter IX or done without sanction.	Five thousand rupees

Section 339 sub-secs. (1) and (4)	Provisions as to employment of licensed plumber and use of work.	Two thousand rupees
1	2	3
Sec. 339 sub-secs. (2),(3)	Licensed plumber to give and sign certificate.	Fifty rupees
Section 350 sub-section (2)	Water not to be carried away from public water-supply for sale, and not to be carried in any vehicle, without permission.	Fifty rupees
Section 351 sub-section (2)	Public water supply set apart for particular purpose, not to be used for other purpose.	Fifty rupees.
Section 352 sub-section (2)	Requisition to obtain private water supply and to provide supply and distributing pipes, etc.	Two hundred rupees
Section 353, sub-section (1)	Provisions as to the making and renewing of connections with municipal works.	Two hundred rupees
Section 353, sub-section (5)	Provisions as to unauthorised connections with municipal water, works, etc.	Fifty rupees
Section 354 sub-section (3)	Requisition to provide cistern and fitting or means of access to any cistern.	Fifty rupees
Section 356	Supply or distributing pipes, etc., be kept in efficient repair by owner or occupier of premises.	One hundred rupees
Section 359, sub-section (2)	Requisition to remedy defect in meter, supply or distributing pipe.	Fifty rupees
Section 361	Conditions as to use of water not to be contravened.	One hundred rupees
Section 363	Water pipes, etc., not to be placed where water will be polluted.	One hundred rupees
Section 364	Prohibition of fraudulent and unauthorised use of water.	One hundred rupees
Section 365 sub-section (1)	Prohibition of fraud in respect of meters.	One hundred rupees
Section 366	Prohibition of Wilful or neglect relating to water works.	One hundred rupees

Section 371, sub-section (1)	Work under Chapter X to be done by licensed plumber.	Two hundred rupees.
1	2	3
Section 371, sub-section (2)	Name of licensed plumber to be furnished.	Fifty rupees
Section 381, sub-section (4)	Construction of building, within the regular line of street without permission.	One hundred rupees
Section 392	Land not to be appropriated for building and private street not to be laid out not otherwise than in accordance with Commissioner's direction.	Twenty percent of the value of the land in question, as fixed by Registration Department at the time of undertaking any development of any land.
Section 394	Requisition as to levelling and draining of private streets.	Twenty thousand rupees
Section 398, sub-section (1)	Requisition to remove or alter projections.	Two hundred rupees
Section 401, sub-section (1)	Prohibition of structures or fixtures causing obstruction in streets.	Five hundred rupees
Section 403	Prohibition of hawking or exposing for sale any article in a public place or street without a licence.	One thousand rupees
Section 404	Prohibition in a public place or street, of use of skill in handicraft or in rendering services without licence.	One thousand rupees
Section 406	Requisition to remove structures or fixtures.	Five hundred and fifty rupees
Section 407, sub-section (1)	Prohibition of the tethering of animals in public streets.	Fifty rupees per animal
Section 410, sub-section (2)	Direction to close street in which work is in progress.	Fifty rupees
Section 412, sub-section (2)	Shoring-timber fence, etc., employed to secure public safety while municipal works are in progress not to be removed.	Fifty rupees

Section 413, sub-section (1)	Streets not to be opened or broken up and building materials not to be deposited thereon without permission.	Ten thousand rupees
1	2	3
Section 414	Precautions for public safety to be taken by persons to whom permission is granted.	Ten thousand rupees
Section 415, sub-section (1)	Persons to whom permission is granted must reinstate streets.	Ten thousand rupees
Section 416	Provision to be made by persons to whom permission is granted for traffic, etc., when their works interrupt streets.	Ten thousand rupees
Section 417	Hoards to be set up during work on any building adjacent to a street.	Five thousand rupees
Section 418, sub-section (2)	Name of street and number of house not to be destroyed or defaced.	Twenty rupees
Section 420, sub-section (1)	Sky-signs not to be erected or retained without permission.	Two hundred and fifty rupees
Section 421, sub-section (1)	Advertisement on certain sites, vehicles, etc., not to be exhibited without permission.	One thousand rupees
Section 422, sub-section (1)	Requisition to repair, protect or enclose dangerous place.	Two thousand rupees
Section 425	Prohibition of removal, etc., of lamps.	Ten thousand rupees
Section 436	Provision for supervision of buildings and works.	Ten thousand rupees
Section 440, sub-section (1)	Work not to be commenced without notice.	Fifty percent of Building Permit fee, subject to a maximum of Ten thousand rupees
Section 441	Building not to be converted to other purposes without the permission of the Commissioner.	Ten percent of the value of Building including land as

		fixed by the Registration Department.
1	2	3
Section 442	Building or any part of a building originally constructed or authorised to be used for human habitation not to be used as a godown, etc., without permission.	Ten percent of the value of Building including land as fixed by the Registration Department.
Section 443	Building or any part of a building originally constructed or authorised to be used for human habitation not to be altered without permission for the purpose of using it as a godown, etc.	Ten percent of the value of Building including land as fixed by the Registration Department.
Section 445	Roofs and external walls of buildings not to be of inflammable material.	One thousand rupees
Section 448	Provisions as to height of frame buildings	One thousand rupees
Section 449	Alteration and provision of staircases to allow safe exit in event of fire.	Ten thousand rupees
Section 452	(a) In respect of Non-High Rise Buildings violation of setbacks on each side of each floor except Building line upto Ten percent of the permissible setbacks.	(a) Fine equivalent to two hundred percent of the value of the land in question which is in force as fixed by the Registration Department for the extent of violated floor area.
	(b) Non-High Rise Buildings of work commenced contrary to the Act or bye-laws, except item covered by (a) above.	(b) Fine equivalent to four hundred percent of the value of the land in question which is in force as fixed by the Registration Department for the extent of violated floor area.

	(c) High Rise Buildings or work commenced contrary to the Act or Bye-laws.	(c) Fine equivalent to six hundred percent of the value
1	2	3
		of the land in question which is in force as fixed by the Registration Department for the extent of violated floor area.
Section 454	Provisions for enforcement of provisions concerning buildings and works	One hundred rupees
Section 455	Provisions as to completion certificates, permission to occupy or use.	Five percent of the value of the land and building in question as fixed by the Registration Department.
Section 456	Requisition to remove structures which are in ruins or likely to fall.	Ten thousand rupees
Section 485	Collection and removal of excrementitious and polluted matter to be provided for by occupiers in certain cases.	One thousand rupees.
Section 486	Scavenger's duties in certain cases not to be discharged by private individuals without permission.	Ten rupees
Section 493	Requisition to cleanse and lime wash building.	One thousand rupees
Section 494	Requisition to remove building materials etc., from any premises.	Fifty rupees
Section 496	Requisition to cleanse etc., neglected premises.	Fifty rupees
Section 497 sub-sections (1) and (2)	Requisition to abate or to prevent recurrence of a leakage in the roofs of buildings.	Fifty rupees
Section 499, sub-section (2)	Provision as to buildings unfit for human habitation.	Five hundred rupees

Section 500	Owner or occupier of a house, within seven days of receipt of notice, to give statement of accommodation.	Two hundred rupees
1	2	3
Section 501, sub-section (1)	Requisition by Magistrate to abate over crowding.	Two hundred rupees
Section 501, sub-section (3)	Requisition by owner pursuant to order under sub-section (1).	Two hundred rupees
Section 502	Requisition to remove or alter insanitary huts.	Fifty rupees
Section 504	Requisition to fill in pools, etc., which are a nuisance.	One hundred and fifty rupees
Section 505, sub-section (1)	Digging or constructing well, etc., without permission.	Two hundred and fifty rupees.
Section 505, sub-section (2)	Requisition to fill in or demolish well, etc.	Two hundred and fifty rupees
Section 508	Requisition to discontinue quarrying	Five hundred rupees
Section 509, sub-section (1)	Requisition to remove or trim trees, shrubs or hedges.	Fifty rupees
Section 510, sub-section (1)	Prohibition as to the keeping of animals.	Five hundred rupees
Section 511	Requisition to discontinue, etc., stardling animals or storing grain in dwelling house.	Fifty rupees
Section 512 sub-section (1)	Prompt notice to be given to Health Department for removal of carcasses of dead animals.	Two hundred and fifty rupees
Section 514, Cls. (e), (f), (g)	Prohibition of bathing, etc., contrary to order or regulation.	Ten rupees
Section 516	Factory, etc., not to be newly established or worked without permission.	Two percent of the value of land and building in question as fixed by the Registration Department.
Section 519, sub-section (1)	Requisition for sanitary regulation of factories, etc.	Two hundred rupees
Section 520, sub-section (1)	Prohibition of use of steam whistle, etc., without permission.	Two hundred rupees

Section 521, sub-section (1)	Certain things not to be kept and certain trades and operations not to be carried on without a licence.	Five hundred rupees
1	2	3
Section 521, sub-section (5)	Licence to be kept on the premises.	Twenty rupees
Section 522, sub-section (1)	Prohibition of contamination of water by chemicals, etc.	One thousand rupees
Section 524, sub-section (1)	Regulation of washing of clothes by washerman	Twenty rupees
Section 528, sub-section (1)	Prohibition of sale in municipal market without licence.	Fifty rupees
Section 529, sub-section (2)	New private market not to be opened without sanction.	One thousand rupees
Section 530, sub-section (1), clause (a)	Private market not to be kept open without licence.	Fifty rupees
Section 530, sub-section (1) clauses (b) and (c)	Using place as slaughter house without licence, within or without city	Two hundred rupees
Section 531	Prohibition of sale in unauthorised private markets.	Fifty rupees
Section 532	Requisition to pave and drain private market, buildings and slaughter-houses.	Two hundred rupees
Section 533	Regulations framed for markets and slaughter-houses.	Fifty rupees
Section 535	Removal of cattle, sheep, goats or swine from any municipal slaughter-house, market or premises.	Fifty rupees
Section 536, sub-section (2)	Regulations and table of stallage rents posted up in markets and slaughter-houses not to be destroyed or defaced	Fifty rupees
Section 538, sub-section (1)	Prohibition of sale of animals etc., except in a market.	Fifty rupees.
Section 539	Butchers and persons who sell the	One hundred rupees

	flesh of animals to be licensed.	
Section 540, sub-section (1)	Prohibition of import of cattle, etc., into the city without permission.	One hundred rupees
1	2	3
Section 549	Information to be given of existence of infectious disease by medical practitioners.	One hundred rupees
Section 551, sub-section (1)	Prohibition of use for drinking of water likely to cause infectious disease.	Two hundred rupees
Section 552, sub-section (2)	Direction to remove patients to hospitals.	One hundred rupees
Section 554, sub-section (1)	Requisition to disinfect buildings.	One hundred rupees
Section 556, sub-section (2)	Where a place for washing of infected articles has been appointed such articles not to be washed at places not so appointed.	One hundred rupees
Section 556, sub-section (3)	Direction to disinfect or destroy infected articles.	One hundred rupees
Section 557, sub-section (1)	Persons suffering from infectious disease not to enter a public conveyance without notifying the same.	Fifty rupees
Section 559	Provisions as to carriage of persons suffering from infectious disease in public conveyance.	Five hundred rupees
Section 560	Public conveyance which has carried a person suffering from infectious disease to be disinfected.	Five hundred rupees
Section 562, sub-section (1)	Infected article not be transmitted, etc., without previous disinfection.	Five hundred rupees
Section 563, sub-section (1)	Infected building not to be let without being first disinfected.	Five hundred rupees
Section 566	Places for the disposal of the dead to be registered.	One hundred rupees
Section 568	New places for disposal of the dead not to be opened without permission.	Five hundred rupees

Section 571, sub-section (1)	Prohibition of burials within places of worship and exhumation without permission.	Five hundred rupees
1	2	3
Section 572	Acts prohibited in connection with the disposal of the dead.	One hundred rupees
Section 577, sub-section (1)	Information of birth to be given within seven days.	One hundred rupees
Section 578	Information respecting finding of born child to be given.	One hundred rupees
Section 580	Information of death to be given at the time when the corpse of the deceased is disposed of.	One hundred rupees
Section 581, sub-section (1)	Medical practitioner who attended a deceased person to certify the cause of his death.	One hundred rupees
Section 591, sub-section (1)	Boards for exhibiting bye-laws to be open to inspection.	Fifty rupees
Section 591, sub-section (2)	The same not to be injured.	Fifty rupees
Section 619	Regulations prescribed for licensed surveyors and plumbers.	Fifty rupees
Section 620	Licensed plumber not to demand or receive more than the prescribed fee.	Fifty rupees
Section 621	Licensed plumber to be bound to execute work properly.	Twenty rupees
Section 622, sub-section (5)	Grantee to be bound to produce licence or written permission.	One thousand rupees
Section 623	Milk, butter, etc., not to be sold without a licence.	Two hundred and fifty rupees
Section 657 sub-section (3)	Occupier of building or land to afford owner facilities for complying with provisions of this Act, etc., after eight days from issue of order by the Judge.	Two hundred rupees]

[1][SCHEDULE V

[See Section 597]

Section, sub-section or clause	Subject	Daily fine which may be imposed
1	2	3
Section 298	Connections with municipal drains, etc., not to be made.	One thousand rupees, actual digging charges
Section 299, sub-section (1)	Buildings, etc., not to be erected without permission over any drains.	Five rupees
Section 301	Owner of land to allow others to carry drains through the land.	Five hundred rupees
Section 302	Requisition to enforce drainage of undrained premises within a hundred feet of a municipal drain.	Five hundred rupees
Section 303	Requisition to enforce drainage of undrained premises not situate within a hundred feet of a municipal drain.	Five hundred rupees
Section 305, sub-section (1)	Direction limiting use of drain or notice requiring the construction of a distinct drain.	One hundred rupees
Section 309	Owners of drains to allow use thereof or joint ownership therein to others.	One thousand rupees
Section 313	Drains not to pass beneath buildings	One thousand rupees
Section 316, sub-section (2)	Requisition to cover to ventilate drain or Cesspool	Two hundred rupees
Section 323, sub-section (1)	Requisition to enforce provision of privy accommodation, etc.	Five hundred rupees
Section 324	Requisition to provide privy accommodation for factories, etc.	One thousand rupees
Section 325	Requisition respecting unhealthy privies.	One thousand rupees

1. Substituted by Act 9 of 2008, w.r.e.f. 15.12.2007.

1	2	3
Section 326, sub-section (1)	Provisions as to privies.	One hundred rupees
Section 327	Provisions as to water-closets	Two hundred rupees
Section 335	Requisition to effect sanitary repairs, etc.	Fifty rupees
Section 337	Prohibition of acts contravening the provisions of Chapter IX or done without sanction.	Five hundred rupees
Section 339, sub-secs. (1) and (4)	Provisions as to employment of licensed plumber and use or work.	Two hundred rupees
Section 339, sub-sections (2) and (3)	Licensed plumber to give and sign certificate.	Fifty rupees
Section 349, sub-section (1)	Buildings, etc., not to be erected over water main without permission	Ten rupees
Section 381, sub-section (4)	Buildings not to be constructed within the regular line of street without permission.	One hundred rupees
Section 392	Land not to be appropriated for building and private street not be laid not otherwise than in accordance with Commissioner's directions.	One percent of the value of the land in question as fixed by Registration Department at the time of undertaking any development of land.
Section 394	Requisition as to levelling and draining of private street.	Two thousand rupees
Section 401, sub-section (1)	Prohibition of structures or fixtures causing obstruction in streets.	Ten rupees
Section 402, sub-section (1)	Prohibition of deposit, etc., of things in streets.	Ten rupees
Section 403	Prohibition of hawking or exposing for sale any article in a public place or street without a licence.	Five hundred rupees

1	2	3
Section 404	Prohibition in a public place or street, of use or skill in handicraft or in rendering services without licence.	Five hundred rupees
Section 406	Requisition to remove structures or fixtures.	Ten rupees
Section 413, sub-section (1)	Streets not to be opened or broken up and building materials not to be deposited thereon without permission.	One thousand rupees
Section 414	Precautions for public safety to be taken by persons to whom permission is granted.	One thousand rupees
Section 415, sub-section (1)	Persons to whom permission is granted must reinstate streets.	One hundred rupees
Section 417	Hoards to be set up during work on any building adjacent to a street.	One thousand rupees
Section 420, sub-section (1)	Sky-signs not to be erected or retained without permission.	Ten rupees
Section 421, sub-section (1)	Advertisement on certain sites, vehicles etc., not to be exhibited without permission.	Ten rupees
Section 422	Requisition to repair, protect or enclose dangerous place.	Five hundred rupees
Section 436	Provision for supervision of buildings and works.	One thousand rupees
Section 440, sub-section (1)	Work not to be commenced without notice.	One thousand rupees
Section 441	Building not to be converted to other purposes without the permission of the Commissioner.	One percent of the value of the Building including land as fixed by the Registration Department.
Section 442	Building or any part of a building originally constructed or authorised to be used for human habitation not to be used as a godown, etc., without permission.	One percent of the value of the Building including land as fixed by the Registration Department.

1	2	3
Section 443	Building or any part of a building originally constructed or authorised to be used for human habitation not to be altered without permission for the purpose of using it as a godown, etc.	One percent of the value of the Building including land as fixed by the Registration Department.
Section 445	Roofs and external walls of buildings not to be of inflammable material.	Five hundred rupees
Sections 446 & 447	Provisions as to height of buildings	One hundred rupees
Section 448	Provisions as to height of frame buildings.	One hundred rupees
Section 449	Alteration and provision of staircases to allow safe exit in event of fire.	One thousand rupees
Section 452	(a) In respect of Non-High rise buildings, setbacks on each side of each floor except building line upto ten percent of the permissible setbacks.	(a) Fine equivalent to five percent of the value of the land in question, which is in force as fixed by the Registration Department of the extent of violated floor area.
	(b) Non-High rise Buildings or work commenced contrary to the Act or Bye-laws, except item covered by (a).	(b) Fine equivalent to ten percent of the value of the land in question, which is in force as fixed by the Registration Department for the extent of violated floor area.
	(c) High rise buildings or work commenced contrary to the Act or Bye-laws.	(c) Fine equivalent to twenty percent of the value of the land in question, which is in force as fixed by the Registration Department for the extent of violated Floor area.

1	2	3
Section 455	Provisions as to completion certificate, permission to occupy or use.	Two thousand rupees
Section 456	Requisition to remove structures which are in ruins or likely to fall.	One thousand rupees
Section 483, sub-secs. (1), (2), (3) and (4)	Collection, removal and provision of receptacles.	One thousand rupees
Section 493	Requisition to cleanse and lime-wash buildings.	Five rupees
Section 494	Requisition to remove building materials, etc., from any premises.	Two hundred rupees
Section 496	Requisition to cleanse, etc., neglected premises.	Five rupees
Section 497, sub-sections (1) and (2)	Requisition to abate or to prevent recurrences of leakage in the roofs of buildings.	Five hundred rupees
Section 500	Owner or occupier of a house, within seven days of receipt of notice to give statement of accommodation.	Twenty rupees
Section 501, sub-section (1)	Requisition by Magistrate to abate over-crowding.	Twenty rupees
Section 501, sub-section (3)	Requisition by owner pursuant to order under sub-section (1).	Fifty rupees
Section 502	Requisition to remove or alter in sanitary hut.	Fifty rupees
Section 504	Requisition to fill in pools, etc., which are a nuisance.	Five rupees
Section 505, sub-section (2)	Requisition to fill in or demolish well, etc.	Twenty rupees
Section 508	Requisition to discontinue dangerous quarrying.	One hundred rupees
Section 509, sub-section (1)	Requisition to remove or trim trees, shrubs or hedges.	Fifty rupees

1	2	3
Section 510, sub-section (1)	Prohibition as to the keeping of animals.	Five hundred rupees
Section 511	Requisition to discontinue, etc., of stabling animals in dwelling houses.	Five hundred rupees
Section 516	Factory etc., or not to be newly established or worked without permission.	Five thousand rupees
Section 519, sub-section (1)	Requisition for sanitary regulation of factories etc.	One thousand rupees
Section 521, sub-section (1)	Certain things not to be kept, and certain trades not to be carried on, without a licence.	One thousand rupees
Section 521, sub-section (4)	Licence to be kept on the premises	Five hundred rupees
Section 522, sub-section (1)	Prohibition of corruption of water by chemical, etc.	Five hundred rupees
Section 524	Regulation of washing of clothes by washermen.	Five rupees
Section 530, sub-section (1)	Private markets not to be kept open without licence.	One thousand rupees
Section 532	Requisition to pave and drain private market buildings and slaughter houses.	Five hundred rupees
Section 539	Butchers and persons who sell the flesh of animals to be licensed.	Two hundred and fifty rupees
Section 554, sub-section (1)	Requisition to disinfect buildings.	Two hundred and fifty rupees
Section 621	Licensed plumber to be bound to execute work properly.	Fifty rupees
Section 622, sub-section (5)	Grantee to be bound to produce licence or written permission.	One thousand rupees
Section 623	Milk, butter, etc., not to be sold without a licence.	Two hundred and fifty rupees

VISAKHAPATNAM MUNICIPAL CORPORATION ACT, 1979[1]

[Act No. 19 of 1979]

An Act to provide for the establishment of a Municipal Corporation for the City of Visakhapatnam.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirtieth Year of Republic of India as follows:

1. Short title and commencement:— (1) This Act may be called the Visakhapatnam Municipal Corporation Act, 1979.

(2) It shall be deemed to have come into force on 16th April, 1979.

2. Definitions:— (1) In this Act, unless the context otherwise requires,—

(a) "*Corporation*" means the Municipal Corporation of Visakhapatnam deemed to have been constituted under Sec. 3;

(b) "*Council*" means the Municipal Council of Visakhapatnam ;

(c) "*Municipality*" means the Visakhapatnam Municipality ;

(d) "*Scheduled Castes*" and "*Scheduled Tribes*" shall have the meanings respectively assigned to them in clauses (24) and (25) of Article 366 of the Constitution of India.

(2) All words and expressions used in this Act and not defined but defined in the Hyderabad Municipal Corporations Act, 1955, shall have the meanings respectively assigned to them in the Act.

3. Establishment of a Municipal Corporation for the city of Visakhapatnam:— (1) With effect on and from the commencement of this Act, the local area included in the Visakhapatnam Municipality shall constitute the City of Visakhapatnam for purposes of this Act ; and from such commencement, a municipal corporation shall be deemed to have been established for the said city by the name of Visakhapatnam Municipal Corporation :

Provided that the Government may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the limits of the city constituted under this sub-section so as to include therein or to exclude therefrom, the areas specified in the notification :

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1. Received the assent of the Governor on the 10th July, 1979 published on the 12th July, 1979 in the Andhra Pradesh Gazette Part IV-B Page 1.

Provided further that the power to issue a notification under this sub-section shall be subject to previous publication.

(2) The Corporation shall, by th e said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued.

(3) The Visakhapatnam Municipality functioning immediately before the commencement of this Act shall be deemed to have been abolished from such commencement.

4. Municipal Authorities:— The municipal authorities charged with carrying out the provisions of this Act shall be:—

(a) a Corporation ;

(b) a Standing Committee ;

(c) a Commissioner.

5. Constitution of Corporation:— [1][(1) Subject to the provisions of sub-section (2) the Corporation shall consist of such number of elected members as may be notified from time to time by the Government in the Andhra Pradesh Gazette, in accordance with such principles as may be prescribed.]

(2) [2][x x x]

[3][(2-A) In addition to the members referred to in sub-sections (1) and (1-A) three persons having special knowledge or experience in Municipal Administration of whom one shall be woman, be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

Provided that the members co-opted under this sub-section shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.

(2-B) Two persons belonging to the minorities of whom one shall be woman be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation specified in sub-sections (1) and (1-A) from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

1. Subs. by Act No. 14 of 2005.
2. **Subs-section (2) omitted by Act No. 5 of 2008, w.e.f. 30.04.2008.**
3. Ins. by Act 29 of 2005, w.e.f. 27.10.2005.

Provided that the members co-opted under this sub-section shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.]

[1][(3) In the Corporation out of the total strength of elected Members, the Government shall, subject to the rules as may be prescribed, by notification, reserve,—

(a) such number of seats to be Scheduled Castes and Scheduled Tribes as may be determined by them, subject to the condition that 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 by direct election to the Corporation, as the population of the Scheduled Castes, as the case may be, the Scheduled Tribes in the Corporation bears to the total population of the Corporation, and such seats may be allotted by rotation by different wards in the Corporation;

(b) one-third of the seats for the members belonging to the Backward Classes; and such seats may be allotted by rotation to different wards in the Corporation;

(c) not less than one-third of the total number of seats reserved under Clauses (a) and (b) for women belonging to the Scheduled Castes, Scheduled Tribes or as the case may be, the Backward Classes;

(d) not less than one-third (including the number of seats reserved, for women belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes) of the total number of seats to be filled by direct election to the Corporation shall be reserved for women and such seats may be allotted by rotation to different Wards in the Corporation.

Explanation:— In this Section,—

(i) the expression 'Scheduled Casts' and 'Scheduled Tribes' shall have the same meetings respectively assigned to them in Clause (24) and Clause (25) of Article 366 of the Constitution of India;

(ii) the expression 'Backward Classes' means any socially and educationally Backward Classes of citizens recognized by the Government for the purpose of Clause (4) of Article 15 of the Constitution of India.]

1. Subs. by Act No. 14 of 2005.

6. Andhra Pradesh Municipalities Act, 1965 not to apply to the city:— (1) Subject to the provisions of sub-sections (2) and (3), the Andhra Pradesh Municipalities Act, 1965, shall, with effect on and from the commencement of this Act, cease to apply to the local area comprised within the City of Visakhapatnam.

(2) Such ceasor shall not affect:—

(a) the previous operation of the Andhra Pradesh Municipalities Act, 1965 in respect of the local area comprised within the City of Visakhapatnam,

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Andhra Pradesh Municipalities Act, 1965, or

(c) any investigation, legal proceedings or remedy in respect of such penalty, forfeiture or punishment, 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 notifications, rules, bye-laws, regulations, orders, directions and powers, made, issued or conferred under the Andhra Pradesh Municipalities Act, 1965, and in force at 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 local area comprised within the City of Visakhapatnam, until they are replaced by the notifications, rules, bye-laws, regulations, orders, directions and powers to be made or issued or conferred under this Act.

7. Application of the provisions of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956) to the Corporation:— (1) Save as otherwise expressly provided herein, all the provisions of the Hyderabad Municipal Corporations Act, 1955 (hereinafter in this section called "the said Act") including the provisions relating to the levy and collection of any tax or fee [1][x x x] are hereby extended to and shall apply *mutatis mutandis* to the Corporation and the said Act shall, in relation to the Corporation be read and construed as if the provisions of the Act had formed part of the said Act.

(2) For the purpose of facilitating the application of the provisions of the Hyderabad Municipal Corporations Act, 1955, to the Corporation, the Government may, by notification, make such adaptations and modifications of the said Act and the rules and bye-laws made thereunder whether by way of repealing, amending or suspending any provision thereof, as may

1. Omitted by A.P. Act 14 of 1989.

be necessary or expedient and thereupon the said Act and the rules made thereunder, shall apply to the Corporation subject to the adaptations and modifications so made.

(3) Notwithstanding that no provision or insufficient provision has been made under sub-section (2) for the adaptation of the provisions of the said Act, or the rules made thereunder any court, tribunal or authority required or empowered to enforce these provisions may, for the purpose of facilitating their application to the Corporation, construe these provisions in such manner, without affecting the substance, as may necessary or proper regard to the matter before the court, tribunal or authority.

[1][**7-A. Levy and collection of pipeline service charges:—** The Government may, by notification, direct the corporation to levy and collect pipeline service charges from every owner or occupier of a premises to which water connection has been given at such rate as may be prescribed to the different categories as may be specified in this regard to defray the capital cost of pipeline service works undertaken by the Corporation and the operation and maintenance of the pipeline system from time to time :

Provided that no such charges shall be levied on the owner or occupier of any premises situated in the areas which are not served by the pipeline system of the Corporation.]

8. Transitional provisions:— (1) All property, all rights of whatever kind, used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by or for the Council, with all rights of whatever kind used, enjoyed or possessed by the said Council as well as all liabilities legally subsisting against the said Council shall, on and from the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, pass to the Corporation.

(2) All arrears of taxes or other payments by way of composition for a tax, or due for expenses or compensation, or otherwise due to the said Council at such commencement may be recovered as if they had accrued to the Corporation and may be recovered as if the said arrears or payments had become due, under the provisions of this Act.

(3) [2][Save as otherwise provided in sub-section (3-A), all taxes, fees and duties], which immediately before the commencement of this Act, were being levied by the said Council, shall be deemed to have been levied by the Corporation under the provisions of this Act and shall continue to be,

1. Added by A.P. Act 22 of 1990.
2. Subs. by A.P. Act 7 of 1986.

in force accordingly until such taxes, fees and duties are revised, cancelled or superseded by anything done or any action taken under this Act.

[1][(3A) In the case of lands and buildings vested in the trustees of the Visakhapatnam Port Trust, it shall be lawful for the Corporation to levy by resolution in any year, a property tax at the rate of four percentum of the annual gross earnings of the said Trust, in the year immediately preceding such levy.]

(4) All proceedings taken by or against the Council or authority or any person under the Andhra Pradesh Municipalities Act, 1965, may be continued by or against the Corporation, authority, or person as if the said proceeding had been started under the provisions of this Act.

(5) Any action taken under the Andhra Pradesh Municipalities Act, 1965, by any authority before such commencement shall be deemed to have been taken by the authority competent to take such action under this Act as if this Act had then been in force.

(6) Notwithstanding in this Act, every officer or employee who, immediately before such commencement was in the service of the municipality shall be deemed to be an officer or employee of the Corporation :

Provided that—

(i) the terms and conditions applicable to such officers and employees consequent on their absorption in the service of the Corporation shall not be less favourable than those applicable to such employees immediately before such commencement, as pay and allowances, leave, pension, gratuity, provident fund and age of superannuation; and

(ii) the service rendered by any such officer or other employee under the municipality upto such commencement shall be deemed to be in service under the Corporation and he shall be entitled to count service for the purpose of increments, leave, pension or provident fund and gratuity :

Provided further that any officer or other employee serving in the municipality shall give an option to be exercised within such time and in such manner as may be prescribed either to be absorbed in the service of the Corporation or to be retained in the service constituted, under Section 72 of the Andhra Pradesh Municipalities Act, 1965, or to be retrenched from the service of the Municipality on such retrenchment benefits as may be prescribed.

1. Inserted by Act. 7 of 1986.

(7) Any division of the Visakhapatnam Municipality into wards made under the Andhra Pradesh Municipalities Act, 1965 and in force at the commencement of this Act shall, be deemed to be a division of the Corporation.

(8) The electoral roll prepared for the Visakhapatnam Municipality under the Andhra Pradesh Municipalities Act, 1965, and in force at the commencement of this Act shall, be deemed to be the electoral roll for the Corporation until a new electoral roll is prepared and published : and the part of the said electoral roll relating to each ward of the municipality shall be deemed to be the list of the electoral roll for the corresponding division of the Corporation.

9. Appointment of Special Officer:— (1) There shall be appointed by the State Government, by a notification in the Andhra Pradesh Gazette, a Special Officer to exercise the powers, perform the duties and discharge the functions of,—

(a) the Corporation,

(b) the Standing Committee ; and

(c) the Commissioner.

[1][(1A) The Government shall cause elections to be held to the Corporation so that the newly elected councillors may come into office on such date as may be specified by the Government in this behalf by a notification in the Andhra Pradesh Gazette :

Provided that the Government may, from time to time, advance or postpone the date specified under this sub-section and specify instead another date :

Provided further that the term of office of the special officer shall expire on the date of election of the Mayor.]

(2) The Special Officer shall exercise the powers, perform the duties and discharge the functions of the Corporation until the elected councillors come into office of the Standing Committee until a Standing Committee is appointed by the Corporation and of the Commissioner, until a Commissioner is appointed by the State Government, as the case may be, and any such officer may, if the State Government so direct receive remuneration for his services from the municipal fund.

1. Inserted by A.P. Act 22 of 1981, w.e.f. 16.06.1981.

(3) Until a new Special Officer is appointed by the Government under sub-section (1), the Special Officer of the municipality functioning immediately before the commencement of this Act shall be deemed to be the Special Officer of the Corporation and he shall exercise the same powers and perform the same duties and discharge the same functions as those exercised, performed and discharged by the Special Officer appointed under sub-section (1)

10. Power to remove difficulties:— (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification in the Andhra Pradesh Gazette, do anything not inconsistent with such provisions, which appears to them to be expedient or necessary for the purpose of removing the difficulty.

(2) Every notification issued under this section shall be laid before both Houses of the State Legislature as soon as may be after it is issued and if both Houses agree in making any modification in the notification or in the annulment of notification, the notification, shall thereafter have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

11. Power to make rules:— (1) The State Government may, by notification in the Andhra Pradesh Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

12. Repeal of Ordinance 8 of 1979:— The Visakhapatnam Municipal Corporation Ordinance, 1979, is hereby repealed.

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VIJAYAWADA MUNICIPAL CORPORATION ACT, 1981[1]

[Act No. 23 of 1981]

An Act to provide for the Establishment of a Municipal Corporation for the City of Vijayawada.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirty-second Year of the Republic of India as follows:—

1. Short title and commencement:— (1) This Act may be called the Vijayawada Municipal Corporation Act, 1981.

(2) It shall be deemed to have come into force on the 6th June, 1981.

2. Definitions:— (1) In this Act, unless the context otherwise requires,—

(a) "*corporation*" means the Municipal Corporation of Vijayawada deemed to have been constituted under Section 3 ;

(b) "*Council*" means the Municipal Council of Vijayawada;

(c) "*Government*" means the State Government;

(d) "*Municipality*" means the Vijayawada Municipality;

(e) "*Scheduled Castes*" and "*Scheduled Tribes*" shall have the meanings respectively assigned to them in clauses (24) and (25) of Article 366 of the Constitution of India.

(2) All words and expressions used in this Act and not defined, but defined in the Hyderabad Municipal Corporations Act, 1955, shall have the meanings respectively assigned to them in that Act.

3. Establishment of a Municipal Corporation for the city of Vijayawada:— (1) With effect on and from the commencement of this Act, the local area included in the Vijayawada Municipality shall constitute the City of Vijayawada for purposes of this Act and on and from such commencement, a Municipal Corporation shall be deemed to have been established for the said city by the name of Vijayawada Municipal Corporation:

Provided that the Government may, from time to time,. after consultation with the Corporation, by notification in the Andhra Pradesh Gazette alter the limits of the city constituted under this sub-section so as to include therein or to exclude therefrom, the areas specified in the notification:

1. Received the assent of the Governor on the 30th Nov., 1981 published on the 1st December, 1981 in the Andhra Pradesh Gazette part IV B (Ext.) page 23.

Provided further that the power to issue a notification under this sub-section shall be subject to previous publication.

(2) The Corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued.

(3) The Vijayawada Municipality functioning immediately before the commencement of this Act shall be deemed to have been abolished from such commencement.

4. Municipal authorities:— The municipal authorities charged with carrying out the provisions of this Act shall be,—

(a) a Corporation;

(b) a Standing Committee;

(c) a Commissioner.

5. Constitution of Corporation:— * [1][(1) Subject to the provisions of sub-section (2), the Corporation shall consist of such number of elected members as may be notified from time to time by the Government in the Andhra Pradesh Gazette, in accordance with such principles as may be prescribed.]

(2) [2][x x x]

[3][(2-A) In addition to the members referred to in sub-sections (1) and (1-A) three persons having special knowledge or experience in Municipal Administration of whom one shall be woman, be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

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* *Notification under Section 5(1):—*

Fixation of Strength of Vijayawada Municipal Corporation

[*G.O.Ms.No. 545, Housing, M.A. & U.D. (Elections) (M.A.), dt. 03.10.1986*]

In exercise of the powers conferred by sub-section (1) of Section 5 of the Vijayawada Municipal Corporation Act, 1981 (Act 23 of 1981) and in supersession of the Notification I issued with G.O.Ms.No. 737, Housing Municipal Administration and Urban Development Department (Municipal Administration), dated 26th June, 1981, the Governor of Andhra Pradesh hereby fixes the number of Councillors in the Vijayawada Municipal Corporation as fifty (50).

1. Subs. by Act No. 14 of 2005.

2. Omitted by Act No. 5 of 2008, w.e.f. 30.04.2008.

3. Ins. by Act 29 of 2005, w.e.f. 27.10.2005.

Provided that the members co-opted under this sub-section shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.

(2-B) Two persons belonging to the minorities of whom one shall be woman be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation specified in sub-sections (1) and (1-A) from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

Provided that the members co-opted under this sub-section shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.]

[1][(3) In the Corporation out of the total strength of elected Members, the Government shall, subject to the rules as may be prescribed, by notification, reserve,—

(a) such number of seats to be Scheduled Castes and Scheduled Tribes as may be determined by them, subject to the condition that 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 by direct election to the Corporation, as the population of the Scheduled Castes, as the case may be, the Scheduled Tribes in the Corporation bears to the total population of the Corporation, and such seats may be allotted by rotation by different wards in the Corporation;

(b) one-third of the seats for the members belonging to the Backward Classes; and such seats may be allotted by rotation to different wards in the Corporation;

(c) not less than one-third of the total number of seats reserved under Clauses (a) and (b) for women belonging to the Scheduled Castes, Scheduled Tribes or as the case may be, the Backward Classes;

(d) not less than one-third (including the number of seats reserved, for women belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes) of the total number of seats to be filled by direct election to the Corporation shall be reserved for women and such seats may be allotted by rotation to different Wards in the Corporation.

Explanation:— In this Section,—

(i) the expression 'Scheduled Casts' and 'Scheduled Tribes' shall have the same meetings respectively assigned to them in Clause (24) and Clause (25) of Article 366 of the Constitution of India;

1. Subs. by A.P. Act 14 of 2005.

(ii) the expression 'Backward Classes' means any socially and educationally Backward Classes of citizens recognized by the Government for the purpose of Clause (4) of Article 15 of the Constitution of India.]

(4) The total number of seats reserved under sub-section (3) shall not exceed one-half of the strength of the Corporation as notified under sub-section (1)

(5) The number of seats reserved in the Corporation for members of the Scheduled Castes or members of the Scheduled Tribes, under sub-section (3), shall bear to the strength of the Corporation as aforesaid, a proportion not less than the population of the Scheduled castes or of the Scheduled Tribes, as the case may be, in the city, bears to the total population of the city.

(6) Nothing in this section shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or women, for whom seats are reserved, from standing for election to the non-reserved seats in the Corporation.

6. Andhra Pradesh Municipalities Act, 1965 not to apply to the City:— (1) Subject to the provisions of sub-sections (2) and (3), the Andhra Pradesh Municipalities Act, 1965, shall, with effect on and from the commencement of this Act cease to apply to the local area comprised within the city of Vijayawada.

(2) Such cesser shall not affect,—

(a) the previous operation of the Andhra Pradesh Municipalities Act, 1965, in respect of the local area comprised within the city of Vijayawada;

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Andhra Pradesh Municipalities Act; 1965, or

(c) any investigation, legal proceeding or remedy in respect of such penalty, forfeiture or punishment, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Notwithstanding anything contained in sub-sec. (1), all notifications, rules, bye-laws, regulations, orders, directions and powers, made, issued or conferred under the Andhra Pradesh Municipalities Act, 1965, and in force at 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 local area comprised within the city of Vijayawada until they are replaced by the notifications, rules, bye-laws, regulations, orders, directions and powers to be made or issued or conferred under this Act.

7. Application of the provisions of the Hyderabad Municipal Corporations Act, 1955 to the Corporation:— (1) Save as otherwise expressly provided therein, all the provisions of the Hyderabad Municipal Corporations Act, 1955 (hereinafter in this section called 'the said Act') including the provisions relating to the levy and collection of any tax or fee, [1][x x x] are hereby extended to and shall apply *mutatis mutandis* to the Corporation and the said Act shall, in relation to the Corporation be read and construed as if the provisions of the said Act had formed part of this Act.

(2) For the purpose of facilitating the application of the provisions of the Hyderabad Municipal Corporations Act, 1955, to the Corporation, the Government may by notification in Andhra Pradesh Gazette, make such adaptations and modifications of the said Act and the rules and bye-laws made thereunder, whether by way of repealing, amending or suspending any provision thereof, as may be necessary or expedient and thereupon the said Act and the rules made thereunder, shall apply to the Corporation subject to the adaptations and modifications so made.

Notwithstanding that no provisions or insufficient provisions have been made under sub-section (2) for the adaptations of the provisions of the said Act, or the rules made thereunder, any court, tribunal or authority required or empowered to enforce these provisions may, for the purpose of facilitating their application to the corporation, construe these provisions in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

[2][**7-A. Levy and collection of pipeline service charges:—** The Government may, by notification, direct the Corporation to levy and collect pipeline service charges from every owner or occupier of a premises to which water connection has been given at such rate as may be prescribed to the different categories as may be specified in this regard to defray, the capital cost of pipeline service works undertaken by the Corporation and the operation and maintenance of the pipeline system form time to time :

Provided that no such charges shall be levied on the owner or occupier of any premises situated in the areas which are not served by the pipeline system of the Corporation.]

8. Transitional provisions:— (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by or for the Council, with all rights of

1. Omitted by A.P. Act No. 14 of 1989.
2. Added by A.P. Act 22 of 1990.

whatever kind used, enjoyed or possessed by the said Council as well as all liabilities legally subsisting against the said Council shall, on and from the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, pass to the Corporation.

(2) All arrears of taxes or other payments, by way of composition for a tax, or due for expenses or compensation, or otherwise due, to the said Council at such commencement may be recovered as if they had accrued to the Corporation, and as if the said arrears or payments had become due, under the provisions of this Act.

(3) All taxes, fees and duties, which immediately before the commencement of this Act were being levied by the said council, shall be deemed to have been levied by the Corporation under the provisions of this Act and shall continue to be in force accordingly until such taxes, fees and duties are revised, cancelled or superseded by anything done or action taken under this Act.

(4) All proceedings taken by or against the Council or authority or any person under the Andhra Pradesh Municipalities Act, 1965, may be continued by or against the Corporation, authority or person as if the said proceedings had been started under the provisions of this Act.

(5) Any action taken under the Andhra Pradesh Municipalities Act, 1965, by any authority before such commencement shall be deemed to have been taken by the authority competent to take such action under this Act as if this Act had then been in force.

(6) Notwithstanding anything in this Act every officer or employee who, immediately before such commencement was in the service of the municipality shall be deemed to be an officer or employee of the Corporation :

Provided that—

(i) the terms and conditions applicable to such officers and employees consequent on their absorption in service of the Corporation shall not be less favourable than those applicable to such employees immediately before such commencement, as respects pay and allowances, leave, pension, gratuity, provident fund and age of superannuation; and

(ii) the service rendered by any such officer or other employee under the municipality upto such commencement shall be deemed to be the service under the corporation and he shall be entitled to count that service for the purposes of increments, leave, pension or provident fund and gratuity:

Provided further that any officer or other employee serving in the Municipality shall be given an option to be exercised within such time and in such manner as may be prescribed either to be absorbed in the service of the Corporation or to be retained in the service constituted under Section 72 of the Andhra Pradesh Municipalities Act, 1965, or to be retrenched from the service of the Municipality on such retrenchment benefits as may be prescribed.

(7) Any division of the Vijayawada Municipality into wards made under the Andhra Pradesh Municipalities Act, 1965 and in force at the commencement of this Act shall be deemed to be a division of the Corporation.

(8) The electoral roll prepared for the Vijayawada Municipality under the Andhra Pradesh Municipalities Act, 1965, and in force at the commencement of this Act shall be deemed to be the electoral roll for the Corporation until a new electoral roll is prepared and published; and the part of the said electoral roll relating to each ward of the municipality shall be deemed to be the list of the electoral roll for the corresponding division of the Corporation.

9. Appointment of Special Officer:— (1) There shall be appointed by the Government, by notification in the Andhra Pradesh Gazette, a Special Officer to exercise the powers, perform the duties and discharge the functions of—

(a) the Corporation,

(b) the Standing Committee; and

(c) the Commissioner.

(2) The Government shall cause elections to be held to the Corporation so that the newly elected councillors may come into office on such date as may be specified by the Government in this behalf by a notification in the Andhra Pradesh Gazette:

Provided that the Government may, from time to time , advance or postpone the date specified under this sub-section and specify instead another date :

Provided further that the term of office of the Special Officer shall expire on the date of election of the Mayor.

(3) The Special Officer shall exercise the powers, perform the duties and discharge the functions of the Corporation until the elected councillors come into office, of the Standing Committee until a Standing Committee is appointed by the Corporation, and of the Commissioner until a Commissioner is appointed by the Government, as the case may be, and any such Officer

may, if the Government so direct, receive remuneration for his services from the municipal fund.

(4) Until a new Special Officer is appointed by the Government under sub-section (1), the Special Officer of the municipality functioning immediately before the commencement of this Act shall be deemed to be the Special Officer of the Corporation and he shall exercise the same powers and perform the same duties and discharge the same functions as those exercised, performed and discharged by the Special Officer appointed under sub-sec. (1).

10. Power to remove difficulties:— (1) If any difficulty arises in giving the effect to provisions of this Act, the Government may, by notification in the Andhra Pradesh Gazette, do anything not inconsistent with such provisions, which appears to them to be expedient or necessary for the purpose of removing the difficulty.

(2) Every notification issued under this section shall be laid before both Houses of the State Legislature as soon as possible after, it is issued and if both Houses agree in making any modification in the notification or in the annulment of the notification, the notification shall thereafter have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

11. Power to make rules:— (1) The Government may, by notification in the Andhra Pradesh Gazette, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

12. Repeal of Ordinance 7 of 1981:— The Vijayawada Municipal Corporation Ordinance, 1981 is hereby repealed.

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THE ANDHRA PRADESH MUNICIPAL CORPORATIONS ACT, 1994[1]

[Act No. 25 of 1994]

An Act to provide for the establishment of Municipal Corporations in the State of Andhra Pradesh and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-fifth Year of the Republic of India as follows:—

1. Short title, extent and commencement:— (1) This Act may be called the Andhra Pradesh Municipal Corporations Act, 1994.

(2) It extends to the whole of the State of Andhra Pradesh, except to the local areas covered by the Hyderabad, Visakhapatnam and Vijayawada Municipal Corporations.

(3) It shall be deemed to have come into force with effect on and from the 4th July, 1994.

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

(a) *'Corporation'* means a Municipal Corporation deemed to have been constituted under Section 3;

(b) *'election authority'* means such officer or authority as may be appointed by the State Election Commission to exercise such powers and to perform such functions in connection with the conduct of elections to the Municipal Corporations;

(c) *'Finance Commission'* means the Finance Commission constituted by the Governor under Article 243-I of the Constitution of India;

(d) *'larger urban area'* means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as may be prescribed, specify by notification for the purposes of this Act;

(e) *'Scheduled Castes'* and *'Scheduled Tribes'* shall have the meanings respectively assigned to them in clauses (24) and (25) of Article 366 of the Constitution of India;

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1. Received the assent of the Governor on the 12th August, 1994 published on the 16th August, 1994 in the Andhra Pradesh Gazette Part IV-B (Ext.)

(f) *'State Election Commission'* means the State Election Commission constituted in pursuance of Article 243-K of the Constitution of India;

(g) *'Wards Committee'* means a wards committee constituted under Section 10;

(h) *'words and expressions'* used in this Act but not defined shall have the meanings assigned to them in the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956).

3. Specification of larger urban area:— (1) Where a notification is issued by the Governor specifying an area as a larger urban area under clause (d) of Section 2, a Corporation shall be deemed to have been constituted for such area.

(2) The Governor may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the limits of a larger urban area specified in the notification issued under clause (d) of Section 2, so as to include therein or to exclude therefrom, the areas specified in the notification.

(3) The power to issue a notification under sub-section (2) shall be subject to such rules as may be made in this behalf and to previous publication.

(4) The Corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued.

(5) Where any local area which is within the jurisdiction of any other local authority is included in a larger urban area for which a Corporation is constituted, the Government may pass such orders as they may deem fit as to the transfer to the Corporation or disposal otherwise, of the assets or institutions of any such local authority in the local area and as to the discharge of the liabilities, if any, of such local authority relating to such assets or institutions.

(6) Where any local area for which a Municipality is constituted under the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) is declared as a larger urban area and a Municipal Corporation is constituted, then the Municipality functioning immediately before such constitution shall be deemed to have been abolished and the said Act shall cease to apply to such larger urban area.

(7) Where a Municipality stands abolished under sub-section (6), it shall be competent for the Government to pass such orders as they may deem fit as to the transfer to the Corporations or disposal otherwise, of the assets or institutions of the abolished Municipality and as to the discharge of the liabilities, if any, of such Municipality relating to such assets or institutions.

4. Municipal authorities:— The Municipal authorities charged with carrying out the provisions of this Act shall be:—

(a) a Corporation;

(b) a Standing Committee;

(c) a Commissioner;

(d) the Wards Committee.

5. Composition of Corporation:— The Corporation shall consist of the following Members, namely:—

(i) such number of elected Members as may be notified from time to time by the Government in the Andhra Pradesh Gazette, in accordance with such principles as may be prescribed:

[1][Provided that the number of Members to be elected in respect of a Corporation constituted under this Act shall be the same as the number of Members in the Municipality existing immediately prior to such constitution, until it is altered;]

(ii) every Member of the Legislative Assembly of the State representing a constituency of which the concerned larger urban area or a portion thereof forms part of;

(iii) every Member of the House of the People representing a constituency of which the concerned larger urban area or a portion thereof forms part:

Provided that a Member of the House of the people representing a constituency which comprises more than one larger urban area including a part thereof shall be the Member of the Corporation constituted for one of the larger urban areas which he chooses; and he shall also have the right to speak in and otherwise to take part in the proceedings of any meeting of the Corporation constituted for the other larger urban area within the Constituency but shall not be entitled to vote at any such meetings.

1. Proviso added by Act No. 1 of 1995.

(iv) every Member of the Council of States registered as an elector within the larger urban area concerned *ex-officio;*

[2][(iv-a) every Member of the Legislative Council of the State registered as an elector within the area of the Municipal Corporation as on the date of filing of nomination for becoming Member of Legislative Council or on the date of nomination by the Governor, as the case may be, shall be ex-officio member of the Corporation.

[2][(v) three persons having special knowledge or experience in Municipal Administration of whom one shall be woman, be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

Provided that the members co-opted under this clause shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.

(vi) two persons belonging to the minorities of whom one shall be woman be co-opted as members of the Corporation in the prescribed manner by the members of the Corporation specified in sub-clauses (i) to (iv) from among the persons who are registered voters in the Corporation and who are not less than twenty-one years of age:

Provided that the members co-opted under this clause shall have the right to speak in and otherwise to take part in the meetings of the Corporation but shall not have right to vote.]

6. Reservation of seats:— In the Corporation out of the total strength of elected Members, the Government shall, subject to the rules as may be prescribed, by notification, reserve,—

(a) such number of seats to the Scheduled Castes and Scheduled Tribes as may be determined by them, subject to the condition that the number of seats so reserved shall bear, as nearly as may be, the same proportion to the number of seats to be filled by direct election to the Corporation, as the population of the Scheduled Castes, or as the case may be the Scheduled Tribes in the Corporation bears to the total population of the Corporation; and such seats may be allotted by rotation to different wards in the Corporation.

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1. Inserted by Act No. 5 of 2008, w.e.f. 30.04.2008.

2. Subs. by Act 29 of 2005, w.e.f. 27.10.2005.

(b) one-third of the total number of seats for Members belonging to Backward Classes, and such seats may be allotted by rotation to different wards in the Corporation;

(c) not less than one-third of the total number of seats reserved under clauses (a) and (b) for women belonging to the Scheduled Castes, Scheduled Tribes or as the case may be, the Backward Classes;

(d) not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes) of the total number of seats to be filled by direct election to the Corporation shall be reserved for women and such seats may be allotted by rotation to different wards in a Corporation.

Explanation:— For the removal of doubts it is hereby declared that,—

(i) nothing in this section shall be deemed to prevent women and Members of the Scheduled Castes, Scheduled Tribes or Backward Classes from standing for Election to the non-reserved seats in the Corporation;

(ii) the expression 'Backward Classes' means any socially and educationally Backward Classes of citizens recognised by the Government for purposes of clause (4) of Article 15 of the Constitution of India;

(iii) [1][x x x]

7. Term of Office of Members and filling of seats:—

(1)(a) The term of office of elected members shall, save as otherwise expressly provided in this Act, be five years from the date appointed by the Election Authority for the first meeting of the Council and no longer.

(b) Annex-officio member specified under clause (ii) or (iii) or (iv) of Section 5 shall hold office so long as he continues to be the Member of the Legislative Assembly of the State or as the case may be, of either House of Parliament and the ex-officio members specified under clauses (v) and (vi) of Section 5 shall be co-terminus with the elected members.

(2) Ordinary vacancies in the Office of Elected Members shall be filled at ordinary elections which shall be held before the expiry of the term of Office of the Elected Members specified in clause (a) of sub-section (1).

(3) A Member elected at an ordinary election held after the occurrence of a vacancy shall enter upon office forthwith but shall hold office only as long as he would have been entitled to hold office if he had been elected before the occurrence of the vacancy.

8. Casual Vacancies of Members:— (1) A casual vacancy in the office of a member shall be filled at a casual election which shall be

1. Omitted by A.P. Act No.1 of 1995.

held by the Election Authority within a period of three months from the date of occurrence of the vacancy :

Provided that no casual election shall be held to fill a vacancy occurring within three months before the date on which the term of office of the members expires by efflux of time.

(2) A Member elected to a casual vacancy shall enter upon office forthwith but shall hold office only so long as the Member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

9. [1][x x x]

9A. [1][x x x]

10. Constitution, powers and functions of the Wards Committee:— (1) There shall be constituted by the Government, by order, such number of Wards Committees to the Corporation as may be determined by them, so however, that each Wards Committee shall consist of not less than ten wards :

Provided that in constituting Ward Committees the Government shall maintain geographical contiguity as far as possible.

(2) Each Wards Committee shall consist of the Members elected from the wards for which the Wards Committee is constituted :

Provided that such officers of the Corporation as the Commissioner may specify shall attend the meetings of the Wards Committee and shall have the right to speak in and otherwise to participate in the meetings of the Wards Committee but shall not have the right to vote.

(3) The Chairperson of the Wards Committee shall be elected by the Members thereof from among themselves in the prescribed manner. He shall hold office for a period of one year from the date of election and shall be eligible for re-election.

(4) The Chairperson shall cease to hold office if he ceases to be a Member of the Wards Committee. Any casual vacancy in the Office of the Chairperson shall be filled by election of another Chairperson from among the elected Members of the Wards Committee, as soon as may be, after the occurrence of the vacancy.

(5) The powers and functions of the Wards Committee and the manner of conduct of business at its meetings shall be such as may be prescribed.

1. Omitted by Act 29 of 2005, w.r.e.f. 06.08.2005.

11. State Election Commission:— The preparation of electoral rolls, for, and the conduct of elections to Corporation shall be under the superintendence, direction and control of the State Election Commission constituted under Article 243 K of the Constitution.

12. Finance Commission:— (1) The Finance Commission constituted by the Governor in pursuance of Article 243-I of the Constitution shall also review the financial position of the Corporation and make recommendations to the Government as to:—

(a) the principles which should govern,—

(i) the distribution between the State and the Corporation of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this part and the allocation between the Corporation of their respective shares of such proceeds;

(ii) the determination of the taxes, tolls and fees which may be assigned to, or appropriated by the Corporation;

(iii) the grants-in-aid to the Corporation from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Corporation;

(c) any other matter referred to the Finance Commission by the Government in the interests of sound finances of the Corporation.

(2) The Government shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly of the State.

13. Andhra Pradesh Municipalities Act, 1965 not to apply on specification as larger urban area:— (1) Subject to the provisions of sub-sections (2) and (3), the Andhra Pradesh Municipalities Act, 1965, shall, with effect on and from the specification of a local area or a smaller urban area for which a Municipality is constituted as a larger urban area, cease to apply to such larger urban area for which a Municipal Corporation is constituted.

(2) Such cesser shall not affect,—

(a) the previous operation of the Andhra Pradesh Municipalities Act, 1965 in respect of the local area comprised within any newly specified larger urban area for which a Corporation is constituted;

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Andhra Pradesh Municipalities Act, 1965; or

(c) any investigation, legal proceedings or remedy in respect of such penalty, forfeiture or punishment, 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 notifications, rules, bye-laws, regulations, orders, directions and powers, made, issued or conferred under the Andhra Pradesh Municipalities Act, 1965 and in force in a Municipality immediately before the specification of its local area as a larger urban area shall, so far as they are not inconsistent with the provisions of this Act continue to be in force in the larger urban area comprised within the Corporation until they are replaced by the notifications, rules, bye-laws, regulations, orders, directions and powers to be made or issued or conferred under this Act.

14. Application of the provisions of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956):— (1) Save as otherwise expressly provided herein, all the provisions of the Hyderabad Municipal Corporations Act, 1955 (hereinafter in this section referred to as the said Act) including the provisions relating to the levy and collection of any tax or fee except Chapter V and Sections 380, 381, 382, 383, 384, 385 and 387 in Chapter XI thereof are hereby extended to and shall apply *mutatis mutandis* to a Corporation constituted under this Act and the said Act shall, in relation to the Corporation be read and construed as if the provisions of the said Act had formed part of this Act.

*(2) For the purpose of facilitating the application of the provisions of the Hyderabad Municipal Corporations Act, 1955, to the Corporation, the Government may, by notification, make such adaptations and modifications of the said Act and the rules and bye-laws made thereunder whether by way of repealing, amending or suspending any provisions thereof, as may

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* *Notification under Section 14(2):—*

Municipal Corporation of Hyderabad (Election of Mayor and Councillors — Election Petitions) Rules, 1987 — Extention of said rules to newly created Municipal Corporations

[*G.O.Ms.No. 75, Municipal Administration and Urban Development (Elecs. I) (M.A.), dt. 16.02.1995*]

In exercise of the powers conferred by sub-section (2) of Section 14 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act 25 of 1994) the Governor of Andhra Pradesh directs that the Municipal Corporation of Hyderabad (Election of Mayor, Member and Election Petitions) Rules, 1987, shall apply *mutatis mutandis* to the Corporations constituted under the said Act.

be necessary or expedient and thereupon the said Act and the rules made thereunder, shall apply to the Corporation subject to the adaptations and modifications so made.

(3) Notwithstanding that no provision or insufficient provision has been made under sub-section (2) for the adaptation of the provisions of the said Act, or the rules made thereunder, any Court, Tribunal or Authority required or empowered to enforce these provisions may, for the purpose of facilitating their application to the Corporation, construe these provisions in such manner, without affecting the substance, as may, necessary or proper regard to the matter before the Court, Tribunal or Authority.

[1][**14-A. General provision for reservation of office of Mayor in the Corporations of the State:—** Notwithstanding anything contained in sub-section (2) of Section 1 of this Act, out of the total number of offices of Mayor of the Corporations constituted either under this Act or under any other law relating to Municipal Corporations for the time being in force in the State, the Government shall, subject to such rules as may be prescribed, by notification reserve,—

(i) Such number of offices to the Scheduled Castes and Scheduled Tribes as may be determined subject to the conditions that the number of offices so reserved shall bear, as nearly as may be, the same proportion to the total number of offices to be filled in the State as the population of the Scheduled Castes or Scheduled Tribes, as the case may be, in all the Corporations of the State bears to the total population in the Corporations of the State and such offices may be allotted by rotation to different Corporations in the State;

[2][Provided that where the proportion of the population of the Scheduled Castes, or Scheduled Tribes as the case may be, in all the Corporations of the State does not constitute required proportion as prescribed enabling them for reservation, at least one office of the Mayor shall be reserved for Scheduled Castes or Scheduled Tribes as the case may be, without reference to the said required proportion.]

(ii) one-third of the offices to the Backward Classes and such offices may be allotted by rotation to different Corporations in the State;

(iii) not less than one-third of the total number of offices reserved under clauses (i) and (ii) for women belonging to the Scheduled Castes, Scheduled Tribes or as the case may be, the Backward Classes ; and

1. Inserted by Act 25 of 1995.
2. Added by Act No. 12 of 2008, w.r.e.f. 02.02.2008.

(iv) not less than one-third (including the number of offices reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the Backward Classes) of the total number of offices to be filled in the State for women, and such offices may be allotted by rotation to different Corporations in the State.]

15. Levy and Collection of pipeline service charges:— The Government may, by notification, direct the Corporation to levy and collect pipeline service charges from every owner or occupier of a premises to which water connection has been given at such rate as may be prescribed to the different categories as may be specified in this regard to defray the capital cost of pipeline service works undertaken by the Corporation and the operation and maintenance of the pipeline system from time to time:

Provided that no such charges shall be levied on the owner or occupier of any premises situated in the areas which are not served by the pipeline system of the Corporation.

16. Transitional Provisions:— Where a Municipality ceases to exist and a Municipal Corporation is constituted in its place under this Act,—

(1) all property, all rights of whatever kind, used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by or for the Municipal Council, with all rights of whatever kind used, enjoyed or possessed by the said Council as well as all liabilities legally subsisting against the said Council, shall, on and from the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, pass to the Corporation;

(2) all arrears of taxes or other payments by way of compounding of a tax, or due for expenses or compensation or otherwise due to the said Council at such commencement may be recovered as if they had accrued to the Corporation and may be recovered as if the said arrears or payments had become due, under the provisions of this Act;

(3) all taxes, fees and duties, which immediately before the commencement of this Act, were being levied by the said Council, shall be deemed to have been levied by the Corporation under the provisions of this Act and shall continue to be, in force accordingly until such taxes, fees and duties are revised, cancelled or superseded by anything done or any action taken under this Act;

(4) all proceedings taken by or against the Council or authority or any person under the Andhra Pradesh Municipalities Act, 1965, may be continued by or against the Corporation, authority, or person as if the said proceedings had been started under the provisions of this Act;

(5) any action taken under the Andhra Pradesh Municipalities Act, 1965, by any authority before such commencement shall be deemed to have been taken by the authority competent to take such action under this Act as if this Act had then been in force;

(6) notwithstanding this Act, every officer or employee who, immediately before such commencement was in the service of the Municipality shall be deemed to be an officer or employee of the Corporation:

Provided that,—

(i) the terms and conditions applicable to such officers and employees consequent on their absorption in the service of the Corporation shall not be less favourable than those applicable to such employees immediately before such commencement, as pay and allowance, leave, pension, gratuity, provident fund and age of superannuation; and

(ii) the service rendered by any such officer or other employee under the Municipality upto such commencement shall be deemed to be in service under the Corporation and he shall be entitled to count that service for the purpose of increments, leave, pension or provident fund and gratuity:

Provided further that any officer or other employee serving in the Municipality shall give an option to be exercised within such time and in such manner as may be prescribed either to be absorbed in the service of the Corporation or to be retained in the service constituted, under Section 72 of the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965), or to be retrenched from the service of the Municipality on such retrenchment benefits as may be prescribed;

(7) any division of the Municipality into wards made under the Andhra Pradesh Municipalities Act, 1965 and in force at the commencement of this Act, shall, be deemed to be a division of the Corporation;

(8) the electoral roll prepared for the Municipality under the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965), and in force at the constitution of the Corporation shall be deemed to be the electoral roll for the Corporation until a new electoral roll is prepared and published; and the part of the said electoral roll relating to each ward of the Municipality shall be deemed to be the list of the electoral roll for the corresponding division of the Corporation.

17. Appointment of Special Officer:— (1) Whenever a new Municipal Corporation is constituted under this Act, there shall be appointed by the State Government, by a notification in the Andhra Pradesh Gazette, a Special Officer to exercise the powers, perform the duties and discharge the functions of,—

(a) the Corporation;

(b) the Standing Committee;

(c) the Commissioner; and

(d) the Wards Committee.

(2) The State Election Commission shall cause elections to be held to the Corporation within one year from the date of its constitution and the newly elected Members shall enter upon office on such date as may be specified by the Government in this behalf, by a notification in the Andhra Pradesh Gazette.

(3) The Special Officer shall exercise the powers, perform the duties and discharge the functions of the Corporation until the elected Members come into Office of the Standing Committee until a Standing Committee is appointed by the Corporation, or the Commissioner, until a Commissioner is appointed by the State Government and of the Wards Committees until the Wards Committees are constituted, as the case may be, and any such officer may, if the State Government so direct, receive remuneration for his services from the Municipal fund.

(4) Until a new Special Officer is appointed by the Government under sub-section (1), the Special Officer of the Municipality functioning immediately before the commencement of this Act shall be deemed to be the Special Officer of the Corporation and he shall exercise the same powers and perform the same duties and discharge the same functions as those exercised, performed and discharged by the Special Officer appointed under sub-section (1).

18. Power to make Rules:— (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Repeal of Ordinance 9 of 1994:— The Andhra Pradesh Municipal Corporations Ordinance, 1994 is hereby repealed.

NOTIFICATIONS

Certain Concessions in the Assessment of Tax-Specification of The Corporations and Municipalities Situated on the Sea-Shore

[G.O.Ms.No. 525, Municipal Administration and Urban Development (TC), (MA), dt. 25.08.1993]

In exercise of the powers conferred by Section 387-A of the Andhra Pradesh Municipalities Act, 1965 (Act No. 6 of 1965) and Section 679-E of the Hyderabad Municipal Corporations Act, 1955 (Act No. 2 of 1956), the Government hereby direct that an additional deduction of five per cent of Annual Rental Value attributable to a building shall be allowed in respect of the following Municipalities and the Municipal Corporation situated on the sea-shore in addition to the deductions allowed under the other provisions of the said Acts and the rules made thereunder :

(1) Bheemunipatnam Municipality.

(2) Kakinada Municipality.

(3) Machilipatnam Municipality ; and

(4) Visakhapatnam Municipal Corporation.

Specifying the Areas covered under Erstwhile Kakinada Municipality as Larger Urban Area Under Section 2(D) of the A.P. Municipal Corporations Act, 1994 — Notification.

[G.O.Ms.No. 11, Municipal Administration & Urban Development (Elec. II) (M.A.), dt. 06.01.2005]

In exercise of the powers conferred under clause (d) of Section 2 of the Andhra Pradesh Municipal Corporations Act, 1994, read with Rules 2 and 3 of the Andhra Pradesh Municipal Corporation (Fixation of Criteria for Specification of Large Urban Areas) Rules, 1994 the Governor of Andhra Pradesh hereby specify the areas covered under erstwhile Kakinada Municipality as larger urban area and the Kakinada Municipal Corporation is deemed to have been constituted under sub-section (1) of Section 3 of the said Act.

Establishment Orders & Other G.O.'s of Greater Hyderabad Municipal Corporation

[*G.O.Ms.No. 261, MA&UD (Elec. II) Dept., dt. 16-4-2007*]

Read the following:–

1. G.O.Ms.No. 703 MA & UD (Elec. II) Dept., dt. 20-7-2005.
2. G.O.Ms.No. 704 MA & UD (Elec. II) Dept., dt. 20-7-2005.
3. From the Commissioner, MCH Lr.No. 6960/Elecs, MCH/2005, dated 4-8-2005 along with a copy of C.R.No. 144, dated 4-8-2005 of the Council of MCH.
4. Judgment dated 31-1-2007 of Hon'ble High Court of A.P. passed in W.P.Nos. 17524, 17525 and 18249 of 2005.
5. Govt. Memo. No. 12417/Elec. II/2005, dated 24-2-2007 addressed to the Council of Municipal Corporation and Council of Gaddiannaram Municipality.
6. From the Commissioner, Gaddiannaram Municipality Lr.No. GMC/C1/754/2005, dated 28-2-2007.
7. Resolution No. 2, dated 2-3-2007 of the Council of MCH.
8. Govt. Memo. No. 12417/Elec.II/2005 MA&UD (Elec. II) Dept., dt. 13-4-2007.
9. G.O.Ms.No. 247 MA & UD (Elec. II) Dept., dt. 13-4-2007.
10. G.O.Ms.No. 248 MA & UD (Elec. II) Dept., dt. 13-4-2007.
11. G.O.Ms.No. 249 MA & UD (Elec. II) Dept., dt. 16-4-2007.
12. G.O.Ms.No. 250 MA & UD (Elec. II) Dept., dt. 16-4-2007.
13. G.O.Ms.No. 251 MA & UD (Elec. II) Dept., dt. 16-4-2007.
14. G.O.Ms.No. 252 MA & UD (Elec. II) Dept., dt. 16-4-2007.
15. G.O.Ms.No. 253 MA & UD (Elec. II) Dept., dt. 16-4-2007.
16. G.O.Ms.No. 254 MA & UD (Elec. II) Dept., dt. 16-4-2007.
17. G.O.Ms.No. 255 MA & UD (Elec. II) Dept., dt. 16-4-2007.
18. G.O.Ms.No. 256 MA & UD (Elec. II) Dept., dt. 16-4-2007.
19. G.O.Ms.No. 257 MA & UD (Elec. II) Dept., dt. 16-4-2007.
20. G.O.Ms.No. 258 MA & UD (Elec. II) Dept., dt. 16-4-2007.

21. G.O.Ms.No. 259 MA & UD (Elec. II) Dept., dt. 16-4-2007.

22. G.O.Ms.No. 260 MA & UD (Elec. II) Dept., dt. 16-4-2007.

Order :

Vide reference 1st and 2nd read above, Government proposed to constitute Greater Hyderabad Municipal Corporation with a view to facilitating improved and high standard of civic services, providing better civic administrative mechanism, ensuring better planning and focused development of the Mega city, achieving more equitable devolution of finances and utilization of resources, ensuring uniform enforcement and to make the city internationally competitive with world class infrastructure and services by merging the following surrounding 12 municipalities. 1. L.B. Nagar 2. Gaddiannaram 3. Uppal Kalan 4. Malkajgiri 5. Kapra 6. Alwal 7. Quthbullapur 8. Kukatpally 9. Serilingampalli 10. Rajendranagar 11. Ramachandrapuram and 12. Patancheru ; and 8 Gram Panchayats 1. Shamsabad 2. Satamarri 3. Jalapalli 4. Mamidipalli 5. Mankhal 6. Almasguda 7. Sardarnagar, and 8. Ravarala around Hyderabad and called for views/objections/suggestions if any from the Council of Municipal Corporation of Hyderabad and the public within a period of 15 days so as to take further action in the matter.

2. In the reference 3rd read above, the Council of Municipal Corporation of Hyderabad vide their Resolution No. 144 dated 4-8-2005 opposed the proposal to merge the surrounding 12 Municipalities and 8 Gram Panchayats located around Hyderabad with Municipal Corporation of Hyderabad for constituting Greater Hyderabad Municipal Corporation.

3. In the reference 4th read above, the Hon'ble High Court of A.P. passed orders on 31-1-2007 and while dismissing the W.P. Nos. 17524, 17525 and 18249 of 2005 filed by some of the MLAs, Corporators etc., against the proposed constitution of Greater Hyderabad Municipal Corporation, held that :

"the proposed constitution of Greater Hyderabad Municipal Corporation is not ultra vires the provisions of the Constitution and Sections 3 and 679D of the 1955 Act and Sections 3 and 62 of the 1965 Act do not suffer from any constitutional infirmity. However, we do not find the slightest hesitation to observe that before taking final decision for creation of Greater Hyderabad Municipal Corporation, the State Government will duly consider the objections raised by the petitioners and other persons and then pass appropriate order. In order to obviate any grievance of the petitioners we

deem it proper to give them opportunity to file additional objections within a period of 15 days from today and direct the State Government to consider the same before finally deciding the issue of Greater Hyderabad Municipal Corporation."

4. In pursuance of the Court orders in the reference 4th read above, Government in the reference 5th read above issued a show cause notice to the Council of Municipal Corporation of Hyderabad and to the Council of Gaddiannaram Municipality as to why their Resolution No. 144, dated 4-8-2005 and Resolution No. 35, dated 3-8-2005 respectively should not be cancelled in the larger public interest.

5. In the reference 6th read above, the Council of Gaddiannaram have resolved that they have no objection for cancellation of their Ressolution No. 35, dated 3-8-2005 made earlier as referred in the show cause notices.

6. In the reference 7th read above, the Council of Municipal Corporation of Hyderabad have resolved that they have no objection for cancellation of their Resolution No. 144, dated 4-8-2005 made earlier as referred in the show cause notices.

7. In the reference 8th read above, Government after examining the petitions received as per the notification issued vide reference 2nd read above, and those received subsequently as per the orders issued by the Hon'ble High Court in the reference 4th read above, issued orders rejecting the objections made therein to be untenable and unsustainable.

8. In the reference 9th read above, Government issued orders cancelling the Resolution No. 144, dated 4-8-2005 of the Council of Municipal Corporation of Hyderabad.

9. In the reference 10th read above, Government issued orders cancelling the Resolution No. 35, dated 3-8-2005 of the council of Gaddiannaram Municipality.

10. In the references 11th to 22nd read above, Government issued orders abolishing the Municipalities 1. L.B. Nagar 2. Gaddiannaram 3. Uppal Kalan 4. Malkajgiri 5. Kapra 6. Alwal 7. Quthbullapur 8. Kukatpally 9. Serilingampalli 10. Rajendranagar 11. Ramachandrapuram and 12. Patancheru respectively to include the areas covered by these Municipalities in the limits of Hyderabad Municipal Corporation so as to constitute Greater Hyderabad Municipal Corporation.

11. Government with a view to secure efficiency and economy in Municipal Administration, have decided to include the areas covered by the 12 Municipalities referred in para (1) within the limits of Hyderabad Municipal Corporation, duly altering its limits to establish Greater Hyderabad Municipal Corporation in the larger public interest. Accordingly, Government hereby include the areas covered by the 12 Municipalities referred in para (1) within the limits of Municipal Corporation of Hyderabad.

12. The following notification shall be published in the extraordinary issue of A.P. Gazette, dated 16-4-2007.

13. The Commissioner, Printing, Stationary & Stores purchase Department, Hyderabad is requested to furnish 200 copies of conveying the publication of the said notification.

Notification

In exercise of the powers conferred under the proviso to sub-section (1) and with sub-section (2) of Section 3 of the Hyderabad Municipal Corporations Act, 1955 (Andhra Pradesh Act 2 of 1956), the Governor of Andhra Pradesh, hereby include the areas covered by the erstwhile Municipalities viz. 1. L.B. Nagar 2. Gaddiannaram 3. Uppal Kalan 4. Malkajgiri 5. Kapra 6. Alwal 7. Quthbullapur 8. Kukatpally 9. Serilingampalli 10. Rajendranagar 11. Ramachandrapuram and 12. Patancheru within the limits of Hyderabad Municipal Corporation and establish Greater Hyderabad Municipal Corporation with immediate effect.

M.A. & U.D. Department – Establishment of Greater Hyderabad Municipal Corporation – Term of Special Officers of erstwhile 12 Municipalities ceases with effect from 16-4-2007 – Orders – Issued.

[G.O.Ms.No. 262, MA&UD (Elec. II) Dept., dt. 16-4-2007]

Read the following:–

1. G.O.Ms.No. 249 MA & UD (Elec. II) Dept., dt. 16-4-2007.
2. G.O.Ms.No. 250 MA & UD (Elec. II) Dept., dt. 16-4-2007.
3. G.O.Ms.No. 251 MA & UD (Elec. II) Dept., dt. 16-4-2007.
4. G.O.Ms.No. 252 MA & UD (Elec. II) Dept., dt. 16-4-2007.
5. G.O.Ms.No. 253 MA & UD (Elec. II) Dept., dt. 16-4-2007.
6. G.O.Ms.No. 254 MA & UD (Elec. II) Dept., dt. 16-4-2007.

7. G.O.Ms.No. 255 MA & UD (Elec. II) Dept., dt. 16-4-2007.
8. G.O.Ms.No. 256 MA & UD (Elec. II) Dept., dt. 16-4-2007.
9. G.O.Ms.No. 257 MA & UD (Elec. II) Dept., dt. 16-4-2007.
10. G.O.Ms.No. 258 MA & UD (Elec. II) Dept., dt. 16-4-2007.
11. G.O.Ms.No. 259 MA & UD (Elec. II) Dept., dt. 16-4-2007.
12. G.O.Ms.No. 260 MA & UD (Elec. II) Dept., dt. 16-4-2007.
13. G.O.Ms.No. 261 MA & UD (Elec. II) Dept., dt. 16-4-2007.

In the Government Orders 1st and 12th read above, orders have been issued abolishing the 12 Municipalities ; 1. L.B. Nagar 2. Gaddiannaram 3. Uppal Kalan 4. Malkajgiri 5. Kapra 6. Alwal 7. Quthbullapur 8. Kukatpally 9. Serilingampalli 10. Rajendranagar 11. Ramachandrapuram and 12. Patancheru to include the areas of the said Municipalities within the limits of Hyderabad Municipal Corporation, so as to constitute Greater Hyderabad Municipal Corporation.

2. In the Government Order 13th read above, orders have been issued constituting Greater Hyderabad Municipal Corporation.

3. Government hereby order that the term of the Special Officers appointed to the erstwhile Municipalities referred in the G.Os. 1 to 12 read above shall stand ceased with immediate effect.

4. The appended notification shall be published in an ex-ordinary issue of A.P. Gazette, dated 16-4-2007.

5. The Commissioner, Printing, Stationary & Stores Purchase Department, Hyderabad is requested to furnish 200 copies of conveying the publication of the said notification.

Notification

In exercise of powers conferred under Section 62-A of the Andhra Pradesh Municipalities Act, 1965 (Andhra Pradesh Act 6 of 1965), read with Section 16 of the General Clauses Act (Act 10 of 1897), Governor of Andhra Pradesh hereby order that the terms of the Special Officers appointed to the erstwhile Municipalities namely 1. L.B. Nagar 2. Gaddiannaram 3. Uppal Kalan 4. Malkajgiri 5. Kapra 6. Alwal 7. Quthbullapur 8. Kukatpally 9. Serilingampalli 10. Rajendranagar 11. Ramachandrapuram and 12 Patancheru shall stand ceased with immediate effect.

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M.A. & U.D. Department – Municipal Corporations – Establishment of Greater Hyderabad Municipal Corporation – Appointment of Special Officer – Orders – Issued.

[G.O.Ms.No. 474, MA&UD (Elec. II) Dept., dt. 16-4-2007]

Read the following:–

1. G.O.Rt.No. 157, MA & UD (Elec. II) Dept., dt. 9-2-2007.
2. G.O.Ms.No. 261, MA & UD (Elec. II) Dept., dt. 16-4-2007.

Order :

In the G.O. 1st read above, orders were issued appointing Sri S.P. Singh, IAS, Secretary to Government, MA & UD Department as Special Officer to the Municipal Corporation of Hyderabad.

2. In the G.O. 2nd read above, orders have been issued constituting Greater Hyderabad Municipal Corporation.

3. Therefore, in exercise of the powers conferred under Section 70G of Hyderabad Municipal Corporations Act, 1955, the Governor of Andhra Pradesh hereby appoints Sri C.V.S.K. Sarma, IAS, as Special Officer to the Greater Hyderabad Municipal Corporation to exercise the powers, perform the duties and discharge functions of the Corporation and the Standing Committee for a period of six months with effect from 16-4-2007, or until the elected Council assumes the office which ever is earlier.

4. The appended notification shall be published in an ex-ordinary issue of A.P. Gazette, dated 16-4-2007.

5. The Commissioner, Printing, Stationary & Stores purchase Department, Hyderabad is requested to furnish 200 copies of conveying the publication of the said notification.

Notification

In exercise of the powers conferred under Section 70-G of Hyderabad Municipal Corporations Act, 1955 (Andhra Pradesh Act 2 of 1956), the Governor of Andhra Pradesh hereby appoints Sri C.V.S.K. Sarma, IAS, as Special Officer to the Greater Hyderabad Municipal Corporation to exercise the powers, perform the duties and discharge functions of the Corporation and the Standing Committee for a period of six months with effect from 16-4-2007, or until the elected Council assumes office which ever is earlier.

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M.A. & U.D. Department – Municipal Corporations – Establishment of Greater Hyderabad Municipal Corporation – Continuation of 12 Municipal Commissioners of erstwhile surrounding Municipalities – Orders – Issued.

[G.O.Ms.No. 475, MA&UD (Elec. II) Dept., dt. 16-4-2007]

Read the following:–

G.O.Ms.No. 261, MA & UD (Elec. II) Dept., dt. 16-4-2007.

Order :

In the G.O. 1st read above, orders have been issued establishing the Greater Hyderabad Municipal Corporation by including the areas covered by the erstwhile Municipalities viz. 1. L.B. Nagar 2. Gaddiannaram 3. Uppal Kalan 4. Malkajgiri 5. Kapra 6. Alwal 7. Quthbullapur 8. Kukatpally 9. Serilingampalli 10. Rajendranagar 11. Ramachandrapuram and 12. Patancheru within the limits of Hyderabad Municipal Corporation.

2. As the reorganization of administrative set up for Greater Hyderabad Municipal Corporation is likely to take some time and in order to ensure that there is no disruption and dislocation of civic functions, the Government have decided to redesignate the Municipal Commissioners of the Municipalities referred to in Para 1 above as Deputy Commissioners of Greater Hyderabad Municipal Corporation. As an interim measure, the erstwhile areas falling within all the above mentioned Municipalities may be treated as administrative zones and the Commissioners of the above Municipalities who are re-designated as Deputy Commissioners, Greater Hyderabad Municipal Corporation will be delegated with necessary powers by the Commissioner, Greater Hyderabad Municipal Corporation to effectively look after the day to day civic functions in their respective zones.

3. The Commissioner, Greater Hyderabad Municipal Corporation shall take necessary further action accordingly.

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Delegation of Development Control Powers of Hyderabad Urban Development Authority, to Greater Hyderabad Municipal Corporation

[G.O.Ms.No.633, Municipal Admn. and Urban Development (M1) Dept. Dated: 23-08-2007]

Read the following:

1. G.O.Ms.No.457 MA&UD (M1) Dept. Dated 25-6-07.
2. Representation from the President, Hyderabad Urban Development Authority Staff & Workers Union Dated 27-06-2007.

3. From the Vice Chairman, Hyderabad Urban Development Authority, Lr.No.8721/P8/PLG/HUDA/07, Dated 8-7-2007.

Order:

In the G.O. first read above, orders were issued delegating the powers of Hyderabad Urban Development Authority relating to layout approvals and building permissions within the Greater Hyderabad Municipal Corporation area to the Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad. In the reference 3rd read above the Vice Chairman, Hyderabad Urban Development Authority, has requested the Government to issue orders in regard to disposal of building permission cases which have been received in Hyderabad Urban Development Authority till the date of delegation of powers and also to issue clear instructions to the Greater Hyderabad Municipal Corporation to transfer the development charges to Hyderabad Urban Development Authority which will be collected by the Greater Hyderabad Municipal Corporation, Hyderabad, on their behalf.

The Government have examined the proposal and in continuation of the orders 1st read above, the following orders are issued:

(a) It is reiterated that within Greater Hyderabad Municipal Corporation area, all the powers conferred under the Andhra Pradesh Urban Areas (Development) Act, 1975, relating to layout approvals and building permissions shall be delegated to the Commissioner and Special Officer, Greater Hyderabad Municipal Corporation.

(b) All the cases pending with Hyderabad Urban Development Authority shall be processed by Hyderabad Urban Development Authority itself.

(c) and relating to layout approval and building permissions, Commissioner and Special Officer, Greater Hyderabad Municipal Corporation shall remit the development charges collected by them to Hyderabad Urban Development Authority on monthly basis, and if the Greater Hyderabad Municipal Corporation fail to remit the development charges for three months, then Hyderabad Urban Development Authority will be free to withdraw the delegation of powers.

The Vice Chairman, Hyderabad Urban Development Authority/Cyberabad Development Authority/Hyderabad Airport Development Authority/Buddha Purnima Project Authority and the Commissioner and Special Officer Greater Hyderabad Municipal Corporation, Hyderabad shall take further action accordingly.

Extensive Modification to The Master Plan of Hyderabad Urban Development Authority Area (Excluding The Erstwhile MCH Area and the Newly Extended Area Of HUDA) – Approved

[1][G.O.Ms.No. 288. Municipal Administration & Urban Development (I), dt. 3.4.2008.]

Whereas, the Master Plan and 18 Zonal Development Plans for Non-MCH area of Hyderabad Urban Development Authority Area were approved by the Government in G.O.Ms.No. 391, MA, dated: 23.06.80, G.O.Ms.No. 353, MA dated: 30.05.80, G.O.Ms.No. 209, MA, dated: 25.04.84, G.O.Ms.No. 96, MA, dated: 03.03.89, G.O.Ms.No. 97, MA, dated: 03.03.89, G.O.Ms.No. 156, MA, dated: 27.03.89, G.O.Ms.No. 160, MA, dated: 28.03.89, G.O.Ms.No. 321, MA, dated: 10.06.94, G.O.Ms.No. 362, (MA, dated: 06.07.94, G.O.Ms.No. 386, MA, dated: 25.07.94 and G.O.Ms.No. 479, MA, dated; 02.09.94;

2. And whereas, Government, after reviewing the above Master Plan and Zonal Development Plans, considered that the above plans "needed overall modifications in the form of Revised Master Plan for the entire Hyderabad Urban Development Authority area. Therefore, Government after careful examination of the matter have proposed to make extensive modifications to the above said Master Plan and Zonal Development Plans in the form of overall modifications to the above said Master Plan / Zonal Development Plans as provided under Section 12 (2) of the Andhra Pradesh Urban Areas (Development) Act, 1975;

3. And whereas, Government, while exercising the powers conferred under Section 56 (2) of the Andhra Pradesh Urban Areas (Development) Act, 1975 (Act-1 of 1975), issued orders in G.O.Ms.No.22 MA & UD Department, dated 22.01.2003 delegating the powers to Vice Chairman, Hyderabad Urban Development Authority to prepare the revised Master Plan in the form of an overall modification to the Master Plan and Zonal Development Plans and publish the same for inviting the objections and suggestions from the public;

4. And whereas, in pursuance of the above orders, the Vice Chairman, Hyderabad Urban Development Authority has prepared the Draft Revised Master Plan comprising of 18 Zones covering the Non-MCH area of Hyderabad Urban Development Authority jurisdiction (i.e., excluding the erstwhile MCH area and newly extended HUDA areas the plans which are being taken up separately by HUDA) along with the Land Use Zoning, Building & Layout Regulations and published the same in News Papers inviting objections and suggestions from the

1. Pub. in the A.P. Gaz., Pt. I, Ext., No. 182, dt. 4.4.2008.

Public. After examining and considering the objections and suggestions received from public on the proposed Draft Revised Master Plan, the Vice Chairman, Hyderabad Urban Development Authority, vide his letter Nos. 11109/P/H/RMP/02, dated: 19.04.2005, 11109/H/RMP/02, Dated: 22.07.06 and 11109/H/RMP/2002, dated: 11.12.06 has submitted the comprehensive Revised Draft Master Plan along with the Land Use Zoning, Building & Layout Regulations for approval of the Government.

5. And whereas, after examining the above draft Master Plan comprising of 18 Zones, Government have directed the VC-HUDA to make certain modifications / incorporations in the draft revised Master Plan like (i) to delete multiple use zone proposed in the areas covered by the G.O.Ms.No. 111 MA dated 08-03-1996; (it) to incorporate the areas identified for 22 proposed Satellite Townships along and around the proposed Outer Ring Road; (iii) to earmark High-rise development zone along the MMTS / MRTS corridors; (iv) to demarcate 10 proposed routes of MRTS with clear Right of Way; (v) to delineate specific areas as Sky Craper Zone as envisaged in the G.O.Ms.No.86, dated; 03.03.2006; (vi) to remove the Solid Waste Disposal sites which do not conform to the Government of India guidelines; (vii) to incorporate the Outer Ring Road alignment; and (viii) recent modifications made by the Government in the Master Plan/ Zonal Development Plans and submit the same to Government for approval. Accordingly V.C., HUDA has submitted the draft Master Plan to the Government for approval.

6. And whereas Government, after careful consideration of the matter, have proposed to approve the above Revised Draft Master Plan which is an extensive modification to the present Master Plan / Zonal Development Plans which were .approved as given in para (1) above along with Land Use Zoning, Building & Layout Regulations, as submitted by Hyderabad Urban Development Authority, in exercise of the powers conferred under section 12 (2) of Andhra Pradesh Urban Areas (Development) Act, 1975 read with rule 13-A of the Urban Development Authority (Hyderabad) Rules, 1977;

7. And whereas since the above modifications were extensive and major in nature, and there was considerable time gap from the date of first notification issued by the HUDA, Government have decided to issue a fresh notification inviting objections / suggestions on the draft revised Master Plan and Land Use Zoning, Building & Layout Regulations.

8. Accordingly, a notification has been published in the Extraordinary issue of A.P. Gazette dated: 31.05.2007 as required under sub-section (3) of section 12 of Andhra Pradesh Urban Area (Development) Act, 1975 inviting objections and suggestions on the above Draft Revised Master Plan comprising of 18 Zonal segments and the Land Use Zoning, Building & Layout Regulations for non-MCH area of Hyderabad Urban Development Authority jurisdiction (excluding the erstwhile MCH area and the newly extended area of Hyderabad Urban Development Authority).

9. In response to the above notification, a number of objections / suggestions have been received from the public and various institutions and organisations with regard to certain land uses, road widths and road alignments along with some general suggestions on improving the quality of Draft Master Plan.

10. And whereas, Government, after careful examination of the objections and suggestions received, decided to make certain modifications to the said notified Draft Revised Master Plan comprising of 18 Zonal Segments as shown in the Annexure–II to this order. Further, since new buildings bye-laws as applicable to HUDA areas issued in G.O.Ms.No. 86, MA&UD (M) Deptt, dated: 03-03-2006 have removed height restrictions in buildings, the proposed High Rise and Skyscraper zones have been omitted and lands earmarked for these zones shall be restored to their earlier uses as suggested prior to earmarking these for the High Rise and Sky-scraper zones.

11. Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 12 of A.P. Urban Areas (Development) Act, 1975 (Act-1 of 1975), Government hereby approve the Revised Master Plan comprising of 18 Zonal Segments covering the Non-MCH area of HUDA (excluding the erstwhile MCH Area and the newly extended area of HUDA) along with the Land Use Zoning, Building and Layout Regulations specified in Annexure-I to this order with the modifications specified in Annexure - II to this order and also all the change of land uses and road alignments ordered by Government from time to time in the interregnum period,

12. The Land Use Plans, Zoning and layout regulations and copy of Report can be seen in the Office of the Vice-Chairman, HUDA during the office hours till such time these are printed and made available for General Public.

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ANNEXURE - I

LAND USE ZONING, BUILDING AND LAYOUT REGULATIONS

I. LAND USE ZONING REGULATIONS

The Land Use Zoning Regulations contain the following classification of land uses.

1) **Residential Zone**
2) **Commercial Zone**

   Retail
   Wholesale

3) **Manufacturing Zone**
4) **Public and Semi-Public Zone**
5) **Multiple Use Zone**
6) **Public Utilities**
7) **Open Space Zone**
8) **Conservation Zone**
9) **Forests**
10) **Water Bodies**
11) **Special Reservations**

    Heritage Buildings and Areas

    Military Lands

    Others

12) **Transportation and Communication Zone**

    Roads

    Railways

    Airports

    Bus Depots and Truck Terminals

Uses permitted and prohibited in different categories of land use zones are described against each. The uses are not to be treated as exhaustive. Similar uses and activities may be permissible in the appropriate locations by the HUDA Board and shall be subject to such restrictions and conditions as may be imposed.

1. Residential Zone

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
1	Residential	• All types of residential buildings	Heavy, large and extensive industries:
		• hostels & boarding houses • group housing / apartment complexes	obnoxious and hazardous industries
		• police posts • colleges • fire stations	warehousing
		• schools	
		• guest houses • research institutes	storage godowns of perishables, hazardous and inflammable goods
		• convenience shopping • night shelters	workshops for buses etc.
		• doctors clinics and dispensaries • dharamshalas	slaughter-housing
		• health facilities with not more than 20 beds • petrol pumps	wholesale mandis
		• professional offices • motor vehicle repairing workshops/garages	hospitals treating contagious and infectious diseases
		• other educational buildings other than professional colleges/ institutions	sewage treatment plant/disposal work

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• hotels on plots of above 2000 sq.meters and abutting road of minimum width of 18 meters	
		• community centres	water treatment plant
		• auditoriums • foreign missions	solid waste dumping yards
		• religious premises • function halls on plots above 3000 sq. meters and abutting road of minimum 18 meters width	outdoor games stadium
		• weekly markets • bakeries and confectioneries	indoor games stadium
		• library • auditoriums • gymnasium	shooting range zoological garden
		• parks/totlots • Electronic printing press • plant nursery • technical training centre • bus depots without workshop • yoga centres/health clinics	botanical garden international conference centre Courts of law Reformatory

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• cinema halls on plots above 3000 sq.meters and abutting road of minimum 18 meters width	
		• exhibition and art gallery • retail shopping centres • banks • transit visitors camp • police stations • municipal, State and Central government offices • taxi stand/three wheeler stands • burial-grounds/ cremation-ground	storage of gas cylinders All other uses not mentioned in Col.1
		• electrical distribution station • water pumping station • post offices • games facilities of local nature both indoor and outdoor	
		• public utilities and buildings except service and storage yards • clubs • computer software units/ IT Enabled Services	

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• restaurants/eating places • Showroom for sale & distribution of L P Gas	
		• customary home occupation/household units • Bus stands	

2. Commercial Zone

Sl. No.	Category	Uses Permitted	Uses Prohibited
		I	II
1.	Commercial Zone Retail and Wholesale	• retail shops and retail shopping centers, shopping malls • offices • hotels • banks • function halls on plots of minimum 3000 sqar. mtrs. and abutting road width of minimum 18 meters • stock exchange/ financial institution • cinema halls and multiplexes • bakeries and confectionaries • health facilities with maximum 200 beds • guest houses	hazardous and extractive industrial units hospitals/research laboratories treating contagious diseases poultry farms/ dairy farms slaughter-houses sewage treatment/ disposal sites storage of perishable and inflammable commodities reformatory

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• wholesale trade/ markets • restaurants • godowns and warehousing • repair garages • weekly market • non polluting non-obnoxious light industries • petrol pumps • timber yards • hostel/boarding houses • bus and truck depots • colleges • gas installation and gas works • all health facilities • polytechnic and higher technical institutes • religious places • junk yards • post offices • water treatment plant • multistoried parking complexes • railway yards/stations • research/training institute • sports/stadium and public utility installation • service centres/garages/ workshops	all activities which cause nuisance and are noxious and obnoxious in nature

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• religious buildings • weekly / informal markets • all residential uses • library • conference centers • parks/open space • courts • museum • sports and related facilities • police stations/posts • Fire Station • clubs . • taxi stand/three wheeler stands • parking sites • telephone exchange • research institutions • computer software units /IT Enabled Services	

Note: Special Commercial Zones Along All Highways, Ring Roads, Radial Roads And Expressways (Upto a depth of 90 M after proposed Right of Way of road) wherever Indicated on the plan; are conditional. These can be used subject to the following conditions:

(i) Free handing over of land to local body/authority for widening of the road up to the proposed width.

(ii) Construction of service road

(iii) Access from property to road only through service road,

(iv) Conformity with provisions of Hyderabad Revised Building Rules, 2006

3. Manufacturing Zone

Sl. No.	Category	Uses Permitted	Uses Prohibited
		I	II
1	Manufacturing Zone	• all kinds of industries • residential buildings for essential staff and for watch and ward • obnoxious and hazardous industries except storage of perishable and inflammable goods • public utilities • junkyards • parking of vehicles sports/stadium/playgrounds loading and unloading spaces • sewage disposal works • warehousing • electric power plants • storage and depot of non-perishable and non-inflammable commodities and incidental use • service stations & repair garages • cold storage and ice factory • cemeteries • gas godowns, godowns & warehousing • government/semi-government/private business offices • bus terminal	• Residential dwellings other than those essential for operational and watch and ward staff • schools and colleges • hotels • All other uses not mentioned in Col.1

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• banks and financial institutions • bus depot and workshop • helipads • wholesale business establishments • religious buildings • taxi stands • parks and play-grounds • gas installations and gas works • health facilities incidental to main uses • animal racing or riding stables • restaurants • workshops/garages • computer software units /IT Enabled Services. • dairy and farming	

4. Public and Semi-Public Zone

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
1	Public and Semi Public Zone	• offices • universities and specialised educational institutions	heavy, extensive and other obnoxious and hazardous industries

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• residential plotted or group housing for staff/employees as incidental to the main use • colleges • open air theatre • schools • clubs • research and development centres • guest house • social and welfare centres • bank • libraries • museum • hospitals • hostels • health/primary centres • water supply installations • dispensaries • sewage disposal works • clinics and laboratories • service stations • social and cultural institutions • railway stations/yards • religious buildings/centres • polytechnics • conference halls • cultural and religious buildings • community halls	slaughter houses junk yards wholesale markets dairy and poultry farms farm houses workshops for servicing and repairs processing and sale of farm products and uses not specifically permitted herein All other uses not mentioned in Col.1

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• bus/truck terminals • dharamshala • warehouses/storage godowns • museums/art galleries • helipads • exhibition centres • retail shopping centres • auditoriums • cinema halls/Multiplexes • police station/police posts • hotels on plots • jails • fire stations/fire posts • function halls • burial grounds/cemeteries/cremation grounds • public utilities and buildings • petrol pumps • L P Gas godowns • post offices • bus and railway passenger terminals • monuments • radio transmitter and wireless stations • telecommunication centre • telephone exchange	

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• computer software units/IT Enabled Services on independent plots of more 1000 sq.mt size.	

5. Multiple Use Zone

Sl. No.	Land Use Categories	Uses Permissible	Uses Prohibited
		I	II
	Multiple use Zone	All activities except Industries Computer software and Hardware units function halls cinema halls hotels	All other types of Industries

6. Public Utilities

Sl. No.	Land Use Category	Uses Permitted	Uses Prohibited
		I	II
	Public Utilities	Water supply, drainage, storm water, solid waste disposal, electricity, communication systems and related installations, Parking lots, Public utility buildings	any other use other than the specific reservation

7. Open Space Zone

Sl. No.	Land Use Category	Uses Permitted	Uses Prohibited
		I	II
	Open Space Zone	• Regional parks • local parks • Building and structures ancillary to use permitted in open spaces and parks subject to the total ground coverage not exceeding 2% • playgrounds • commercial use of transit nature like circus • children traffic parks • camping grounds • botanical/zoological garden • restaurants as part of sports, recreational outdoor facilities not exceeding 5% ground coverage • picnic huts with built up area not exceeding 2% • open air cinemas/ auditoria • bird sanctuary • outdoor sports stadiums • holiday resorts with ground coverage not exceeding 2% • shooting range	Any building or structure which is not required for open air recreation dwelling units except for watch and ward

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• sports training centres • specialised parks/maidans for multi-use • swimming pools with built up areas not exceeding 2% of total area • public & institutional libraries with total built up area not exceeding 2% of total site	

Note:– On sites specifically indicated as parks, playgrounds or Green Belt Project, no other activity except the specified use shall be allowed

8. Conservation Zone

Sl. No.	Land Use Category	Uses Permitted	Uses Prohibited
		I	II
	Conser-vation Zone	• agriculture • horticulture, floriculture forestry • sewage disposal works and public utility facilities • poultry and dairy farm • electric power plant • agro based cottage industries without use of power • quarrying • storage, processing and sale of farm produce • petrol and other fuel filling stations	Residential use except those ancillary uses permitted in agricultural use zone subject to 2% grouna coverage The activities mentioned in Col. I are not allowed in the prohibited areas mentioned in G.O.Ms.111 MA dt . 8-3-1996.

Sl. No.	Category	Uses permitted on all Locations	Uses Prohibited
		I	II
		• public utilities • Dwellings and ancillary buildings for the people engaged in the farm (rural settlement) subject to a maximum height of 7 meters and maximum - ground coverage of 10% with minimum land extent of one acre • milk chilling stations and pasteurisation plants • Transport and communi-cation facilities • Village settlement expansion	

9. Forests Zone

(i) This zone indicates all Reserved Forests as notified by the Forest Department

(ii) No activity other than forest is permitted in this zone unless expressly allowed by the Forest Department.

10. Water Bodies

Water Bodies Zone generally indicates all existing water bodies, rivers, streams, lakes, tanks and kuntas as indicated in the topographical sheets published by the Survey of India, the State Irrigation Department or revenue or other competent authorities. The boundary of the water bodies relate to the Full Tank Level as indicated in relevant maps, covering both perennial and non perennial parts when such distinction exists.

In Water Body Zone no construction is permitted in the water-spread and the buffer belt of minimum 30 meters around the FTL. The only exception is fishing, boating, and picnics along the banks provided that only construction allowed is open to sky jetties for boating, platforms for fishing and rain shelters and snack bars each not exceeding 10 sqm. in area and not exceeding four in numbers around one water body.

11. Special Reservations

(i) Heritage Buildings and Areas

a) Heritage Buildings and areas shall indicate the location of notified Heritage Buildings and will indicate the boundaries of notified Heritage Precincts

b) In Heritage Buildings and Heritage Precincts, it is necessary to obtain specific clearance from HUDA, after consultation by Heritage Conservation Committee before undertaking certain kinds of development and redevelopment as specified by the Government or issued as specific guidelines Special exemption from land use controls are allowed subject to approval from the Government in the interest of conservation of the Heritage Buildings

c) The Heritage Regulations issued vide G.O.Ms.No. 542, M.A., dated 14-12-1995 and other relevant orders/amendments issued by the Government from time to time shall be applicable.

(ii) Military Lands

Military Lands are lands under occupation of the Defene Services or otherwise earmarked for defence services. These can not be put to other uses. The areas, covered by Defense lands and certain adjoining areas as may be specifically notified, may be subjected to restrictions on constructions or on the use of lands in the interest of safety and security of the defence services or the civil population living in the contiguous areas.

(iii) Others

Any other Special Reservations earmarked in the Master Plan

(iv) Bio Conservation Zone

The developments in the Bio Conservation zone shall be strictly in accordance with the provisions of G.O.Ms.No.111 M.A dated: 8.3.96, and as per the regulations/stipulations issued by the Government from time to time.

12. Transportation and Communication Zone

Sl. No.	Land Use Category	Uses Permitted	Uses Prohibited
	I	II	III
	Transport and Communication Zone	• Road transport terminals (bus terminals and depots) • goods terminals • any other use/activity incidental to transport and communication • parking areas/buildings • residential dwelling units for essential staff and watch and ward • airports-buildings and infrastructure • truck terminal • motor garage • workshop • repair and repair shop and facilities such as night shelter • hotels • banks • restaurants • booking offices • wireless station • radio and television station • observatory and weather office • accessory and support shopping activity	Use/activity not specifically permitted herein

II. BUILDING REGULATIONS:

The Hyderabad Revised Building Rules, 2006 issued vide G.O.Ms.No.86, M.A. & U.D, (M) dated 03-03-2006 and as amended by the Government and other instructions issued or to be issued by the Government from time to time shall be followed.

III. LAYOUT AND LAND SUB-DIVISION REGULATIONS, 2008

1. Assemblage of land requirements:

(i) Land development in HUDA area would be promoted and facilitated in any of the following manner:

(a) Land Pooling or Township Development Scheme

(b) Layout Development Schemes

(c) Group Housing Schemes/Cluster Housing

(d) Individual plot sub-division/amalgamation

(ii) Excepting in cases of 1.0 (d) above, no Assemblage of land for development shall be permitted unless such a Scheme or layout development is undertaken through a licensed developer, i.e.

(iii) Land Pooling Scheme or township development should be a self-contained township planned and developed through a licensed developer/firm/development company together with work place and places of residence with all attendant facilities and amenities in such township and in accordance with the approved township policy of the Government.

(iv) layout development scheme may be permitted for residential, commercial, industrial, institutional, recreational and truck terminal/ traffic node and other activities like Corporate Townships, etc. subject to the compliance of these regulations and development specifications of HUDA.

(v) Individual plot sub-division/amalgamation would be allowed only in case of plots forming part of approved Land Pooling Schemes or layouts approved by the Competent Authority,

(vi) All land assemblage developments as mentioned above would be considered only if:

a. The proposed Scheme or development conforms to the Statutory Master Plan and the rules/regulations and conditions governing such development requirements like:

i. All facilities and services like roads, storm water drainage, water supply, electricity, landscaping and greenery, rainwater harvesting structures, and provisions of other public utilities, are provided and developed.

ii. Comply with the obligations and conditions for implementation of the Statutory Master Plan roads and other communication network system and the area of land so affected is surrendered free of cost to HUDA after development.

2. Undertaking of Land Pooling Schemes:

Land Pooling Schemes may be undertaken either by public authority or licensed private developers, provided the area of such a Scheme is not less than 20 Hectares. These shall apply to all new areas and greenfield sites. These shall be subject to the following:–

(i) The lands covered by such land pooling scheme shall be contiguous and approachable by an existing black-topped road of 18 mts. (60 feet) - where such a road does not exist the developer shall first provide for the same at his own cost; apply with copies of necessary ownership documents, Revenue sketches, etc. of the site.

(ii) A Joint Undertaking between the owners, licensed developer, qualified technical personnel for provision and compliance of the services and facilities.

(iii) Apply to the Competent Authority for necessary development permission as prescribed and in accordance with these Regulations;

(iv) Carry out all the development works and facilities as per specifications and standards.

(v) The owner and licensed developer are required to mortgage 25% of the saleable land to HUDA as surety for carrying out the developments and complying other conditions in the given time period, in the failure of which, the HUDA shall be empowered to sell the mortgaged plots and utilize the amount so realized for completing the development works. In such an eventuality the developer his associates and the engineer/architect shall be black-listed and not be allowed to undertake development works in the HUDA area.

(vi) The owner shall be entitled to dispose off the non-reserved sites and non-mortgaged plots.

(vii) The owner shall hand over the specific sites stated in Regulation 3 (iii), (v) and (vi) below to the HUDA free of cost and encumbrances before undertaking development as per the approved plans

3. Any Land Pooling Scheme shall make for the following provisions:

(i) Comply with the hierarchy of road network requirements as given in these Regulations;

(ii) Earmark at least 1/3rd of total land area for Work center which may include activities like commercial/offices/ market/ Information Technology Enabled Services (ITES) / Light industries/ Service industries/ Transportation Node activities/ Recreation based activities and Amusement

(iii) Minimum of 10% of total area for parks, playgrounds, open spaces and properly distributed within the Scheme and shall be of regular shape;

(iv) 2.5% for social infrastructure such as schools, dispensary/hospital, public utilities spaces, shopping centres and other community spaces and earmark specific sites for bus stands, auto stands, garbage collection points, etc. These could be planned as part of the area earmarked for Work center mentioned in (b) above;

(v) 5% for sale by HUDA for residential/commercial use and as per location decided by the Competent Authority;

(vi) 5% reservation of land for the purpose of providing housing accommodation for Economically Weaker Sections(EWS)

(vii) 10% of the total land is earmarked for Lower Income Group (LIG) Housing with maximum plot size upto 100 sqm

(viii) 10% of the total land is earmarked for Middle income Group (MIG) Housing with maximum plot size upto 100 sqm

(ix) The owner shall develop and dispose of the areas earmarked for LIG and MIG given in (vii) and (viii) above. No amalgamation of plots in such blocks shall be allowed.

4. There is no restriction on the plotted area. The balance area of saleable area shall clearly give the type of housing development that would be undertaken viz., detached houses, semi-detached houses, row type houses, duplex housing, condominiums, apartment complexes, cluster housing, etc. or a mix of all or combination of the above. For each of the above, separate

utilities and services plans and building type designs as required under these regulations shall be got approved and development and civil works undertaken as per approved plan and conditions. Approval would be considered for these as a comprehensive approval as a project in which not only the layout and development specifications and conditionalities are covered but also the approval of individual blocks, buildings scheme for development of on site infrastructure facilities and amenities, etc. are also included The owner shall be entitled to dispose off non-reserved sites and non-mortgaged sites either as plots or as developed houses.

5. Maintenance to be under a single body:

The Land Pooling Scheme developed shall be under the overall control and management of a single management body who shall be responsible for the maintenance and upkeep of the common facilities, greenery and the township.

6. Layout development schemes:

Layout provisions shall primarily apply to interstitial pockets of lands and redevelopment schemes, plots sub-divisions, and those areas not covered in land pooling schemes.

The owner of any land or groups of owners/developers who intend to sub-divide or layout the land in such areas into building plots shall:

(i) Apply along with a licensed developer to the Competent Authority for necessary layout permission as prescribed and in accordance with these Regulations;

(ii) Apply with copies of necessary ownership documents, Revenue sketches, etc. of the site;

(iii) Carry out the layout development works as per specifications and standards.

(iv) the owner and licensed developer are required to mortgage 25% of the saleable land to HUDA as surety for carrying out the developments and complying other conditions in the given time period, in the failure of which, the HUDA shall be empowered to sell away the mortgaged plots and utilize the amount so realized for completing the development works. In such an eventuality the developer his associates and the engineer/architect shall be black-listed and not be allowed to undertake development works in the HUDA area.

(v) The owner shall hand over the specific sites stated in Regulation 8 (ii), (iii) and (iv) below to the Competent Authority free of cost and encumbrances

7. Plot sub-divisions/Amalgamation requirements:

(i) No plot sub-division/amalgamation shall be allowed unless these are permitted by the Competent Authority. No building permission shall be entertained unless such a sub-division permission is obtained first from HUDA.

(ii) The abutting road requirements, minimum plot size and other requirements shall be in conformity with the Hyderabad Revised Building Rules, 2006.

(iii) However, for a plot abutting existing major roads or highways, no plot subdivision/amalgamation permission is necessary.

(iv) Such a site shall be minimum 125 sq. mtrs. with a minimum frontage of 9 m for residential and 12 m for other non-residential uses.

(v) The minimum access permitted in case of sub-division of plots shall be 3.6 m for residential and 6 m for non-residential plot sub-divisions.

(vi) Pro-rata open space charges (equivalent to 10 % of the total layout/colony area) is required to be paid where there are no open spaces or shortfall.

[1][8. Minimum area & other requirement for Layout Development:

(a) The minimum area for layout development shall be 4 hectares. Out of the total area, 10% of the land shall be set apart for open spaces for recreation and community purposes. This will also include up to 2.5 % land required to be set apart for social infrastructure.

(b) From the developable area, 5 % of area is to be given to Hyderabad Urban Development Authority free of cost for capitalization towards provision of Master Plan facilities. This condition is applicable only to sites located outside Greater Hyderabad Municipal Corporation limits. The owner /developer has the option of paying 1.5 times the basic value of such land to Hyderabad Urban Development Authority in lieu of such land to be given to Hyderabad Urban Development Authority.

(c) Atleast 5 % of the developable land to be developed within the site for Economically Weaker Sections of Society (EWS) housing facility with maximum plot size of 50 sq m, and at least 5% for Lower Income Group housing facility with maximum plot size of 100 sq m. The developer can also opt for developing only EWS plots in lieu of LIG Housing.

1. Subs. by G.O.Ms.No. 526 MA & UD (I_1), dt. 31-07-2008.

(d) In case it is not found feasible to provide the minimum 5% EWS and 5% LIG plots within his site, the owner/developer is given option to develop the minimum required number of plots under both categories in any land within 5 km radius of the existing site with minimum BT road connectivity of 12 m. Alternatively, the owner/developer may hand over equivalent land to Hyderabad Urban Development Authority for development of EWS/LIG plots by Hyderabad Urban Development Authority /public agency within 5 km radius of the existing site".]

9. Hierarchy and width of roads required in Land Pooling/layout schemes:

Land Pooling Scheme requirements shall conform with Regulation 2 and 3 above. In case of layouts and sub-division of land for building purpose shall be carried out only in accordance with the provisions of Regulation specified below:

(i) The layout shall have an approach from existing public or private roads of width not less than 9 metres which shall be black-topped.

The width of the internal roads in a land pooling/layout scheme for different purposes shall be regulated as follows:

Road length (in Mt.)	**Width of road for normal for residential plot/use (in mt.)**	**Width of road commercial, Group Housing, industrial, other non-residential plot/use or for mixed use (in mt.)**	**Other requirements**
Up to 300	9.00	12.2	Utilities and services to be underground and located preferably under the footpaths and not under the main carriageway
Above 300 & upto 500	12.2	15.00	-Do-
Above 500 & less than 1000	18.00	18.00	-Do- & mountable Road Divider essential

1000 and above	36.00	36.00	Median and Service road development essential; Utilities and services to be under-ground and located preferably on service roads and under the footpaths and not under the main carriageway

10. Splay at Road junctions:

Splay at road junctions shall be provided as prescribed below:

3.0 mt x 3.0 mt offset/splay if the width of the road is 9.00 mt or less;

4.5 mt x 4.5 mt offset/ splay if the width of the road is above 9.00 mt but less than 18 mt.

6.0 mt x 6.0 mt offset/ splay if the width of the road is more than 18 mt in width.

The area of such splay would be deemed to form an integral part of the road junction.

11. Development for EWS Housing:

These shall be permitted as group Housing and not as individual plotted developments. The norms and specifications of development shall be as given by the A.P. Housing Corporation Ltd./A.P. Weaker Section Housing Programme/ Government issued from time to time.

[1][12. Group Housing Schemes:

(i) In respect of Group Housing Projects (which include apartment block/ blocks, row housing, cluster housing, mixed housing units, gated developments and residential enclaves) in sites 4000 sq m and above, out of the total site *area:*

(a) The developer shall set apart 3% of the land and give to Hyderabad Urban Development Authority free of cost for capitalization towards provision of Master Plan facilities. This condition shall apply only to sites located outside Greater Hyderabad Municipal Corporation limits. The owner /developer has the option of paying 1.5 times the basic value of such land to Hyderabad Urban Development Authority in lieu of such land to be given to Hyderabad Urban Development Authority.

1. Subs. by G.O.Ms.No. 526 MA & UD (I_1), dt. 31-07-2008.

(b) Atleast 5% of the total units shall be set apart and developed for Economically Weaker Sections of Society (EWS) dwelling units with maximum plinth area of 25 sq m;

(c) At least 5% of the total units shall be set apart and developed for Lower Income Group (LIG) dwelling units with maximum *plinth area* of 40 sq m; For providing the above dwelling units within the site, the owner/developer is given freedom to build these units in a separate block with separate access.

(ii) In case it is not found feasible by the owner/developed to provide the above EWS and LIG dwelling units within his site, the owner/developer is given option to develop the required number of units under both categories in any land within 5 km radius of the existing site with minimum BT road connectivity of 12 m. Alternatively, the owner/developer is given option to hand over the equivalent land within 5 km radius with minimum BT road connectivity of 12 m to Hyderabad Urban Development Authority for facilitating development of EWS/LIG housing.

(iii) Servant quarters constructed shall be reckoned towards EWS housing requirements in Group Housing Schemes. In case of gated community developments and row housing, such quarters shall be detached from the main building and may also be allowed in the rear setback provided the total length shall not exceed 1/3rd of plot width and only single storied structure shall be allowed. As an option in gated developments and row housing, the EWS and LIG dwelling units can be accommodated in a . separate block or blocks. In case of Residential Complexes, the servant quarters may be within the same block provided it is constructed with separate entrance and with separate kitchenette and toilet facility. Such servant quarters only well qualify to be reckoned as EWS units. Alternatively, the EWS and LIG dwelling units in such Complexes can be accommodated in a separate block or blocks".]

[1][**12 A. Incentives:** In order to encourage social housing mix in housing projects and to augment the supply of EWS and LIG Housing, the following incentives shall be available to owners/developers:

a) No fees and other charges will be levied for EWS plots or dwelling units;

b) Only 25 % of fees and other charges will be levied for LIG plots/ dwelling units;

c) In case of alternative lands are provided by owner/developer for EWS/ LIG housing, there will be automatic conversion of land use from conservation to residential use".]

1. Ins. by G.O.Ms.No. 526 MA & UD (I_1), dt. 31-07-2008.

13. Application for Permission:

For Land Pooling Scheme/Layout development:

Every licensed developer or body who intends to carry out development work or undertake assemblage/ parceling of land into plots, or layout activity or Group Housing Scheme/Cluster Housing Scheme or subdivide or make material alterations shall apply in writing to the Vice-Chairman, Hyderabad Urban Development Authority of such intention in the Form prescribed in Annexure A and the application for any such permission shall be accompanied by Plans and statements in original (drawn on any durable medium) plus four prints along with copy of the ownership documents of the plot/property/ land concerned and payment of prescribed application fees and charges.

14. The Application for permission for a Land pooling Scheme or layout development shall be accompanied by

i) a site plan drawn to scale of not less than 1:500 showing all physical details of the land, boundaries of the land, the surrounding lands, airport zoning safety & obstacle limitation surfaces and existing approach road, to the land where the layout is proposed.

ii) a Layout Plan (in required number of copies) drawn to a suitable scale preferably on 1:1000 for Land Pooling Schemes and 1:600 for layout applications, showing boundaries of land, sub-division of the land into building plots/ uses with dimensions and area of each plot and its uses as per these regulations, width of the proposed streets/ roads; dimensions and areas of open space provided according to these regulations; dimensions and areas to be set apart for EWS housing, area for social and cultural amenities, and area to be handed over to HUDA in case of a Land pooling Scheme;

iii) Certificate of Undertaking in prescribed Form jointly by owner, licensed developer and Licensed surveyor/engineer for carrying out the development works as per standards.

iv) A topographical plan drawn to scale with contours and indicating the proposed location of the water supply system, drainage and sewerage network and other utilities of the proposed scheme.

v) Land development schemes involving housing construction activity/ civil works, the building type designs together with the details of facilities proposed to be provided shall be submitted. Such Land Pooling Schemes shall be prepared and signed by a qualified town planner.

Provided that before submission of such an application, pre-application consultation shall be undertaken by the licensed developer/body with the Chief Planning Officer of HUDA prior to

the formal filing of an application for approval of a Land Pooling Scheme or layout development scheme. This step does not require formal application or the payment of a fee. When submitted, this Sketch Plan shall show in simple sketch form the proposed Land Pooling Scheme and layout of streets, roads, location of amenities, open spaces and other features in relation to existing conditions.

Within fifteen (15) days, the Chief Planning Officer shall inform the licensed developer wherein the plans and data as submitted or as modified do or do not meet the objectives of the master plan/these Regulations and shall inform the licensed developer as to how said objectives may be met. Any such consultation or advise by HUDA shall not constitute approval or be binding on HUDA.

15. Sanction or Refusal of Permission:

The Land Pooling Scheme or Layout plans/ building plans with drawings and specifications in accordance with these Regulations may be technically approved with or without modifications or directions as are deemed necessary or refused by the Hyderabad Urban Development Authority within 90 days from the date of receipt of application.

Where no orders are communicated by the VC, HUDA of sanction or refusal of the permission, the HUDA shall deemed to have permitted the proposals and the owner may go ahead with the works after intimation and paying the requisite fees and charges to HUDA before undertaking such development, and provided, the same is in accordance with these regulations.

16. Payment of necessary fees and charges:

The layout/Land Pooling Scheme applicant shall pay the necessary scrutiny fees and charges including development charges before receiving the tentative approved layout copy to VC, HUDA

17. Duration of Technical Approval:

The technical approval shall be valid as follows:

- for land pooling scheme — 3 years
- for layout development approval - 2 years

during which time the land pooling scheme works/layout works/building construction shall be completed, and if not completed the permission for land pooling scheme/layout/building construction shall be revalidated on application subject to the requirements then in force.

The revalidation fees shall be 50% of the scrutiny fees.

18. Revoking of Permission:

HUDA or the Collector or the Government as the case may be , may revoke any permission issued under these regulations whenever it is found that there has been any error or false statement or any misinterpretation of any material fact or regulation on which the permission was sanctioned

19. Deviations during construction/undertaking of layout works:

If during the execution of any land pooling scheme/layout or building construction any deviation is made from the approved plan, the licensed developer/owner shall obtain revised approval by duly following the above-mentioned procedure.

20. Responsibilities and Duties of Licensed developer/ Builder/ Owner:

The licensed developer/builder/owner who has been given approval and the technical personnel shall be wholly and severally responsible for the quality of workmanship of the building/layout development works; and/or structural safety of the building and for ensuring safety during the construction. Development works, and for complying with the conditions laid down in these Regulations and the approved plans/drawings.

21. Obligations of the owner and licensed developer/builder/ licensed technical personnel to implement and develop the Master Plan circulation network and specific land uses:

The owner and licensed developer/builder shall incorporate in the land pooling scheme or layout all Master Plan specific land uses and amenity areas like recreational buffer zone/Sector level open space and amenity space and road network and shall develop the Master plan roads as part of the land pooling scheme or layout at his cost. However, such area of Master Plan road alignment recreational buffer zone/Sector level open space and amenity space shall be deducted from the total site area of the Land Pooling Scheme or layout The proposals of the Scheme and the land utilization analysis would be taken on the remaining net area, and no fees and development charges and other charges are leviable for such Master Plan reservation areas and Master Plan circulation network.

22. Scrutiny by the Authority and responsibilities of layout developer for providing services and facilities in the layout site:

(i) Layout shall be finalised by the Planning Department on the proposals submitted by the applicant as per the notified Land Use and layout rules in force from time to time and also as per the conditions imposed in change of land use wherever applicable and should obtain the approval of Competent Authority.

(ii) A copy of such approved layout (unsigned) shall be handed over to the applicant for demarcation of plots and open spaces as shown in the plan on ground, only after payment of Development charges and processing charges etc., to HUDA by the applicant.

(iii) The applicant shall submit a layout plan showing the measurements of plots and open spaces along with the layout boundary measurements within a week from the date of receipt of information.

(iv) The layout plan as submitted by the applicant should be recorded by giving the L.P.No. .....(Layout Plan No., With year) i.e. year-wise separately and then the same will be forwarded to the concerned Local Authority for its release after obtaining the approval of Competent Authority (Vice-Chairman), along with earmarking 25% of plotted area in the layout plan duly imposing the following conditions that:

a) The applicant shall execute the Deed of Mortgage by conditional sale to HUDA as per rules

b) The applicant shall solely be responsible for the development of layout and in no way HUDA will take up the development works.

c) The deed of mortgage by conditional sale executed by the applicant in favour of HUDA is purely a measure to ensure compliance of the condition of development of infrastructure by the applicant/developer and HUDA is in no way accountable to the plot purchaser in the event of default by the applicant/ development.

d) In case the applicant/developer fails to develop the layout area with the infrastructure facilities as specified by the HUDA, the area so mortgaged in favour of HUDA shall be forfeited and also HUDA is liable to take criminal action against such applicants/developers as per provisions of A.P U.A.(D), Act, 1975.

e) The concerned Registrar of the Registration Department shall be informed by HUDA, duly enclosing a copy of layout plan indicating clearly the mortgaged area and the other plotted area, which can be permitted for sale by the applicants.

f) The deed of mortgage by conditional sale executed by the applicant is purely a measure to ensure compliance of the conditions of development of infrastructure by the applicant/

developer and HUDA is in no way accountable to the plot purchaser in the event of default by the applicant/developer.

g) The Local Authority shall release such layout plan duly collecting the required fee and charges as per their rules and also imposing any condition on development of open spaces in the layout if necessary and the Local Authority shall also ensure taking possession of roads and open spaces in the layout

h) The applicant shall take up the development of amenities such as formation of roads, drainage line with septic tank as per standards, electric lines including street lighting, water supply lines including overhead tank if necessary and avenue plantation along the roads and in open spaces to the satisfaction of the HUDA within the stipulated period and the applicant shall submit a requisition letter to the said effect to HUDA for taking further action on release of mortgage plots/area which is in favour of Estate Officer, HUDA, duly handing over open spaces and roads to the concerned local authority.

i) In case the applicant does not want to take up the developmental works in layout as mentioned at item 'h' above, he may as well be permitted to pay the betterment charges to the Local Authority as per the rate prescribed by them or the actual cost of development as arrived.

j) The Local Authority shall open a separate account for each layouts, where the betterment cost has been paid by the applicant and the Executive Officer of Local Authority shall ensure to spend the amount for development of amenities in the same layout.

k) The concerned Executive Officer of Local Authority shall be responsible for any problems in future either from the residents of the same layout area or from any other person for non-implementation of amenities.

l) In case the applicant fails to implement item 'h' above, the Vice-Chairman, HUDA is competent to take up auction of mortgaged plots/area without any further notice to the applicants and the amount so received in the auctioning of plots/area shall be spent for providing amenities in the same layout.

m) The applicants/owners of plots in the layout are not competent to question HUDA about the receipt of amount in the auction and also expenditure towards the developmental works.

n) The concerned local authority shall not approve and release any building permission or allow any unauthorised developments in the area under mortgage to HUDA in particular and in other plots of the layout in general until and unless the applicant has completed the developments works/pay required betterment charges etc., to the Municipality and then got released the mortgage land from HUDA.

o) In case the said procedure is violated by the concerned local authority, stringent action will be taken up against the responsible officers as per rules

p) Open areas shall be developed by the concerned developer along with other developments of the layout as per the directions of the Director, Urban Forestry, neatly with ornamental compound wall.

23. The licensed developer/owner while advertising/disposing the plots/ blocks shall clearly state the above status or category of the Land Pooling Scheme/layout development with break up of infrastructure costs. In the case of Grade II development, the pricing shall clearly mention the infrastructure facilities provided and assurance of the time frame for completion of the full infrastructure facilities required.

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ANNEXURE - A

GROUP HOUSING SCHEME/LAYOUT APPROVAL UNDER REGULATION 12 AND 13 OF THE HUDA DEVELOPMENT PROMOTION REGULATIONS & READ WITH U/S 13 & 14 OF THE A.P. URBAN AREAS (DEV.) ACT, 1975.

(Read the provisions of the HUDA Development Promotion Regulations for the conditionalities and requirements for permitting/undertaking such development)

FORM - A

To Dated:.....

The Competent Authority
Hyderabad Airport Development Authority
Secunderabad - 500 003.

Sir/Madam,

Application for (specify— Land Pooling Scheme/Layout/Group Housing Scheme)

1. **I/We hereby submit application for** (specify- Land Pooling Scheme/ Layout/Group Housing Scheme and permission to carryout development works in the site covered by Sy. No. ..... of ..... Village, ...mandal, District admeasuring ..... Ha/..... sq.m./..... Acres in accordance with Sections 13 & 14 of the A. P. Urban Areas (Dev.) Act, 1975.

2. **I/We intend to undertake:** *(tick/specify which is applicable and strike out the ones not applicable)*

   a) Plotted layout development ,

   b) Residential colony development with Civil construction as per approved type design;

   c) Group Housing Scheme/ Cluster Housing Scheme with blocks of proposed residential / dwelling units with Civil construction as per approved type design;

   d) A mix of ..... with Civil construction as per approved type designs.

3. I/We hereby **enclose the necessary building type designs** drawn to scale and in accordance with the provisions of the Hyderabad Revised Building Rules, 2006 [applicable only in case of (b) to (d)].

4. **The total extent of the site** for the proposed development mentioned in 2 above is ..... hectares ..... (acres).

5. **The net area of the proposed development** after deducting the area under the following Master plan roads; (a) ..... (b) ..... (c) ..... is ..... hectares ..... (acres).

6. **I submit the following documents & Plans and particulars** in respect of the above site proposed ..... development (All copies of documents to be attested by a Gazetted Officer).

i) Ownership and one link document copy.

   a) Latest copy of the Pahani issued by Mandal Revenue Officer.

   b) Record of Rights Pass Book/title deed for the proposed site.

   c) Registered documents for the proposed site.

   d) Copy of the Registered General Power of Attorney.

e) Copy of the Non-Encumbrance Certificate for the past 13 years

f) Copy of the Link Document

f) An affidavit declaring the total holding of the proposed site is within Urban ceiling limits by each owner (wherever applicable).

g) Court orders/decrees confirming ownership/U.L.C. clearance (wherever applicable)

h) Other documents (specify ..... in support of ownership & U.L.C. Clearance aspects, if applicable

i) **Revenue sketch of proposed site duly attested by Revenue Authorities.**

ii) **Location Plan** of site and surrounding developments/lands drawn to a minimum metric scale of 1:1000 showing surrounding roads, electricity lines, approved layouts/Land Pooling Scheme/Group or Cluster Housing Scheme, drainage, sewerage etc. within 500 meters radius.

iii) **A detailed surveyed topographical plan** of proposed site for ..... development to a metric scale of 1:600 showing the contours of the land at 2 meters intervals, nalas, drains, wells, trees, roads, electricity lines, sewer lines, etc.

iv) **The proposed Land Pooling Scheme/Layout/ Group Housing Scheme pattern** draw to a scale 1 : 600 (original in any durable medium like tracing cloth, film or reproduction tracing film, etc., & 3 sets of prints) showing the following details

a) **The boundaries** of the proposed site distinctly shown in red;

b) **The proposed plots/blocks** with clear dimensions (limited to 55% of total site areas in case of layout applications).

c) **The Public Open spaces** of minimum 10% of the site area in one or more places and in centre of proposed site's blocks.

d) **The area to be left for 5% EWS housing; 5% for HUDA** in prominent location of the site with clear approach roads to these Blocks;

e) **The area earmarked for 10% LIG Housing** of total land area with clear approach road of 12.2 m

f) **The area earmarked for 10% of total land area for MIG Housing** with clear approach road of 12.2 m

g) The area for common amenities like, Overheard Water Reservoir, common septic tank areas, electricity Sub-station, Garbage disposal points etc., at proper locations (which shall be over & above area mentioned in (c) above.

(h) The sites for social and community facilities (up to 2.5%) like Community Centre/ Shopping Centre/ Educational Center/ Medical Centre.

(i) The proposed road network within the site and integrating with neighboring and surrounding road network and pattern, and incorporating the alignment of the statutory Master Plan roads and developing these as required as per the HUDA Development Promotion Regulations.

(j) The proposed **channelization of natural drains & nalas** with proper width and green belt buffer within the site as required as per the HUDA Development Promotion Regulations.

(k) **Separate plans showing the proposed drainages, sewerage disposal system and water supply, supply system** for the project as per BIS code & standards.

(l) All the above plans, and details of the above proposed project and implementation are being undertaken through the following licensed technical personnel:

Licensed Technical Personnel	Developer/ Builder	Architect	Town Planner	Civil Engineer	Structural Engineer	Real Estate Firm
Name						
Address						
License No.		(Registration No. only)				
Signature						

(j) I/we am/are herewith **submitting the Joint Declaration & check list** jointly filled by me and the registered Architect and licensed Civil Engineer and request that our application/ development project may be considered and approved.

Dated : **Signature of Owner(s) & Licensed developer/builder**

Name Of Owner(s) & Licensed Developer/Builder

.....

Complete Mailing Address .....

Phone No. .....

DELCARATION

(To be submitted on Rs.100/- Stamp Paper & Notarised)

1. I/We hereby declare that I/We am/are the Owner/s of the site in Survey No.(s) ..... of ..... Village .....Mandal, ... Dist.....admeasuring ..... Hectares on which the Land Pooling Scheme/ layout development /Group/Cluster Housing Scheme is proposed.
2. I / We hereby affirm / declare that the site / plot / property is not declared surplus under the provisions of Urban Land ceiling Act, 1976. and is not a Government land.
3. The boundaries of the site and the areas mentioned in the layout plan are correct and true.
4. I/We hereby affirm that I/we will abide by the Land Pooling Scheme/Group/Cluster Housing Scheme/layout approval conditions and the provisions of the HUDA Layout Development Regulations, 2008, and will execute the all works including development of the Master Plan roads at our cost and as per the specifications.
5. I/We affirm that I/we shall not sell or lease the plots of the areas earmarked for mortgage sites until the final layout is approved;
6. I /We will hand over the sites/areas/plots duly developed and earmarked for EWS housing, for HUDA, for public open spaces and for social & community facilities to HUDA free of cost and without encumbrances through registered Gift deed to HUDA before the release of the approved plans;
7. I/We agree that if I/we do not comply with the same within the given time period from the date of approval, and HUDA would be at liberty to dispose off the mortgaged plots and undertake the development works and we would not have any claim whatsoever in the matter.

Dated:

Signature/s of Owner(s) &
Licensed Developer/ Builder

ANNEXURE - II

The text and maps which indicates extensive modifications carried out to the Master Plan / Zonal Development Plans of HUDA Area shall be read with the following modifications:

A. The following Survey numbers are earmarked for Residential Use:

1. Sy.Nos. 323/2, 323/3, 323/4, 323/5, 323, 355, 356, 384, 385, 386, 387, 394, 395, 395/63, 396 to 403, 406, 407, 423, 444, 445 & 505 of Tellapur Village, Ramachandrapuram Mandal
2. Sy. Nos. 285, 325, 326, 327, 328, 334, 335, 441 and 447 of Poppalaguda village, Rajendranagar Mandal
3. Sy.Nos. 724, 725, 726, 728, 729 of Dever Yamzal village, Shamirpet Mandal
4. Sy. Nos. 36/B, 83, 85, 86, 101, 106, 111, 112, 113, 187, 188, 189, 190,191, 193, 201, 202, 203, 205, 206, 207, 221, 307, 308, 309, 310, 310/B, 311, 312, 313, 316, 316/B, 317, 317/B, 317/C, 317/D, 323C, 332, 445/1, 445/2, 446 and 487 of Bachupally village, Qutubullapur Mandal
5. Sy. Nos. 68, 100, 106 , 108, 109, 111, 112, 113, 115, 116, 117, 118, 119, 149, 150 (to the extent falling outside FTL and subject to leaving required buffer zone of 30 mts) of Kompally Village, Medchal Mandal
6. Sy. Nos. 569, 591, 593, 596, 993/46, 993/47 of Ameenpur village, Patancheru Mandal
7. Sy. Nos. 101, 105. 130, 131, 132, 134 of Edulanagulapally village. Ramchandrapuram Mandal
8. Sy. No. 82/1 of Mallapur village, Uppal Mandal
9. Sy. Nos. 17, 18, 19, 44, 47, 48, 49, 82, 83, 84, 123, 52/A of Jeedimetla village, Qutubullapur Mandal
10. Sy.Nos. 35, 37, 38, 38/1 of Upparpally village, Rajendranagar Mandal
11. Sy.No. 9 of Alijapur village Rajendranagar Mandal
12. Sy.Nos. 271, 272 of Ankushapur village, Ghatkesar Mandal
13. Sy.Nos. 11 to 19, 21, 22, 23, 25 to 34, 39, 40 to 43 of Peerancheru village, Rajendranagar Mandal
14. Sy.Nos. 135, 136, 137 of Dulapally village, Qutubullapur Mandal.

15. Sy.Nos. 91, 92, 93, 94, 100, 144, 145, 299, 300, 350 and 353 of Balapur village, Saroornagar Mandal subject to providing buffer towards RCI land
16. Sy.Nos. 23 and 33 of Kowkur village, Malkajgiri Mandal
17. Sy.Nos. 74, 75, 81 to 85, 177 of Yellampet village, Medchal Mandal
18. Sy.Nos. 172, 173, 174, 175 of Hayatnagar village, Hayatnagar Mandal
19. Sy.Nos. 104 to 109 of Nagaloor village, Qutubullapur Mandal
20. Sy.Nos. 439, 443 to 446, 448 to 453, 455 to 460, 458/A, 462, 468, 469, 470, 494, 495 and 497 of Gowdavalli Village, Medchal Mandal
21. Sy.Nos. 61 to 65, 107, 260, 261, 284, 298 to 354, 302/AA of Kollur Village, Ramachandrapuram Mandal and all other adjoining Sy. Nos. of Kollur Village and Edulanagulapalli Village bounded by residential use on northern side; ORR Growth Corridor on eastern side; Kollur Cheruvu on southern side and proposed multiple use zone on western side.
22. Sy.Nos. 10 to 17, 217, 219, 262 to 269, 273, 276, 278 to 303, 284/1, 2, 285/A, 302/1, 303/1, 315 to 327, 317/1, 317/3, 318/2, 318/3, 332, 332/A, 332/AA, 334, 336, 337, 328, 330, 331, 333, 335, 338, 339, 341, 342, 343, 345, 347, 348, 349, 350, 357, 373, 374, 375, 387, 429, 430, 431, 432, 437, 438, 439, 440, 444, 446 to 454, 457 to 467, 523, 523/2, 538 of Gundlapochampally Village, Medchal Mandal
23. Sy.Nos. 83 to 87, 91, 92, 148, 149, 150, 151, 152 of Boduppal village, Ghatkesar mandal
24. Sy.Nos. 133, 140 of Chengicherla village, Ghatkesar Mandal
25. Sy.Nos. 78, 98 to 106, 108 to 116, 128, 129, 130, 132 to 140, 142, 143, 144, 145, 159 to 163, 197, 198, 249, 252, 253, 255 to 259, 264, 312, 313/1 and 313/A of Athvelly village, Medchal Mandal
26. Sy.Nos. 18, 20 to 24, 27 to 31, 37, 52, 54, 55, 60 to 65, 67 to 69, 149, 151, 152/1, 153, 154/1/A, 156/1, 164, 166/2, 167, 181 to 187, 190 to 192, 208 to 214 and 220 of Kokapet village, Rajendranagar Mandal
27. Sy.Nos. 15, 23, 23/A, 29 to 33 of Shivarampally Jagir village, Rajendranagar Mandal

28. Sy.Nos. 54 and 76 of Hafeezpet Village, Serilingampally Mandal
29. Sy.Nos. 107, 108, 109, 110, 112, 113, 116, 119, 120, 135, 136, 140, 143, 149, 158, 160, 161, 165, 168, 170, 171 of Aushapur village, Ghatkesar Mandal
30. Sy.Nos. 522 to 527, 543/3 to 543/7, 543/9 to 543/12 of Ghatkesar village, Ghatkesar Mandal
31. Sy.No. 549 of Uppal Khalsa Village, Uppal Mandal
32. Sy.Nos. 33, 61 to 65 of Ahamadguda village, Keesara Mandal
33. S.Nos. 368, 368/A, 380, 504 to 508, 510, 511 of Puduru Village, Medchal Mandal
34. Sy.Nos. 19, 20, 21, 23, 28 to 35, 38, 39 of Gandipet Village, Rajendranagar Mandal
35. Sy.No.71 of Dabilpur village, Medchal Mandal
36. Sy.No. 59 of Kothapet village, Saroornagar Mandal
37. Sy.Nos. 57 to 60, 63, 290, 291 of Cherlapally village, Keesara Mandal
38. Sy.Nos. 12, 13. 14, 18, 20, 43, 45, 50 to 53, 59, 60 (to the extent falling outside FTL and mandatory buffer zone) of Bandlaguda village, Uppal Mandal
39. Sy. Nos. 44, 51, 52, 63, 65, 66, 76, 77, 78, 80, 102, 119 to 124, 1246, 1248, 1274 to 1277, 1278, 1283 of Shameerpet village, Shameerpet Mandal
40. Sy.No. 1009 of Kukatpally village, Balanagar Mandal
41. Sy.Nos. 345 to 348, 351, 352, 353 of Muttangi village, Patancheru Mandal
42. Sy.No. 294 of Pedda Amberpet village, Hayathnagar Mandal
43. Sy.Nos. 5, 6, 7, 10 to 14, 16, 17, 22, 25, 27, 28, 29, 31, 33 of Osmannagar village, Ramachandrapuram Mandal and all other adjoining Sy. Nos. of Osmannagar village located on northern, eastern and westernsides up to village boundary.
44. Sy.Nos. 145 to 149 of Yemnampet village. Ghatkesar Mandal
45. Sy.Nos. 267, 268, 269 of Keesara village, Keesara Mandal
46. Sy.Nos.881 of Medchal village and Medchal Mandal
47. Sy.Nos. 142, 143, 144, 150 of Narsingi village, Rajendranagar Mandal

48. Sy.Nos. 69, 86, 87, 88, 89, 99, 100, 102 of Suraram village, Qutubullapur Mandal

49. Sy.Nos. 360, 361, 396, 397, 398 of Manchirevula village, Rajendranagar Mandal

50. Sy.Nos. 220 to 223, 228, 231, 232, 233, 235, 238 to 242 of Bogaram village, Keesara Mandal

51. Sy.Nos. 201 to 208, 215, 216 of Gogillapur village, Qutubullapur Mandal

52. Sy.Nos. 50, 51, 56, 57, 115, 116, 117, 250, 251, 254 of Gopanapally village, Serilingampally Mandal

53. Sy.Nos 225, 226, 267, 268, 269, 288 of Rampally village, Keesara Mandal

54. Sy.Nos. 575, 576, 588 to 593, 619 of Ghanapur Village and S.No.286, 287 of Patighanapur village, Patancheru Mandal

55. Sy.Nos. 802/A/AA, 802/A/E, Ankireddypally village, Keesara Mandal

56. Sy.Nos. 177, 179, 180/2, 185, 187, 195 of Tumukunta village, Shameerpet Mandal

57. Sy.Nos. 612, 613, 614, 616, 642 to 644, 689 of Dundigal Village, Medchal Mandal

58. Sy.No. 13 of Akbarza village and Sy.No 11 of Macchabollaram village, Malkajgiri Mandal

59. Sy.Nos. 268, 269, 272 to 275 of Chandanagar village, Serilingampally village are deleted from congested zone and developments shall be allowed without any height restrictions

60. Sy. Nos: 923 to 926, 933 to 935, 946, 952, 957 to 961 of Jawahar Nagar Village, Shamirpet Mandal

61. Sy.Nos. 118 to 121, 126 to 131, 194 to 198, 200 to 205, 207 to 216, 235 to 246, 248 to 252, 254, 256, 257, 258 of Tellapur Village, Ramachandrapuram Mandal and all other adjoining S.Nos. of Tellapur Village bounded by railway track on northern side; 30 mts wide proposed road on eastern side (located on the western side of Tellapur village settlement); 30 mts wide proposed road on southern side and Tellapur village boundary on western side.

B. The following Survey numbers are earmarked for Commercial use:

62. Sy.No. 353 of Gajularamaram village, Qutubullapur Mandal
63. Sy.Nos. 429, 430, 431, 432, 433, 439 Bowrampet village, Qutubullapur Mandal
64 Sy.Nos. 8, 11, 12, 13, 55, 55 / E of Kondapur village, Serilingampally Mandal
65 Sy.Nos. 516/A, 516/AA, 517 of Muttangi village, Patancheru Mandal
66 Sy.No. 645 /1 of Amberpet Kalan village, Hayatnagar Mandal
67. Sy.Nos.169 and 170 of Kukatpally village, Balangar Mandal
68. Sy.No. 47 of Jeedimetla village, Qutubullapur Mandal
69. Sy.Nos. 79 of Yellampet village, Medchal Mandal
70. Sy.Nos. 83, 84. 85, 86, 87, 88 of Hafeezpet Village, Serilingampally Mandal

C. The following Survey numbers are earmarked for Multiple Use Zone:

71. Sy. Nos. 199, 200, 204, 223, 257, 258, 259, 262, 276, 281, 282 of Bochupally village, Qutubullapur village
72. Sy. Nos. 109 to 114, 244 to 249 of Gopanapally village, Serilingampally Mandal
73. Sy. Nos, 511 to 518, 599, 621, 649 to 666 of Gundlapochampally village, Medchal Mandal
74. Sy.Nos. 329 to 333, 345, 346, 351, 352, 353, 354, 355, 356, 381, 391. 392. 393 of Poppalguda village, Rajendranagar Mandal
75. Sy.Nos. 136, 137, 145 to 148 of Narsingi village, Rajendranagar Mandal
76. Sy.Nos. 219, 222, 224, 225, 226, 229, 264 to 272, 276, 277, 279 to 284, 286 to 297, 299 of Nallagandla village, Serilingampally Mandal
77. Sy.Nos. 1050, 1051 of Kukatpally village, Balangar Mandal

D. Other Modifications

78. Sy.No. 90 of Mansoorabad Village, Saroornagar Mandal is earmarked for Institutional Use Zone
79. Sy.No. 450 of Sultanpur Village, Patancheru, Mandal is earmarked for Industrial Use

80. Sy.Nos. 165 to 172 of Boduppal village. Ghatkesar Mandal is earmarked for Conservation Use Zone

81. The proposed 30 Mtrs Road passing through Sy.No.384, 385, 386 and 387 of Tellapur Village is realigned to converge it with the existing 9 meters Road leading from Tellapur to Shankarpally Road to join at 24 meters T-junction.

82. The proposed 60 meters road in Sy.No. 280, 281 & 279 in Budvel village of Rajendranagar Municipality lands, is realigned along the existing 30 meters wide road in the Sy.Nos. 281, 284, 285 and 286 of Budvel (V), Rajendranagar (M) R.R. District and another 30 meters wide proposed road passing through Sy.Nos.277, 270 and 268 of Budvel village is deleted.

83. The existing 12 meters Road from Safilguda Station point to Jyothi nagar in Maikajgiri village is designated as 18 meters road.

84. The proposed Uttam Nagar to Jyothi Nagar road in Malkajgiri area till Tukaram gate is designated as 18 meters road.

85. The proposal to widen the existing road passing through Sy.Nos. 661, 771, 658 & 684 of Yellareddyguda, Kapra is dropped.

86. The existing road from Gopanpally X Road to Nallagandla settlement is designated 30 meters.

87. The width of proposed road from Kukatpally main road (near JNTU gate) to Pragathinagar passing through HMT Colony and Amber Cheruvu is designated as 15 meters.

88. The proposed 30 meters road passing through Sy.Nos.441 & 447 of Poppalguda (V), Rajendranagar (M) is deleted.

89. The width of the proposed road passing through Sy. Nos.371 & 372 of Gajularamaram Village, Quthubullapur Mandal is designated as 18 meters.

90. The existing 60 feet wide road below the H.T. line on the western side of Neralla cheruvu, Kondapur village is continued further to connect the existing Kothaguda to Kondapur road.

91. The 200 feet wide road proposed through Sy.Nos. 49 & 51 of Kowkur village is realigned towards southern side to converge it with the existing alignment shown in the Layouts approved by HUDA.

92. The proposed width of the existing R& B road from Miapur to Dundigal X roads, Gajularamaram (V), Outubullahpur (M) is designated as 60 meters.

93. The width of the proposed road connecting Old Bombay-Highway with the New Bombay Highway passing through Sy.Nos. 49, 50, 48 etc. of Madeenaguda Village and Sy.Nos. 73, 85 and 83 of Serilingampally village is designated as 45 meters.

94. The proposed road passing through Sy.Nos.403 and 404 of Tellapur village, R.C. Puram Mandal is realigned along the existing road.

95. The proposed road passing through Sy.Nos. 1011/5, 1011/6, 1011/7A, 1011/8, 1011/9, 1011/10 and 1011/11 of Moosapet is realigned along the existing IDL Road and existing 12 meters kutcha road

96. The width of the proposed road from Sainikpuri Cross roads to College of Defence Management is designated as 24 meters.

97. The existing road passing all along plot Nos 11 to 19 in Sy.Nos. 310, 311, 318 to 323 and 337 of Poppalaguda Village, Rajendranagar Mandal, Ranga Reddy District is designated as 18 meters road.

98. The proposed 24 meters road passing through Sy.Nos.152, 155, 159, 160 of Neknampur village is extended up to radial road leading to Narsingi (Gandipet Main road).

99. A new 30 meters road is proposed all along the existing Kutch road through S.Nos.15, 10 of Osmansagar village and S.No.124 and 262 of Gopanapally (v) connecting Gopanpally - Vattinagulapally main road with the another proposed 30 meters road located on southern side of Sy.No.14 of Osmannagar village.

100. 18 meters wide road connecting Nizampet road (near K Raghava Reddy Gardens) and Bolarum Road (near Dr. Reddy's Research Foundation) underneath the H.T. line is proposed.

101. The proposed 30 m road in Sy Nos 168, 171 to 175, 202 to 205, 211, 229 to 232, 240, 243, 244, 260 and 263 of Nagaram (V) is realigned along the existing 18 meters road. Another 30 meters road passing through Sy Nos. 43, 46, 47,51 to 53 and 56, 67 of Cheralapalli (V) Sy.No.67 is realigned through the road on western side of Mint to Cherlapally (V)

102. The width of the link road (abutting the Survey of India premises) connecting Tarnaka-Uppal Inner Ring Road and Ramanthapur-Uppal Road is designated as 36 meters.

103. The proposed width of existing road in Sy.No. 1046/1 and 2 of Medchal (V) is designated as 18 meters.

104. The road proposed through N.F.C. Complex (D.A.E. Lands) Moulali from Sy. No. 368/1 of Malkajgiri village up to over bridge near Mallapur is deleted.

105. The proposed master plan roads passing through Sy. Nos. 923 to 926, 933 to 935, 946, 952 and 957 to 961 of Jawahar nagar Village, Shameerpet Mandal are realigned along the layout roads.

106. The road existing on the western side of the Peerancheruvu lake and Govt., housing passing through Sy. No. 24, of Peerancheruvu village is designated as 30 meters road and continued further through Sy. Nos. 33, 35, 36 of Peerancheruvu village and S.Nos. 44 and 45 of Bairagiguda village and connected to proposed 30 meters Peerancheruvu-Gandhamguda road (located on the eastern side of Peerancheruvu lake).

107. New link road of 30 meters width connecting Radial Road No.17 upto the present ORR junction with NH. 202 is proposed.

108. The proposed 30 meters road parallel to Railway line from Rampally and Pocharam is extended up to NH 202

109. The width of the road from R K Puram to ECIL X Road is designated as 45 meters.

110. The proposed width of the road passing through the Sy Nos. 476(P) to 479(P) of Attapur village is designated as 18 meters.

The above modifications are subject to the following conditions;

(i) In respect of lands which are partly failing in HUDA Master Plan and partly falling in ORR Growth Corridor, the above modifications will apply only to the extent of land which is outside the ORR Growth Corridor.

(ii) The above modifications shall not be used as the proof of any title of the land.

(iii) The applicants shall obtain prior permission from Hyderabad Urban Development Authority/Local Authority concerned as the case may be before undertaking any development.

(iv) The owners/applicants are solely responsible for any misrepresentation with regard to ownership/ title, Urban Land Ceiling Clearances etc. The owners/ applicants shall be responsible for any damage claimed by any one on account of above changes.

(v) The owners/ applicants shall handover the areas affected under the notified roads to the local bodies at free of cost.

(vi) The owners/ applicants shall develop the roads free of cost as may be required by the local authority.

(vii) As per the revenue records if any tanks/water bodies/nalas are located in the above Sy. Nos. same shall be retained as it is and required buffer zone as per extant rules shall be provided all along such tanks/water bodies/nalas.

Hyderabad Urban Development Authority-Expansion of Jurisdiction of Hyderabad Urban Development Authority.[1]

[G.O.Ms.No. 274, Municipal Administration and Urban Development (I_1), 20th April, 2007]

In exercise of the powers conferred by clause (o) of Section 2 read with clause (b) of sub-section (2) of Section 13 of the Andhra Pradesh Urban Areas (Development) Act, 1975 (Andhra Pradesh Act-1 of 1975) the Governor of Andhra Pradesh hereby includes the areas mentioned in the Schedule appended to this notification in the Development Area of Hyderabad Urban Development Authority.

Schedule to G.O.Ms.No. 274, MA & UD (I) Department, dated 20-4-2007 (list of additional villages included in the Development Area of Hyderabad Urban Development Authority)

Sl. No.	Name of the Village	Mandal	District
1.	Vattur	Tupran	Medak
2.	Jhandapalle	Tupran	Medak
3.	Nagulapalle	Tupran	Medak
4.	Islampur	Tupran	Medak
5.	Datarpalle	Tupran	Medak
6.	Gundareddipalle	Tupran	Medak
7.	Malkapur	Tupran	Medak
8.	Konaipalle(Pattibegampet)	Tupran	Medak
9.	Venktaipalle	Tupran	Medak
10.	Kistapur	Tupran	Medak

1. Pub.in the A.P.Gaz. Pt.I, Ext.No. 237, dated 23-4-2007.

Sl. No.	Name of the Village	Mandal	District
11.	Yavapur	Tupran	Medak
12.	Hussainpur	Tupran	Medak
13.	Tupran	Tupran	Medak
14.	Padalpalle	Tupran	Medak
15.	Brahmanapalle	Tupran	Medak
16.	Venkatapur(Pattitupran)	Tupran	Medak
17.	Ravelli	Tupran	Medak
18.	Ghanpur	Tupran	Medak
19.	Immapur	Tupran	Medak
20.	Allapur	Tupran	Medak
21.	Lingareddipet	Tupran	Medak
22.	Palat	Tupran	Medak
23.	Ramaipalle	Tupran	Medak
24.	Venkatapur Agraharam	Tupran	Medak
25.	Dharmarajpalle	Tupran	Medak
26.	Chatla Gouraram	Tupran	Medak
27.	Konaipalle(Patti Tupran)	Tupran	Medak
28.	Manoharabad	Tupran	Medak
29.	Majeedpally (N.K.)	Tupran	Medak
30.	Jeedipalle	Tupran	Medak
31.	Kucharam	Tupran	Medak
32.	Kondapur	Tupran	Medak
33.	Muppi Reddy Palle	Tupran	Medak
34.	Rangaipalle	Tupran	Medak
35.	Kallakal	Tupran	Medak
36.	Narsampalle	Wargal	Medak
37.	Nacharam	Wargal	Medak
38.	Majidpalle	Wargal	Medak
39.	Mentur	Wargal	Medak
40.	Jabbapur	Wargal	Medak
41.	Mylaram	Wargal	Medak

Sl. No.	Name of the Village	Mandal	District
42.	Kondaipalle	Wargal	Medak
43.	Singaipalle	Wargal	Medak
44.	Pamulaparthi	Wargal	Medak
45.	Gouraram	Wargal	Medak
46.	Wargal	Wargal	Medak
47.	Govindapur	Wargal	Medak
48.	Girmapur	Wargal	Medak
49.	Madharam	Wargal	Medak
50.	Chandapur	Wargal	Medak
51.	Veluru	Wargal	Medak
52.	Ananthagiripalle	Wargal	Medak
53.	Ramachandrapur	Wargal	Medak
54.	Sitarampalle	Wargal	Medak
55.	Amberpet	Wargal	Medak
56.	Shakaram	Wargal	Medak
57.	Tunkikhalasa	Wargal	Medak
58.	Tunki Makta	Wargal	Medak
59.	Meenjipally (Meenajipeta)	Wargal	Medak
60.	Lingojiguda	Shivampet	Medak
61.	Allipur	Shivampet	Medak
62.	Pambanda	Shivampet	Medak
63.	Pothula Boguda	Shivampet	Medak
64.	Konthanpalle	Shivampet	Medak
65.	Gundlapalle	Shivampet	Medak
66.	Shabashpalle	Shivampet	Medak
67.	Donthi	Shivampet	Medak
68.	Usirikapalle	Shivampet	Medak
69.	Edulapur	Shivampet	Medak
70.	Ratnapoor	Shivampet	Medak
71.	Kothapet	Shivampet	Medak
72.	Pillutla	Shivampet	Medak

Sl. No.	Name of the Village	Mandal	District
73.	Thimmapur	Shivampet	Medak
74.	Chinnagottimukkala	Shivampet	Medak
75.	Shivampet	Shivampet	Medak
76.	Chandi	Shivampet	Medak
77.	Maqdumpur	Shivampet	Medak
78.	Gangaipalle	Shivampet	Medak
79.	Potharam	Shivampet	Medak
80.	Parkibanda	Shivampet	Medak
81.	Sikindlapur	Shivampet	Medak
82.	Bijilipur	Shivampet	Medak
83.	Gomaram	Shivampet	Medak
84.	Pedda Gottimukkala	Shivampet	Medak
85.	Chennapur	Shivampet	Medak
86.	Nawabpet	Shivampet	Medak
87.	Lakshmapur	Jinnaram	Medak
88.	Kothapalle	Jinnaram	Medak
89.	Pyaranagar	Jinnaram	Medak
90.	Nallavalli	Jinnaram	Medak
91.	Mambapur	Jinnaram	Medak
92.	Anantharam	Jinnaram	Medak
93.	Kanukunta	Jinnaram	Medak
94.	Dacharam	Jinnaram	Medak
95.	Gummadidala	Jinnaram	Medak
96.	Bonthapalle	Jinnaram	Medak
97.	Domadugu	Jinnaram	Medak
98.	Gadda Potharam	Jinnaram	Medak
99.	Annaram	Jinnaram	Medak
100.	Vailal	Jinnaram	Medak
101.	Jinnaram	Jinnaram	Medak
102.	Palem	Jinnaram	Medak
103.	Mangampet	Jinnaram	Medak

Sl. No.	Name of the Village	Mandal	District
104.	Ootla	Jinnaram	Medak
105.	Solakpalle	Jinnaram	Medak
106.	Amdoor	Jinnaram	Medak
107.	Sivanagar	Jinnaram	Medak
108.	Kodakanchi	Jinnaram	Medak
109.	Puttaguda	Jinnaram	Medak
110.	Nalthur	Jinnaram	Medak
111.	Madharam	Jinnaram	Medak
112.	Kishtaipalle	Jinnaram	Medak
113.	Chetlapotharam	Jinnaram	Medak
114.	Ahmednagar	Narsapur	Medak
115.	Ibrahimbad	Narsapur	Medak
116.	Admapur	Narsapur	Medak
117.	Jakkupalle	Narsapur	Medak
118.	Chippalturthi	Narsapur	Medak
119.	Nagulpalle	Narsapur	Medak
120.	Moosapet	Narsapur	Medak
121.	Mohammadabad	Narsapur	Medak
122.	Manthoor	Narsapur	Medak
123.	Reddipalle	Narsapur	Medak
124.	Khazipet	Narsapur	Medak
125.	Tujalpur	Narsapur	Medak
126.	Thirmalapur	Narsapur	Medak
127.	Gollapalle	Narsapur	Medak
128.	Brahmanpalle	Narsapur	Medak
129.	Lingapur	Narsapur	Medak
130.	Achampet	Narsapur	Medak
131.	Hanmanthapur	Narsapur	Medak
132.	Malparthi	Narsapur	Medak
133.	Narayanpur	Narsapur	Medak
134.	Chinna Chintakunta	Narsapur	Medak

Sl. No.	Name of the Village	Mandal	District
135.	Pedda Chintakunta	Narsapur	Medak
136.	Silarampur	Narsapur	Medak
137.	Rustumpet	Narsapur	Medak
138.	Ramachandrapur	Narsapur	Medak
139.	Tuljarampet	Narsapur	Medak
140.	Awancha	Narsapur	Medak
141.	Yellapur	Narsapur	Medak
142.	Madapur	Narsapur	Medak
143.	Narsapur	Narsapur	Medak
144.	Kondapur	Narsapur	Medak
145.	Kagazmaddur	Narsapur	Medak
146.	Naimatullaguda	Narsapur	Medak
147.	Nathinoipalle	Narsapur	Medak
148.	Darmaram	Narsapur	Medak
149.	Rudraram	Patancheruvu	Medak
150.	Lakdaram	Patancheruvu	Medak
151.	Chinnakanjerla	Patancheruvu	Medak
152.	Peddakanjerla	Patancheruvu	Medak
153.	Wadakpalle	Patancheruvu	Medak
154.	Indresham	Patancheruvu	Medak
155.	Inole	Patancheruvu	Medak
156.	Bachuguda	Patancheruvu	Medak
157.	Chikul	Patancheruvu	Medak
158.	Isnapur	Patancheruvu	Medak
159.	Pashamylaram	Patancheruvu	Medak
160.	Kyasaram	Patancheruvu	Medak
161.	Bhanoor	Patancheruvu	Medak
162.	Nandigaon	Patancheruvu	Medak
163.	Banda Thimmapur	Mulugu	Medak
164.	Kokkonda	Mulugu	Medak
165.	Srirampur	Mulugu	Medak

Sl. No.	Name of the Village	Mandal	District
166.	Singannaguda	Mulugu	Medak
167.	Narsapur	Mulugu	Medak
168.	Tuniki Bollaram	Mulugu	Medak
169.	Lakshmakkapalle	Mulugu	Medak
170.	Mulugu	Mulugu	Medak
171.	Thanedharpalle	Mulugu	Medak
172.	Bhilampur	Mulugu	Medak
173.	Mamidial	Mulugu	Medak
174.	Markoor	Mulugu	Medak
175.	Damarakunta	Mulugu	Medak
176.	Karkapatla	Mulugu	Medak
177.	Kothial	Mulugu	Medak
178.	Aliabad(Adivimasjid)	Mulugu	Medak
179.	Narsampalle	Mulugu	Medak
180.	Mustafaguda	Mulugu	Medak
181.	Chilla Sagar	Mulugu	Medak
182.	Gangadharpalle	Mulugu	Medak
183.	Zapthi Singaipalle	Mulugu	Medak
184.	Chinna Thimmapur	Mulugu	Medak
185.	Achaipalle	Mulugu	Medak
186.	Dasarlapalle	Mulugu	Medak
187.	Baswapuram	Mulugu	Medak
188.	Kothur	Mulugu	Medak
189.	Banda Mailaram	Mulugu	Medak
190.	Kasal	Hathnoor (Part)	Medak
191.	Doultabad	Hathnoor (Part)	Medak
192.	Mangapur	Hathnoor (Part)	Medak
193.	Nastipur	Hathnoor (Part)	Medak
194.	Macherla	Hathnoor (Part)	Medak
195.	Taherkhanpet	Hathnoor (Part)	Medak
196.	Malkapur	Hathnoor (Part)	Medak

Sl. No.	Name of the Village	Mandal	District
197.	Reddikhanpur	Hathnoor (Part)	Medak
198.	Borpatla	Hathnoor (Part)	Medak
199.	Palapnoor	Hathnoor (Part)	Medak
200.	Gundla Machanur	Hathnoor (Part)	Medak
201.	Chandapur	Hathnoor (Part)	Medak
202.	Turkal Khanapur	Hathnoor (Part)	Medak
203.	Sadullanagar	Hathnoor (Part)	Medak
204.	Chintalcheru	Hathnoor (Part)	Medak
205.	Yellammaguda	Hathnoor (Part)	Medak
206.	Kodapak	Hathnoor (Part)	Medak
207.	Nagaram	Hathnoor (Part)	Medak
208.	Shairkhanpalle	Hathnoor (Part)	Medak
209.	Royyapalle	Hathnoor (Part)	Medak
210.	Akwanchaguda	Hathnoor (Part)	Medak
211.	Chintalpalle	Sangareddy	Medak
212.	Nagapur	Sangareddy	Medak
213.	Sangareddy	Sangareddy	Medak
214.	Tadlapalle	Sangareddy	Medak
215.	Kulabgoor	Sangareddy	Medak
216.	Fasalwada	Sangareddy	Medak
217.	Ismailkhanpet	Sangareddy	Medak
218.	Arutla	Sangareddy	Medak
219.	Chidruppa	Sangareddy	Medak
220.	Byathole	Sangareddy	Medak
221.	Edthanur	Sangareddy	Medak
222.	Mamidipalle	Sangareddy	Medak
223.	Koulampet	Sangareddy	Medak
224.	Kandi	Sangareddy	Medak
225.	Mohammad Shapur	Sangareddy	Medak
226.	Kalvakunta	Sangareddy	Medak
227.	Pothreddipalle	Sangareddy	Medak

Sl. No.	Name of the Village	Mandal	District
228.	Kothlapur	Sangareddy	Medak
229.	Utharpalle	Sangareddy	Medak
230.	Maktha Allor	Sangareddy	Medak
231.	Kalvemula	Sangareddy	Medak
232.	Kasipur	Sangareddy	Medak
233.	Cheriyal	Sangareddy	Medak
234.	Inderkaran	Sangareddy	Medak
235.	Eddumailaram	Sangareddy	Medak
236.	Julkal	Sangareddy	Medak
237.	Topkonda	Sangareddy	Medak
238.	Dhobipet	Shankarpalle	Ranga Reddy
239.	Fathepur	Shankarpalle	Ranga Reddy
240.	Singapur	Shankarpalle	Ranga Reddy
241.	Shankarpalle	Shankarpalle	Ranga Reddy
242.	Bhulkapur	Shankarpalle	Ranga Reddy
243.	Kondakal	Shankarpalle	Ranga Reddy
244.	Mokila	Shankarpalle	Ranga Reddy
245.	Donthanpalle	Shankarpalle	Ranga Reddy
246.	Maharajpet	Shankarpalle	Ranga Reddy
247.	Gopularam	Shankarpalle	Ranga Reddy
248.	Proddutur	Shankarpalle	Ranga Reddy
249.	Tangutoor	Shankarpalle	Ranga Reddy
250.	Yelwarthy	Shankarpalle	Ranga Reddy
251.	Ramanthapur	Shankarpalle	Ranga Reddy
252.	Chandippa	Shankarpalle	Ranga Reddy
253.	Ravalpalle Kalan	Shankarpalle	Ranga Reddy
254.	Sankepalle (Khalsa)	Shankarpalle	Ranga Reddy
255.	Sankepalle (Paigah)	Shankarpalle	Ranga Reddy
256.	Anthappaguda	Shankarpalle	Ranga Reddy
257.	Masaniguda	Shankarpalle	Ranga Reddy
258.	Hussainipur	Shankarpalle	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
259.	Parveda (Chanchalam)	Shankarpalle	Ranga Reddy
260.	Parveda Khalsa	Shankarpalle	Ranga Reddy
261.	Yervaguda	Shankarpalle	Ranga Reddy
262.	Kothapalle	Shankarpalle	Ranga Reddy
263.	Ravalkola	Medchal	Ranga Reddy
264.	Shahazadiguda	Medchal	Ranga Reddy
265.	Yadaram	Medchal	Ranga Reddy
266.	Muraharipalle	Medchal	Ranga Reddy
267.	Akbarjapet	Medchal	Ranga Reddy
268.	Raj Bollaram	Medchal	Ranga Reddy
269.	Ghanpur	Medchal	Ranga Reddy
270.	Turkapalle	Shamirpet	Ranga Reddy
271.	Kothur	Shamirpet	Ranga Reddy
272.	Potharam	Shamirpet	Ranga Reddy
273.	Anantharam	Shamirpet	Ranga Reddy
274.	Narayanpur	Shamirpet	Ranga Reddy
275.	Lakshimapur	Shamirpet	Ranga Reddy
276.	Mooduchintalapalle	Shamirpet	Ranga Reddy
277.	Nagisettipalle	Shamirpet	Ranga Reddy
278.	Kesavaram	Shamirpet	Ranga Reddy
279.	Sampanbole	Shamirpet	Ranga Reddy
280.	Lalgadimalakpet	Shamirpet	Ranga Reddy
281.	Majidpur	Shamirpet	Ranga Reddy
282.	Aliabad	Shamirpet	Ranga Reddy
283.	Jaggamguda	Shamirpet	Ranga Reddy
284.	Adraspalle	Shamirpet	Ranga Reddy
285.	Lingapur	Shamirpet	Ranga Reddy
286.	Uddemarri	Shamirpet	Ranga Reddy
287.	Hoshyarpalle	Shamirpet	Ranga Reddy
288.	Kesavapur	Shamirpet	Ranga Reddy
289.	Yakhatpura	Shamirpet	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
290.	Ponnal	Shamirpet	Ranga Reddy
291.	Daira	Hayathnagar	Ranga Reddy
292.	Bandaraviryal	Hayathnagar	Ranga Reddy
293.	Akbarja	Hayathnagar	Ranga Reddy
294.	Baljaguda	Hayathnagar	Ranga Reddy
295.	Pochampallewada	Hayathnagar	Ranga Reddy
296.	Omerkhandaira	Hayathnagar	Ranga Reddy
297.	Surmaiguda	Hayathnagar	Ranga Reddy
298.	Laskerguda	Hayathnagar	Ranga Reddy
299.	Inamguda	Hayathnagar	Ranga Reddy
300.	Abdullapur	Hayathnagar	Ranga Reddy
301.	Kawadipalle	Hayathnagar	Ranga Reddy
302.	Batasingaram	Hayathnagar	Ranga Reddy
303.	Pigilipur	Hayathnagar	Ranga Reddy
304.	Mazidpur	Hayathnagar	Ranga Reddy
305.	Sagarpump	Hayathnagar	Ranga Reddy
306.	Guntapalle	Hayathnagar	Ranga Reddy
307.	Anajpur	Hayathnagar	Ranga Reddy
308.	Medipalle	Moinabad	Ranga Reddy
309.	Chinna Mangalaram	Moinabad	Ranga Reddy
310.	Mothukupalle	Moinabad	Ranga Reddy
311.	Reddipalle	Moinabad	Ranga Reddy
312.	Chandanagar	Moinabad	Ranga Reddy
313.	Murthuzaguda	Moinabad	Ranga Reddy
314.	Peddamangalaram	Moinabad	Ranga Reddy
315.	Chinnashapur	Moinabad	Ranga Reddy
316.	Sajjanpalle	Moinabad	Ranga Reddy
317.	Tolkatta	Moinabad	Ranga Reddy
318.	Yethbarpalle	Moinabad	Ranga Reddy
319.	Nakkalapalle	Moinabad	Ranga Reddy
320.	Kethireddipalle	Moinabad	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
321.	Kankamamidi	Moinabad	Ranga Reddy
322.	Surangal	Moinabad	Ranga Reddy
323.	Nazeebnagar	Moinabad	Ranga Reddy
324.	Amdapur	Moinabad	Ranga Reddy
325.	Venkatapur	Moinabad	Ranga Reddy
326.	Hasthepur	Chevella	Ranga Reddy
327.	Nowlaipalle	Chevella	Ranga Reddy
328.	Anantawaram	Chevella	Ranga Reddy
329.	Aloor I	Chevella	Ranga Reddy
330.	Aloor II	Chevella	Ranga Reddy
331.	Aloor III	Chevella	Ranga Reddy
332.	Kowkunta	Chevella	Ranga Reddy
333.	Tangedapalle	Chevella	Ranga Reddy
334.	Tallaram	Chevella	Ranga Reddy
335.	Nyalata	Chevella	Ranga Reddy
336.	Orella	Chevella	Ranga Reddy
337.	Yenkepalle	Chevella	Ranga Reddy
338.	Dearlapalle	Chevella	Ranga Reddy
339.	Kammeta	Chevella	Ranga Reddy
340.	Gollapalle	Chevella	Ranga Reddy
341.	Ravulapalle (Khurd)	Chevella	Ranga Reddy
342.	Mudimyal	Chevella	Ranga Reddy
343.	Kummera	Chevella	Ranga Reddy
344.	Devuni Erravelly	Chevella	Ranga Reddy
345.	Ibrahimpalle	Chevella	Ranga Reddy
346.	Damergidda	Chevella	Ranga Reddy
347.	Bastepur	Chevella	Ranga Reddy
348.	Mirjaguda	Chevella	Ranga Reddy
349.	Kistapur	Chevella	Ranga Reddy
350.	Naincheru	Chevella	Ranga Reddy
351.	Khanapur	Chevella	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
352.	Regadghanapur	Chevella	Ranga Reddy
353.	Devarampalle	Chevella	Ranga Reddy
354.	Chanvelli	Chevella	Ranga Reddy
355.	Pamena	Chevella	Ranga Reddy
356.	Allawada	Chevella	Ranga Reddy
357.	Chevella	Chevella	Ranga Reddy
358.	Kesavaram	Chevella	Ranga Reddy
359.	Malkapur	Chevella	Ranga Reddy
360.	Kanduwada	Chevella	Ranga Reddy
361.	Gundal	Chevella	Ranga Reddy
362.	Bobbilgam	Shabad	Ranga Reddy
363.	Tirumalapur	Shabad	Ranga Reddy
364.	Etlaerravaly	Shabad	Ranga Reddy
365.	Tadlapalle	Shabad	Ranga Reddy
366.	Rudraram	Shabad	Ranga Reddy
367.	Chandernvalle	Shabad	Ranga Reddy
368.	Hayathabad	Shabad	Ranga Reddy
369.	Solipet	Shabad	Ranga Reddy
370.	Maddur	Shabad	Ranga Reddy
371.	Peddaved	Shabad	Ranga Reddy
372.	Damerlapalle	Shabad	Ranga Reddy
373.	Nagarkunta	Shabad	Ranga Reddy
374.	Bhongirpalle	Shabad	Ranga Reddy
375.	Machanpalle	Shabad	Ranga Reddy
376.	Polaram	Shabad	Ranga Reddy
377.	Pothugal	Shabad	Ranga Reddy
378.	Regadidoswada	Shabad	Ranga Reddy
379.	Komerabanda	Shabad	Ranga Reddy
380.	Obagunta	Shabad	Ranga Reddy
381.	Shabad	Shabad	Ranga Reddy
382.	Manmarri	Shabad	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
383.	Kakloor	Shabad	Ranga Reddy
384.	Ananthawaram	Shabad	Ranga Reddy
385.	Kesavaram	Shabad	Ranga Reddy
386.	Rangapur	Shabad	Ranga Reddy
387.	Peddatopra	Shamshabad	Ranga Reddy
388.	Venkannaguda	Maheswaram	Ranga Reddy
389.	Gollor	Maheswaram	Ranga Reddy
390.	Nandipalle	Maheswaram	Ranga Reddy
391.	Nagaram	Maheswaram	Ranga Reddy
392.	Nagireddipalle	Maheswaram	Ranga Reddy
393.	Ameerpet	Maheswaram	Ranga Reddy
394.	Tooprakhurd	Maheswaram	Ranga Reddy
395.	Kalwakole	Maheswaram	Ranga Reddy
396.	Pendyal	Maheswaram	Ranga Reddy
397.	Dabilguda	Maheswaram	Ranga Reddy
398.	Mansanpalle	Maheswaram	Ranga Reddy
399.	Gangaram	Maheswaram	Ranga Reddy
400.	Sirigirpur	Maheswaram	Ranga Reddy
401.	Mohabatnagar	Maheswaram	Ranga Reddy
402.	Thummaloor	Maheswaram	Ranga Reddy
403.	Maheswaram	Maheswaram	Ranga Reddy
404.	Ghatpalle	Maheswaram	Ranga Reddy
405.	Dubbacherla	Maheswaram	Ranga Reddy
406.	Subhanpur	Maheswaram	Ranga Reddy
407.	Dilwarguda	Maheswaram	Ranga Reddy
408.	Kollapadkal	Maheswaram	Ranga Reddy
409.	Akanpalle	Maheswaram	Ranga Reddy
410.	Porandla	Maheswaram	Ranga Reddy
411.	Ismailshapampu	Ibrahimpatnam	Ranga Reddy
412.	Naganpalle	Ibrahimpatnam	Ranga Reddy
413.	Polkampalle	Ibrahimpatnam	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
414.	Narrepalle	Ibrahimpatnam	Ranga Reddy
415.	Dandumailaram	Ibrahimpatnam	Ranga Reddy
416.	Muknoor	Ibrahimpatnam	Ranga Reddy
417.	Rainguda	Ibrahimpatnam	Ranga Reddy
418.	Yengalaguda	Ibrahimpatnam	Ranga Reddy
419.	Raipole	Ibrahimpatnam	Ranga Reddy
420.	Tattikhana	Ibrahimpatnam	Ranga Reddy
421.	Alimiyakunta	Ibrahimpatnam	Ranga Reddy
422.	Ramreddiguda	Ibrahimpatnam	Ranga Reddy
423.	Pocharam	Ibrahimpatnam	Ranga Reddy
424.	Yeliminedu	Ibrahimpatnam	Ranga Reddy
425.	Tadlakalva	Ibrahimpatnam	Ranga Reddy
426.	Yerrakunta	Ibrahimpatnam	Ranga Reddy
427.	Turkaguda	Ibrahimpatnam	Ranga Reddy
428.	Kappapahad	Ibrahimpatnam	Ranga Reddy
429.	Toolekalan	Ibrahimpatnam	Ranga Reddy
430.	Chippalpalle	Kandukur	Ranga Reddy
431.	Murlinagar	Kandukur	Ranga Reddy
432.	Dhannaram	Kandukur	Ranga Reddy
433.	Pulumamidi	Kandukur	Ranga Reddy
434.	Kufarchandguda	Kandukur	Ranga Reddy
435.	Jaithwaram (Khalsa)	Kandukur	Ranga Reddy
436.	Jaithwaram (Maqta)	Kandukur	Ranga Reddy
437.	Gafoornagar	Kandukur	Ranga Reddy
438.	Kothur	Kandukur	Ranga Reddy
439.	Gudoor	Kandukur	Ranga Reddy
440.	Rachloor	Kandukur	Ranga Reddy
441.	Lemoor	Kandukur	Ranga Reddy
442.	Timmapur	Kandukur	Ranga Reddy
443.	Madhapur	Kandukur	Ranga Reddy
444.	Gummadavalle	Kandukur	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
445.	Thimmaipalle	Kandukur	Ranga Reddy
446.	Annojiguda	Kandukur	Ranga Reddy
447.	Kandukur	Kandukur	Ranga Reddy
448.	Mohammadnagar	Kandukur	Ranga Reddy
449.	Peruguguda	Kandukur	Ranga Reddy
450.	Bachupalle	Kandukur	Ranga Reddy
451.	Nednur	Kandukur	Ranga Reddy
452.	Akberja	Kandukur	Ranga Reddy
453.	Dasarlapalle	Kandukur	Ranga Reddy
454.	Allikhanpalle	Kandukur	Ranga Reddy
455.	Debbadaguda	Kandukur	Ranga Reddy
456.	Panjaguda	Kandukur	Ranga Reddy
457.	Meerkhanpet	Kandukur	Ranga Reddy
458.	Sarvaravulapalle	Kandukur	Ranga Reddy
459.	Mucherla	Kandukur	Ranga Reddy
460.	Tulekhurd	Yacharam (Part)	Ranga Reddy
461.	Gungal	Yacharam (Part)	Ranga Reddy
462.	Yacharam	Yacharam (Part)	Ranga Reddy
463.	Mogullavampu	Yacharam (Part)	Ranga Reddy
464.	Chowderpalle	Yacharam (Part)	Ranga Reddy
465.	Khanapur	Manchal (Part)	Ranga Reddy
466.	Mallikarjunaguda	Manchal (Part)	Ranga Reddy
467.	Manorabad	Manchal (Part)	Ranga Reddy
468.	Sabithnagar	Manchal (Part)	Ranga Reddy
469.	Lingampalle	Manchal (Part)	Ranga Reddy
470.	Thallapalliguda	Manchal (Part)	Ranga Reddy
471.	Nallacheru	Manchal (Part)	Ranga Reddy
472.	Thippaiguda	Manchal (Part)	Ranga Reddy
473.	Chittapur	Manchal (Part)	Ranga Reddy
474.	Manchal	Manchal (Part)	Ranga Reddy
475.	Jainammaguda	Manchal (Part)	Ranga Reddy

Sl. No.	Name of the Village	Mandal	District
476.	Nomula	Manchal (Part)	Ranga Reddy
477.	Agapalle	Manchal (Part)	Ranga Reddy
478.	Tupranpet	Choutuppal	Nalgonda
479.	Malkapur	Choutuppal	Nalgonda
480.	Khairathpur	Choutuppal	Nalgonda
481.	Yellagiri	Choutuppal	Nalgonda
482.	Lakkaram	Choutuppal	Nalgonda
483.	Choutuppal	Choutuppal	Nalgonda
484.	Chinna Kondur	Choutuppal	Nalgonda
485.	Nelapatla	Choutuppal	Nalgonda
486.	Jaikesaram	Choutuppal	Nalgonda
487.	Swamulavari Lingotam	Choutuppal	Nalgonda
488.	Panthangi	Choutuppal	Nalgonda
489.	Lingojiguda	Choutuppal	Nalgonda
490.	Tallasingaram	Choutuppal	Nalgonda
491.	Tangadpalle	Choutuppal	Nalgonda
492.	Devalammanagaram	Choutuppal	Nalgonda
493.	Allapur	Choutuppal	Nalgonda
494.	Peepal Pahad	Choutuppal	Nalgonda
495.	Rayarao Pet	Bibinagar	Nalgonda
496.	Jameelapet	Bibinagar	Nalgonda
497.	Jiya Palle	Bibinagar	Nalgonda
498.	Mahadevpur	Bibinagar	Nalgonda
499.	Kondamadugu	Bibinagar	Nalgonda
500.	Jain Palle	Bibinagar	Nalgonda
501.	Gudur	Bibinagar	Nalgonda
502.	Annampatla	Bibinagar	Nalgonda
503.	Bibinagar	Bibinagar	Nalgonda
504.	Rangapur	Bibinagar	Nalgonda
505.	Bagdayara	Bibinagar	Nalgonda
506.	Nemarugomula	Bibinagar	Nalgonda

Sl. No.	Name of the Village	Mandal	District
507.	Padamati Somaram	Bibinagar	Nalgonda
508.	Raheem Khanguda	Bibinagar	Nalgonda
509.	Brahmana Palle	Bibinagar	Nalgonda
510.	Maqdoom Palle	Bibinagar	Nalgonda
511.	Ravi Pahad	Bibinagar	Nalgonda
512.	Madharam	Bibinagar	Nalgonda
513.	Jam Palle	Bibinagar	Nalgonda
514.	Surraiadandi	Bibinagar	Nalgonda
515.	Chinaraval Palle	Bibinagar	Nalgonda
516.	Raghavapur	Bibinagar	Nalgonda
517.	Rudra Velly	Bibinagar	Nalgonda
518.	Venkiryal	Bibinagar	Nalgonda
519.	Anantharam (Maktha)	Bibinagar	Nalgonda
520.	Tajpur	Buvanagiri	Nalgonda
521.	Hanmapur	Buvanagiri	Nalgonda
522.	Wadaparthi	Buvanagiri	Nalgonda
523.	Timmapur	Buvanagiri	Nalgonda
524.	Baswapur	Buvanagiri	Nalgonda
525.	Hussainabad	Buvanagiri	Nalgonda
526.	Rayagiri (Rural)	Buvanagiri	Nalgonda
527.	Kesaram	Buvanagiri	Nalgonda
528.	Kunoor	Buvanagiri	Nalgonda
529.	Chandupatla	Buvanagiri	Nalgonda
530.	Cheemala Kondur	Buvanagiri	Nalgonda
531.	Mustyalapalle	Buvanagiri	Nalgonda
532.	Veeravelly	Buvanagiri	Nalgonda
533.	Banda Somaram	Buvanagiri	Nalgonda
534.	Gouse Nagar	Buvanagiri	Nalgonda
535.	Yerrampalle	Buvanagiri	Nalgonda
536.	Tukkapur	Buvanagiri	Nalgonda
537.	Ramachandrapur	Buvanagiri	Nalgonda

Sl. No.	Name of the Village	Mandal	District
538.	Penchikala Pahad	Buvanagiri	Nalgonda
539.	Buvanagiri	Buvanagiri	Nalgonda
540.	Bagath Bhuvangiri	Buvanagiri	Nalgonda
541.	Anantharam (Rural)	Buvanagiri	Nalgonda
542.	Pagidi Palle	Buvanagiri	Nalgonda
543.	Bommai Palle	Buvanagiri	Nalgonda
544.	Anajipur	Buvanagiri	Nalgonda
545.	Nandanam	Buvanagiri	Nalgonda
546.	Nagireddi Palle	Buvanagiri	Nalgonda
547.	Bollepalle	Buvanagiri	Nalgonda
548.	Surepalle	Buvanagiri	Nalgonda
549.	China Parvathapur	Bommala Ramaram	Nalgonda
550.	Thimmapuram	Bommala Ramaram	Nalgonda
551.	Boin Palle	Bommala Ramaram	Nalgonda
552.	Somajipalle	Bommala Ramaram	Nalgonda
553.	Muneerabad	Bommala Ramaram	Nalgonda
554.	Bandakindipalle	Bommala Ramaram	Nalgonda
555.	Thumkunta	Bommala Ramaram	Nalgonda
556.	Jalalpur	Bommala Ramaram	Nalgonda
557.	Pyararam	Bommala Ramaram	Nalgonda
558.	Solipeta	Bommala Ramaram	Nalgonda
559.	Cheekatimamidi	Bommala Ramaram	Nalgonda
560.	Maryala	Bommala Ramaram	Nalgonda
561.	Malyala	Bommala Ramaram	Nalgonda
562.	Yavapur	Bommala Ramaram	Nalgonda
563.	Rangapuram	Bommala Ramaram	Nalgonda
564.	Ramlingampalle	Bommala Ramaram	Nalgonda
565.	Pedda Parvathapur	Bommala Ramaram	Nalgonda
566.	Bommalaramaram	Bommala Ramaram	Nalgonda
567.	Tirumalagiri	Bommala Ramaram	Nalgonda
568.	Naginenipalle	Bommala Ramaram	Nalgonda

Sl. No.	Name of the Village	Mandal	District
569.	Maisireddypalle	Bommala Ramaram	Nalgonda
570.	Hazipur	Bommala Ramaram	Nalgonda
571.	Mailaram	Bommala Ramaram	Nalgonda
572.	Medipalle	Bommala Ramaram	Nalgonda
573.	Edulapalle	Kothur	MahaboobNagar
574.	Mamidpalle	Kothur	MahaboobNagar
575.	Chegur	Kothur	MahaboobNagar
576.	Mallapur	Kothur	MahaboobNagar
577.	Gudur	Kothur	MahaboobNagar
578.	Kothur	Kothur	MahaboobNagar
579.	Thimmapur	Kothur	MahaboobNagar
580.	Theegapur	Kothur	MahaboobNagar
581.	Veerlapalle	Kothur	MahaboobNagar
582.	Nandigama	Kothur	MahaboobNagar
583.	Penjerla	Kothur	MahaboobNagar
584.	Onmulnarva	Kothur	MahaboobNagar
585.	Khajiguda	Kothur	MahaboobNagar
586.	Kodicherla	Kothur	MahaboobNagar
587.	Seriguda Bhadraipalle	Kothur	MahaboobNagar
588.	Siddapur	Kothur	MahaboobNagar
589.	Veligerla	Farooqnagar (Part)	MahaboobNagar
590.	Suryaraoguda	Farooqnagar (Part)	MahaboobNagar
591.	Koddannaguda	Farooqnagar (Part)	MahaboobNagar
592.	Buchiguda	Farooqnagar (Part)	MahaboobNagar
593.	Dooskal	Farooqnagar (Part)	MahaboobNagar
594.	Chetanpalle	Farooqnagar (Part)	MahaboobNagar
595.	Faroqnagar (Shadnagar)	Farooqnagar (Part)	MahaboobNagar
596.	Alisashguda	Farooqnagar (Part)	MahaboobNagar
597.	Nagulapalle	Farooqnagar (Part)	MahaboobNagar
598.	Elkatha	Farooqnagar (Part)	MahaboobNagar
599.	Mogalgioda	Farooqnagar (Part)	MahaboobNagar
600.	Rangasamudram	Farooqnagar (Part)	MahaboobNagar

Expansion of Jurisdiction of Hyderabad Urban Development Authority.

[1][G.O.Ms.No. 430, Municipal Administration and Urban Development (II), 8th June, 2007]

In exercise of the powers conferred by Clause (o) of Section 2 read with clause (b) of sub-section (2) of Section 13 of the Andhra Pradesh Urban Areas (Development) Act, 1975 (Act 1 of 1975), the Governor of Andhra Pradesh hereby includes the areas mentioned in the Schedule appended to this notification in the Development Area of Hyderabad Urban Development Authority.

SCHEDULE

S.No.	Name of the Village	Mandal	District
1.	Pochampally	Pochampally	Nalgonda
2.	Jalalpur	Pochampally	Nalgonda
3.	Revanpalli	Pochampally	Nalgonda
4.	Gousekonda	Pochampally	Nalgonda
5.	Ramalingampally	Pochampally	Nalgonda
6.	Abdullanagar	Pochampally	Nalgonda
7.	Indriyala	Pochampally	Nalgonda
8.	Mukthapur	Pochampally	Nalgonda
9.	Juloor	Pochampally	Nalgonda
10.	Alinagar	Pochampally	Nalgonda
11.	Jagathpally	Pochampally	Nalgonda
12.	Deshmukhi	Pochampally	Nalgonda
13.	Pillaipalli	Pochampally	Nalgonda
14.	Kapuraipally	Pochampally	Nalgonda
15.	Peddaravalpally	Pochampally	Nalgonda
16.	Dharmareddypally	Pochampally	Nalgonda
17.	Vankamamidi	Pochampally	Nalgonda

1. Pub.in the A.P.Gaz. Pt.I Ext.No.337, dated 12-6-2007.

18.	Dantur	Pochampally	Nalgonda
19.	Kanumukkala	Pochampally	Nalgonda
20.	Bhemanapally	Pochampally	Nalgonda
21.	Meharnagar	Pochampally	Nalgonda
22.	Hyderpur	Pochampally	Nalgonda
23.	Jublakpally	Pochampally	Nalgonda
24.	Irigipalle	Sangareddy	Medak
25.	Kalvaboor	Sangareddy	Medak

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Note:— Please see related GO No's. :

1. G.O.Ms.No. 276, Revenue (A&R) Dept., dated 25-02-2009;

2. G.O.Ms.No. 1038, Revenue (A&R) Dept., dated 18-08-2008;

3. G.O.Ms.No. 1535, Revenue (A&R), 17-12-2007.

At the end of ths book.

Municipal Administration &Urban Development - HUDA - Outer Ring Road -Comprehensive Master Plan for 1 km belt on either side of the proposed Outer Ring Road (Hyderabad Outer Ring Road Growth Corridor) and Special Development Regulations - Approved - Orders- Issued.

[G.O.Ms.No.470, Municipal Administration & Urban Development (I_1) Department, Dated: 09-07-2008]

Read the following:

1. G.O.Ms.No, 391 MA & UD (I_1) Dept. dt.23.06.1980
2. Govt. Lr.No.26378/I_1/2005, dt.24.12.2005.
3. From the V.C. HUDA. Lr.No.15299/Plg/ H/05, dt. 19-04-2006.
4. G.O.Ms.No.274, MA & UD (I_1) Department dated.20.04.2007.
5. G.O.Ms.No.287, MA & UD (I_1) Department dated.03.04.2008.
6. G.O.Ms.No.288, MA & UD (I_1) Department dated.03.04.2008
7. Government Memo No.26379/I_1/2005, dt. 18-04-2007.
8. From the V.C. HUDA. Lr.No.15299/Plg/ORR/H/05,dt.30-05-2008.

ORDER:

The appended notification shall be published in an Extra-ordinary issue of the Andhra Pradesh Gazette dated: 11-07-2008.

The Commissioner of Printing, Hyderabad is requested to supply 50 copies to the Government.

APPENDIX

NOTIFICATION

Whereas the Hyderabad Urban Development Authority has taken υρ the development of proposed Outer Ring Road with a total length of 162 Kms and as the development of access controlled Outer Ring Road is likely to trigger large scale development along the Outer Ring Road Corridor, it was decided to undertake preparation of Comprehensive Development Plan with hierarchical road net work and frame Special Development Regulations for the areas falling under 1 Km belt on either side of Outer Ring Road so as to promote planned development and curb haphazard and ribbon development along the Outer Ring Road.

And whereas, Hyderabad Urban Development Authority has prepared Comprehensive Plan and Special Development Regulations for the areas falling within the 1 Km belt on either side of the proposed Outer Ring Road (Hyderabad Outer Ring Road Growth Corridor) by modifying the Notified Revised Master Plan of Non-MCH area of HUDA (excluding the erstwhile MCH area and the newly extended area of HUDA) and Master Plan of HADA area and fresh Master Plan for the areas falling in extended HUDA area in Brahmanapally, Koheda, Pasumamla Tharamathipet, Bacharam, Thimmaiguda , Gowrelli and Vadagupalle villages to the extent of area covered by 1 Km stretch on either side of the proposed Outer Ring Road and submitted the same to the Government for approval.

And whereas, Government, after consideration of the matter, proposed to approve the Comprehensive Master Plan and Special Development Regulations as prepared by HUDA for the areas falling within the 1 Km belt on either side of the proposed Outer Ring Road in the form of modifications to the Notified Revised Master Plan of Non-MCH area of HUDA (excluding the erstwhile MCH area and the newly extended area of HUDA) and Master Plan of HADA area and fresh Master Plan for the areas falling in extended HUDA area in Brahmanapally, Koheda, Pasumamla, Tharamathipet, Bacharam, Thimmaiguda, Gowrelli and Vadagupalle villages in exercise of the powers conferred under Section 12(2) of Andhra Pradesh Urban Area (Development) Act, 1975 read with rule 13(A) of Urban Development Authority (Hyderabad) Rules, 1977 and Section 9(1) of Andhra Pradesh Urban Areas (Development) Act, 1975.

Accordingly, a notification has been published in the Extraordinary issue of A.P. Gazette No,232, part-I dated 20-04-2007, **as** required under Andhra

Pradesh Urban Areas (Development) Act, 1975 inviting objections and suggestions on the Comprehensive Master Plan and Special Development Regulations for the 1 Km belt on either side of the Outer Ring Road i.e., Hyderabad Outer Ring Road Growth Corridor.

And whereas, in response to the above notification, a number of objections/suggestions have been received from public with regard to certain land uses, road widths/alignments and on Special Development Regulations, these objection/suggestions were referred to and examined by the V.C., HUDA. After examining the above objections/suggestions, the V.C., HUDA has submitted the modified Master Plan and Special Development Regulations along with a report on the objections/suggestions to Government for approval.

Now, therefore, Government, after careful examination of the modified Draft Master Plan and Special Development Regulations submitted by V.C., HUDA and in exercise of the powers conferred by sub-section (2) of Section 12 and sub-section (1) of Section 9 of A.P. Urban Areas (Development) Act, 1975 (Act-1 of 1975), hereby approve the Master Plan for Hyderabad Outer Ring Road Growth Corridor along with the Special Development Regulations specified in the Annexure to this order in the form of modifications to the Notified Revised Master Plan of Non-MCH area of HUDA (excluding the erstwhile MCH area and the newly extended area of HUDA) and Master Plan of HADA area and in the form Master Plan for the areas falling in the newly extended HUDA area in Brahmanapally, Koheda, Pasumamla, Tharamathipet, Bacharam, Thimmaiguda, Gowrelli and Vadagupalle villages.

The said Comprehensive Hyderabad Growth Corridor Development Plan and Special Development Regulations can be seen in the Office of the Vice-Chairman, Hyderabad Urban Development Authority, Hyderabad during the office hours till such time these are printed and made available for public.

ANNEXURE to G.O.Ms.No. 470 MA&UD (I_1) Deptt. Dt. 09-07-2008

Special Development Regulations for the Hyderabad Outer Ring Road Growth Corridor, 1 KM Belt on either side of the ORR

1. Short Title, Applicability & Commencement:

These regulations may be called "Special Development Regulations for the Hyderabad Outer Ring Road Growth Corridor (ORR-GC)" and shall come into force from the date of notification in the Andhra Pradesh Gazette.

These regulations shall be applicable to all areas coming under the jurisdiction of the growth corridor (1 Km on either side of the outer edge of the Outer Ring Road Right-Of-Way).

These regulations shall apply to all development and building activity in the said area. All existing regulations, by-laws, orders that are in conflict or inconsistent with these Regulations shall stand modified to the extent of the provisions of these regulations for the said area.

All other regulations not mentioned here specifically will be read as per and with the earlier regulations in force.

2. Definitions:

(i) **'Competent Authority'** means: the Vice Chairman of the Hyderabad Urban Development Authority (HUDA) / Hyderabad Airport Development Authority (HADA)

(ii) **Enforcement Authority** means the Commissioner of Greater Hyderabad Municipal Corporation (GHMC) or the Executive Authority of the Gram Panchayat in case of areas outside GHMC/Vice Chairman of the Hyderabad Urban Development Authority / Hyderabad Airport Development Authority or a Special Unit created for the purpose of sanctioning and monitoring building and development activity.

(iii) **ORR** means Outer Ring Road

(iv) **ORR GC** means Outer Ring Road Growth Corridor. ('One Kilometer' on either side from the outer edge of the ORR Right of Way)

(v) SDZ means Special Development Zone of the ORRGC.

(vi) TDRs mean Transferable Development Rights.

"Transferable Development Right" (TDR) means an award specifying the built up area an owner of a site or plot can sell or dispose or utilize elsewhere, whose site or plot is required to be set apart or affected for a community amenity or development for public purpose in the Master Plan/Statutory Plan or in road widening or covered in recreational use zone, etc. and applicable only after such lands are vested with the local body/ Urban Development Authority as the case may be. The award would be in the form of a TDR Certificate issued by the Competent Authority.'

(vii) High-Rise building means a building 18 meters or more in height. However, chimneys, cooling towers, boiler, rooms/ lift machine

rooms, cold storage and other non-working areas in case of industrial buildings and water tanks, and architectural features in respect of other buildings may be permitted as a non-High Rise building. Buildings less than 18m including stilt floor/parking floor stand excluded from the definition of high-rise buildings.

(vii) **Height of building** means height measured from the abutting road and in case of undulated terrain height can be considered as average of the corresponding ground level or formation level of proposed site.

(viii) **'Sanctioning Authority'** means: the Vice Chairman of the Hyderabad Urban Development Authority / Hyderabad Airport Development Authority /Cyberabad Development Authority or the Commissioner of Greater Hyderabad Municipal Corporation (GHMC).

Terms and expressions which are not defined in these Regulations shall have the same meaning as in the respective Regulations / regulations / by-laws of the respective local authorities and as defined in the National Building Code as the case may be, unless the context otherwise requires.

3. Special Development Zone (SDZ)

(i) The Land Use of this entire zone is classified as Multipurpose Use Zone excluding the areas specifically earmarked for Roads, Open Space and Recreational, Transportation and Public Utilities and Amenities Zone. The uses permissible shall be given in Table 1.

No expansion of existing industries and no new industries shall be permitted. Warehousing, loading unloading, steelyards, whole sale open stocking, market yards, construction material stocking shall be permitted only in specified transportation zone. Existing industrial estates may remain part of the ORR GC as long as the industries are non-polluting and as certified by the State Pollution Control Board. No new polluting activity (industrial or otherwise) shall be permitted in the SDZ of the ORRGC.

For areas covered under G.O.Ms.No.111 MA dated 08.03.1996 (protection of Catchment area of Osmansagar and Himayatsagar lakes), the restrictions on building and development activity imposed in the said Government order would be applicable.

Table-1: The categories of zoning shall be as follows:

S.No	Name	Constituent Uses permissible
1.	Special Development Zone	• Residential (new growth as well as existing settlements) Commercial (Commercial activity shall be allowed at all locations only on roads 18 mtrs wide and above). • Social Infrastructure • Institutional • Work Centres excepting industries • Any other non polluting non hazardous use not specified.
2	Open Space Recreational, Water Body	Regional Parks, green buffers, lakes, nallahs, reserve forests, plantation zones.
3	Transportation & Circulation	Roads, Parking areas, truck terminals, warehousing, whole sale market yards, stockyards of various materials including constructions material, loading unloading areas, any other specific non conforming uses.
4	Public Utilities and Amenities Zone	Utilities and amenities like police station, fire electric sub stations and other public utilities

(ii) The ORRGC is characterised by two SDZs. SDZ 1 means the area within or inside the ORR (towards the City side) and within the ORRGC. SDZ 2 means the area outside the ORR (away from the City side) and within the ORRGC

(iii) The same regulations shall apply to all areas abutting the radial roads connecting the ORR but falling within the ORR GC area only.

(iv) No change of land use shall be allowed within the ORRGC.

4. Development on Independent plots

Minimum developable independent plot size for Apartment Complexes and all other non-residential uses shall be 1000 sq mtrs with a minimum abutting road width of 12.2 Meters.

5. Layout Development

(i) The minimum layout size for residential plotted development shall be 4 hectares. The lands covered by such a scheme shall be contiguous and approachable by an existing black topped road 12.2 mtrs wide and where such a road does not exist the developer shall first provide the same at own cost.

[1][(ii). Minimum area & other requirement for Layout Development:

(a) The minimum area for layout development shall be 4 hectares. Out of the total area, 10% of the land shall be set apart for open spaces for recreation and community purposes. This will also include upto 2.5% land required to be set apart for social infrastructure.

(b) From the developable area, 5% of area is to be given to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority free of cost for capitalization towards provision of Master Plan facilities. This condition is applicable only to sites located outside Greater Hyderabad Municipal Corporation limits. The owner /developer has the option of paying 1.5 times the basic value of such land to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority in lieu of such land to be given to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority.

(c) Atleast 5% of the developable land to be developed within the site for Economically Weaker Sections of Society (EWS) housing facility with maximum plot size of 50 sq m, and atleast 5% for Lower Income Group housing facility with maximum plot size of 1OO sq m. The developer can also opt for developing only EWS plots in lieu of LIG Housing.

(d) In case it is not found feasible to provide the minimum 5% EWS and 5% LIG plots within his site, the owner/developer is given option to develop the minimum required number of plots under both categories in any land within 5 km radius of the existing site with minimum BT road connectivity of 12 m. Alternatively, the owner/developer may hand over equivalent land to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority for development of EWS/LIG plots by Hyderabad Urban Development Authority/Hyderabad Airport Development Authority/ public agency within 5 km radius of the existing site".]

[1][(iii) Group Housing Schemes:

(i) In respect of Group Housing Projects (which include apartment block/ blocks, row housing, cluster housing, mixed housing units, gated developments and residential enclaves) in sites 4OOO sq m and above, out of the total site area:

a) the developer shall set apart 3% of the land and give to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority free of cost for capitalization towards provision of Master Plan facilities. This condition shall apply only to sites located outside Greater Hyderabad Municipal Corporation limits. The owner/ developer has the option of paying 1.5 times the basic value of such land to Hyderabad Urban Development Authority/Hyderabad

1. Subs. by G.O.Ms.No. 528, MA&UD (I_1), dt. 31-07-08. Pub. in the A.P. Gaz., Pt.I, Ext. No. 447, dt. 2.8.2008.

Airport Development Authority in lieu of such land to be given to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority.

b) Atleast 5% of the total units shall be set apart and developed for Economically Weaker Sections of Society (EWS) dwelling units with maximum plinth area of 25 sq m;

c) Atleast 5% of the total units shall be set apart and developed for Lower Income Group (LIG) dwelling units with maximum plinth area of 40 sq m;

For providing the above dwelling units within the site, the owner/ developer is given freedom to build these units in a separate block with separate access.

(ii) In case it is not found feasible by the owner/developer to provide the above EWS and LIG dwelling units within his site, the owner/developer is given option to develop the required number of units under both categories in any land within 5 km radius of the existing site with minimum BT road connectivity of 12 m. Alternatively, the owner/ developer is given option to hand over the equivalent land within 5 km radius with minimum BT road connectivity of 12 m to Hyderabad Urban Development Authority/Hyderabad Airport Development Authority for facilitating development of EWS/LIG housing.

(iii) Servant quarters constructed shall be reckoned towards EWS housing requirements in Group Housing Schemes. In case of gated community developments and row housing, such quarters shall be detached from the main building and may also be allowed in the rear setback provided the total length shall not exceed 1/3rd of plot width and only single storied structure shall be allowed. As an option in gated developments and row housing the EWS and LIG dwelling units can be accommodated in a separate block or blocks. In case of Residential Complexes, the servant quarters may be within the same block provided it is constructed with separate entrance and with separate kitchenette and toilet facility. Such Servant Quarters only will qualify to be reckoned as EWS Units. Alternatively, the EWS and LIG dwelling units in such Complexes can be accommodated in a separate block or blocks".]

The remaining provisions of G.O.Ms.No. 86 MA dt. 3.3.2006 shall be applicable in such cases.

[1][**5A. Incentives:** In order to encourage social housing mix in housing projects and to augment the supply of EWS and LIG Housing, the following incentives shall be available to owners/developers:

a) No fees and other charges will be levied for EWS plots or dwelling units;

1. Added by G.O.Ms.No. 528, MA&UD (I_1), dt. 31-07-08.

b) Only 25 % of fees and other charges will be levied for LIG plots/ dwelling units;

c) In case of alternative lands are provided by owner/developer for EWS/ LIG housing, there will be automatic conversion of land use from conservation to residential use".]

6. ORR Buffer Zone

All properties abutting the **ORR** will mandatorily have an open buffer (minimum building setback) of 15 mtrs from the ROW outer edge. Access will not be allowed onto the service roads of the ORR directly. No projections, permanent, semi permanent structures will be allowed within this setback. No hoardings, billboards, Uni-poles and related advertising structures, telecom towers, transformers, machinery, dish antennae or related structures shall be allowed within this setback. No stairs (temporary or permanent), ramps for parking or other purposes shall be permitted within the common building line. The area within this common building shall be considered part of the mandatory open space. The area within the Common Building line shall be planted and maintained with at-least two rows of thick foliage trees.

7. Common Building line

(i) All sites abutting the ORR and **Radial roads** within the ORRGC shall have a common building line (minimum setback) of 10 mtrs. Parking shall be allowed within this minimum front setback and this area shall be considered as part of the mandatory open space. Direct access to the radial roads shall be allowed only through service roads through designated points only and not directly on to the ORR or Radial Road. No property shall open directly onto the ORR or radial road.

(ii) All sites abutting 36 mtrs wide roads shall have a common building line of 7 mtrs (minimum setback).

(iii) All sites abutting 30 mtrs wide roads shall have a common building line (minimum setback) of 9 mtrs.

8. Restrictions of building activity in certain areas:

(i) No building/ development activity shall be allowed in the bed of water bodies like rivers, streams, or nallahs, and in the Full Tank Level (FTL) of any lake, pond, cheruvu or kunta / shikham lands.

(ii) The above water bodies and courses shall be maintained as recreational/ Green buffer zone, and no building activity other than recreational use shall be carried out within:

(a) 30 meters from the boundary of Lakes of area 10 Ha and above;

(b) 9 meters from the boundary of lakes of area less than 10 Ha / kuntas / shikham lands;

(c) 9 meters from the boundaries of Canal, Vaagu, etc,

(d) 2 meters from the defined boundary of Nallah.

the above shall be in addition to the mandatory setbacks.

Unless and otherwise stated, the area and the Full Tank Level (FTL) of a lake/kunta shall be reckoned as measured or given in the Survey of India topographical maps/Irrigation Dept.

(iii) Unless and otherwise specified in the Master Plan / Zonal Development Plan,

(a) the space to be left in and around the Canal / Vaagu (including the actual Canal /Vaagu bed width and alignment) shall be minimum 15m. This may be developed as Green Buffer/recreational and/or utilised for road of minimum 9m width, wherever feasible,

(b) In case of above, in addition to development of recreational/green belt along the foreshores, a ring road or promenade of minimum 12.2 m may be developed, wherever feasible.

(c) The above greenery/landscaping and development shall conform to the guidelines and provisions of the National Building Code of India, 2005.

(d) Notified Wetlands shall not be allowed to levelled or built upon. The mixed use shall not be applicable in such areas.

(e) For Building activity within the restricted zone near the airport or within 500 m distance from the boundary of Defence areas / Military establishments, necessary clearance from the concerned Airport Authority / Defence Authority / shall be obtained. For sites located within the Air Funnel zone, prior clearance from the Airport Authority shall be obtained.

(f) In case of sites in vicinity of High Tension Electricity transmission lines besides taking other safety precautions, a minimum safety distance (both vertical and horizontal) of 3 m (10 ft.) shall be maintained between the buildings and the High Tension electricity lines, and 1.5 m for Low Tension Electricity lines.

(g) In case of sites in the vicinity of oil/gas pipelines, clearance distance and other stipulations of the respective authority shall be complied with.

9. Other requirements for buildings and compliance of National Building Code provisions for amenities and facilities in all high rise buildings, compliance by owner for ensuring construction is undertaken as per sanctioned plan, occupancy certificate, enforcement, licensing of real estate companies, developers, builders, town planners, engineers & other technical personnel mandatory as given in the G.O Ms No 86 MA dtd 3.3.2006 and its subsequent amendments shall be complied with.

10. The minimum abutting road width and all round open space for all high rise buildings (18 mtrs and above in height) shall be as follows:

Table 2 Height and Setbacks for High-Rise Buildings within ORR-GC

Height of building	*Minimum abutting road width required (in meters)*	*Minimum open space on remaining sides (in meters)*
18 metres & Up to 21 mtrs	12.2	8
Above 21 mtrs & up to 24 mtrs	12.2	9
Above 24 mtrs & up to 27 mtrs	18	10
Above 27 mtrs & up to 30 mtrs	18	11
Above 30 mtrs & up to 35 mtrs	24	12
Above 35 mtrs & up to 40 mtrs	24	13
Above 40 mtrs & up to 45 mtrs	24	14
Above 45 mtrs & up to 50 mtrs	30	15
Above 50 mtrs	30	17

- *For all buildings more than 50 mtrs height for every 3 mtrs height or part thereof, there shall be an additional setback of 0.5 mtrs on each of the remaining sides.*
- *For all buildings less than 18 mtrs height the minimum setbacks given in GO Ms No. 86 MA dt. 3.3.2006 and its subsequent amendments shall be applicable.*
- *Subject to maintaining the Common Building line, Tower and Podium type building, U-Shaped building and Stepped type high-rise buildings may be allowed. These shall comply with the remaining provisions of G.O.Ms. No. 86 MA dated 03.03.2006.*
- *In case of two or more high rise building blocks in a site, the space between two blocks shall be half the height of the taller building subject to 12.2 metres whichever is less. The space between two high rise blocks, or space between a block and the boundary of the site, can be used as driveway/access for fire fighting vehicles. Such driveway shall be minimum 6 m wide and suitably paved. Rest of the area shall be developed with greenery/ landscaping.*

11. These regulations impose no specific restrictions on Gramakantam Areas. All **Gramakantams / Abaadi** areas will follow the provisions of GO Ms No. 86 MA dt. 03.03.2006.

12. Recreation Zone

Recreational zone is earmarked as regional parks, green buffer zones along nallahs and abutting water bodies, bio conservation zone, afforestation zone wherein no construction shall be allowed except such of which are incidental to the main use.

13. Public Utilities and Amenities Zone

This zone shall be used as multipurpose spaces especially reserved for city level infrastructure & public utilities and amenities like police station, fire station, electric sub-stations and other public utilities.

14.Transportation Zone

This zone shall be used as truck parking lots, bus terminus, warehousing, loading unloading, steelyards, whole sale open stocking, market yards/whole sale market yards, parking areas, stockyards of various materials including constructions material, loading unloading areas, and accessory uses/facilities for the main use.

In respect of zones mentioned in regulations 12 to 14 above, development may be allowed as a joint-development project/ Public-Private Partnership project and on terms and conditions approved by the Competent authority.

15. Grant of Transferable Development Rights

Grant of Transferable Development Rights (TDRs) and other concessions in the form of certificates will be considered by the Competent Authority as given in the provisions of G.O.Ms. 86 MA&UD Deptt. Dt. 03.03.2006 and amendments issued from time to time.

16.Special Impact Fees Applicable in the ORR GC

With a view to ensuring development of ORR and related facilities Special Impact Fees is levied in the ORRGC on buildings. For this purpose, buildings are categorized as follows:

(A) FOR BUILDING HEIGHTS UPTO 15 Meters
(Rate in Rupees per sq m of built up area)

Use	Building Height	Zone A		Zone B		Zone C	
		SDZ 1	SDZ 2	SDZ 1	SD Z2	SDZ 1	SDZ 2
Residential and all other non-commercial uses	Upto 10 metres	150	100	100	80	80	60
	Above 10 meters and upto 15 metres	200	150	150	100	100	80
Commercial, ITES	Upto 10 metres	300	200	200	150	150	100
	Above 10 meters and upto 15 metres	400	300	300	200	200	150

(B) FOR BUILDING HEIGHTS ABOVE 15 METRES

Stretch of ORRGC		Rate of Special Impact Fee leviable
Zone A (From Muttangi Junction on NH9 to Bongulur Junction, on Nagarjuna Sagar Highway)	SDZ 1	1.50 times the rate given in Table in Rule 17 of GOMs No. 86 MA dt. 3.3.06
	SDZ 2	1.40 times the rate given in Table in Rule 17 of GOMs No. 86 MA dt. 3.3.06
Zone B (From Bongulur Junction, on Nagarjuna Sagar Highway to Shamirpet - Upparpalli Junction, on Karimnagar Highway)	SDZ 1	1.30 times the rate given in Table in Rule 17 of GOMs No. 86 MA dt. 3.3.06
	SDZ 2	1.20 times the rate given in Table in Rule 17 of GOMs No. 86 MA dt. 3.3.06
Zone C (From Shamirpet — Upparpalli Junction, on Karimnagar Highway to Muttangi Junction on NH9)	SDZ 1	1.10 times the rate given in Table in Rule 17 of GOMs No. 86 MA dt. 3.3.06
	SDZ 2	Same as rates Table in Rule 17 of GOMs No. 86 MA dt. 3.3.06

Note:

(a) No other Impact fees shall be levied.

(b) The above charges are applicable to the total built up area (in sq metres)

(c) The above charges are not leviable to parking areas in stilt, cellar and upper floors of building.

(d) The above rates are telescopic.

(e) SDZ 1 means the area within or inside the ORR (towards the City side) and within the ORRGC. SDZ 2 means the area outside the ORR (away from the City side) and within the ORRGC

(f) The above rates in Category (A) of the Table shall not be applicable to buildings in Gramakantam/Aabadi areas

(g) Alternatively, the owner may be allowed to utilize TDR given in Rule 15 above, for such built up area to the extent permissible wholly or use the same in combination of both TDR and the impact fee for the proposed additional built up area that is permissible under these Rules provisions. The government may revise the above rates from time to time.

(h) The above provisions shall not be applicable for Government Departments and public agencies like the Urban Development Authority, Andhra Pradesh Industrial Infrastructure Corporation, local bodies, Hyderabad Metropolitan Water Supply and Sewerage Board, APHB, AP CPDCL, etc.

(i) The amount levied and collected under above Rule shall be credited and maintained in a separate escrow account by the competent authority and shall be utilised only towards Outer Ring Road capital infrastructure. An Infrastructure Plan and Action Plan for implementation is required to be undertaken by the Competent authority and the said Fund is utilised accordingly.

(j) Development charges & Processing fee shall be as being charged in HUDA/HADA area currently.

17. Development Deferment Charge:

With a view to discourage owners of sites for keeping the sites vacant/ undeveloped, a Charge called Development Deferment Charge shall be levied by the local body/gram panchayat at the following rates:

(a) 1st year grace period from the date of notification of these Regulations

(b) 2nd Year from the date of notification Rs. 2/- per sq mtr of land per year.

(c) 3rd Year from the date of notification Rs. 5/- per sq mtr of land per year.

(d) from the date of operationalisation of traffic on ORR 10/- per sq mtr of land per year,

18. Incentives for large projects

Incentives for large projects are as follows:

(a) **Large integrated townships**

(i) 40-100 acres- 10% discount on rates as given in regulation 16 above

(ii) 100-200 acres- 20% discount on rates as given in regulation 16 above

(iii) Above 200 acres- 25% discount on rates as given in regulation 16 above

(b) IT/ITES projects, Education Institutions/Universities, Hospitals

(i) For all projects above 50 acres there shall be a 20% discount on rates as given in regulation 16 above

(ii) For all projects above 100 acres- 30 % discount on rates as given in regulation 16 above.

19. Reservation of land for special purposes to be handed over to HUDA

All projects 10 acres and above shall necessarily reserve 5% land and hand it over to HUDA for special purposes. In respect of layouts this shall not be applicable and the conditions mentioned in Regulation 5 (ii) (c) shall be applicable.

20. Transportation and Roads

The road circulation network hierarchy within the ORRGC is proposed to be 9m, 12.2m, 18m, 24m, 30m, 36m, 45m. The main spinal roads will be the 30m and 36 m wide roads. Splay at all road junctions shall be mandatorily provided as prescribed in Annexure III.

(i) Bus bays shall be earmarked on the detailed and micro level circulation plan.

(ii) Separately parking areas for para-transit vehicles shall be earmarked within the road ROW preferably utilising part of the 3m wide footpaths for single row parallel parking.

(iii) One lane may be used as a dedicated bus way for public transport in the six lane divided carriageway of the main 30 mtrs wide spinal roads.

(iv) Storm water drains shall be provided as part of the road ROW while development of the site/layout/township.

(v) All roads shall be developed as per cross section details given in (Horizontal and Vertical sections and dimensions).

(vi) Restriction of development in areas earmarked as major Junctions

The land within the junction shall be kept as open. Only open recreational uses, parks and greenery shall be permissible. No building activity excepting ancillary structures to recreational open space shall be allowed within the area earmarked as road junctions.

21. Parking requirements

Shall comply with the requirements as given in G.O.Ms.No.86 M.A. & U.D. Department, dated 03.03.2006 and its subsequent amendments.

22. Footpaths

(i) All footpaths have to be provided as given in the road cross sections given in Annexure

(ii) The footpaths shall not be encroached upon by stairs, amenities, and other structures at any place and shall be summarily removed by the competent authority on notice.

23. Special features for Physically Challenged/Special persons/senior citizens

(i) All public buildings to have ramps of appropriate slope as per NBC

(ii) All footpaths to have ramps of appropriate slope/gradient as per NBC and at a distance of every 200 mtrs.

(iii) The competent authority shall monitor these and enforce implementation and also propose specific guidelines from time to time.

24. Urban Design and Architectural Control

For certain areas as well as sites abutting major roads of 30 mt and above, the competent authority/Sanctioning Authority may enforce urban design and architectural/facade control. These shall be detailed out keeping in view the development conditionalities and requirements given in these Regulations and the National Building Code norms. For this purpose, urban design and architectural control sheets/plans approved by the Competent Authority shall be complied with. Signage control and street landscape, street furniture design regulation shall be designed and implemented/exercised/ managed by the competent authority within the ORRGC. The guidelines shall be as given by the competent authority and/or based on the National Building Code of India, 2005.

Hoardings, Billboards, Uni-poles and related advertising structures, telecom towers, machinery, dish antennae or related structures shall be allowed on the main roads of only 30 mtrs and above. For signage regulation the competent authority shall have the discretion and may frame guidelines for the same. The same may be the case for street/public space landscaping, street furniture design.

Regulation of all such Hoardings, Billboards, Uni-poles and related advertising structures and the revenue accrued from these shall vest with the Competent Authority only and kept in the escrow account mentioned in Regulation 16 (i) . The sharing of revenue from these between the local body and the competent authority shall be as decided by the Government.

25. Digital Plans

In an endeavour to make the approval and archiving process digital it is proposed that all buildings, layout, townships drawings be submitted in digital format after georeferencing it (preferably in .shp, .tab, .dxf file formats). This shall be undertaken by using the accurate GPS/DGPS technology and utilising the services of professionally and technically qualified land surveyors. The digital drawings shall include all cross sections and engineering details and the whole dataset shall be submitted in a CD format to the competent authority. The same shall be overlaid on the latest satellite data for instant updation and proper urban management later on. This digital set shall be over and above the hard copies as per currently prescribes format which are mandatory for plan approval process.

26. Special Unit for approval of cases in ORRGC:

A Special Unit shall be constituted for dealing with applications for permission to develop/undertake building constructions in the ORRGC and enforcement in the ORRGC as per the procedure prescribed by the Competent Authority.

27. Grounding of the Circulation network:

The Competent Authority shall undertake the marking of the proposed circulation network within the ORRGC area on ground and complete the same within three months from the date of issue of these Regulations.

28. Directions by Government

(i) Government may issue separate orders constituting a Committee for examining development related issues of Growth Corridor,

(ii) Government may issue guidelines for implementation issues relating to the Growth Corridor and these Regulations from time to time.

M.A. & U.D. Dept., – Greater Hyderabad Municipal Corporation – Re-Constitution of Hyderabad Multi Storied Building Committee – Orders – Issued.

[G. O. Ms. No: 386, MA&UD (M) Dept., dated:08.06.2009]

Read the following:

1. G.O.Ms.No.917, M.A, Dt: 11.08.1981.
2. G.O.Ms.No.141, M.A, Dt: 13.02.2006.
3. Report from the Commissioner & Special Officer, Greater Hyderabad Municipal Corporation.

In the circumstances reported by Commissioner & Special Officer, Greater Hyderabad Municipal Corporation, Government after consideration of the matter and in partial modification to the orders issued vide G O 2nd read above hereby re-constitute the Hyderabad Multi Storied Building Committee with the following members to give their recommendations to the commissioner & Special Officer, Greater Hyderabad Municipal Corporation on the Multi Storied Building applications:

1) The Chief City Planner, GHMC - Convener
2) The Director Town & Country Planning - Member
3) The Director (Planning) Hyderabad Metropolitan Development Authority/ Chief Planning Officer, Hyderabad Metropolitan Development Authority - Member
4) The Chief Engineer, GHMC - Member

2. The above orders will come into force with immediate effect.

Adaptation of Rules by Visakhapatnam Municipal Corporation

[1]Notifications

I. In exercise of the powers conferred by sub-section (2) of Section 7 of the Visakhapatnam Municipal Corporation Act, 1979 (Act No.19 of 1979) the Governor of Andhra Pradesh hereby adapt *Mutatis Mutandis* the rules specified in the Schedule appended to the notification to the Visakhapatnam Municipal Corporation.

Schedule

S.No.	Title of the Rules
(1)	(2)
(1)	The Hyderabad Municipal Corporations (Election of Chairperson of Standing Committee) Rules, 1995.
(2)	The Hyderabad Municipal Corporations (Constitutions, Election of Chairperson and Powers and function etc., of Wards Committees) Rules, 1995.
(3)	The Hyderabad Municipal Corporations (Co-option of Members having special knowledge or experience in Municipal Administration) Rules, 1995.

Adaptation of Rules by Vijayawada Municipal Corporation

II. In exercise of the powers conferred by sub-section (2) of Section 7 of the Vijayawada Municipal Corporation Act, 1981 (Act No.23 of 1981) the Governor of Andhra Pradesh hereby adapt *Mutatis Mutandis* the rules specified in the Schedule appended to the notification to the Vijayawada Municipal Corporation.

Schedule

S.No.	Title of the Rules
(1)	(2)
(1)	The Hyderabad Municipal Corporations (Election of Chairperson of Standing Committee) Rules, 1995.
(2)	The Hyderabad Municipal Corporations (Constitutions, Election of Chairperson and Powers and function etc., of Wards Committees) Rules, 1995.
(3)	The Hyderabad Municipal Corporations (Co-option of Members having special knowledge or experience in Municipal Administration) Rules, 1995.

Adaptation of Rules

III. In exercise of the powers conferred by sub-section (2) of Section 14 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994) the Governor of Andhra Pradesh hereby adapt *Mutatis Mutandis* the rules specified in the Schedule appended to the notification to Municipal Corporations constitution under the said Act.

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1. Pub. in A.P. Gaz. Pt. I, Ext. No. 146, dt. 29.03.1995.

Schedule

S.No.	Title of the Rules
(1)	(2)
(1)	The Hyderabad Municipal Corporations (Election of Chairperson of Standing Committee) Rules, 1995.
(2)	The Hyderabad Municipal Corporations (Constitutions, Election of Chairperson and Powers and function etc., of Wards Committees) Rules, 1995.
(3)	The Hyderabad Municipal Corporations (Co-option of Members having special knowledge or experience in Municipal Administration) Rules, 1995.

Extension of Rules to other Corporations

[1][*G.O.Ms.No. 188, Municipal Administration and Urban Development (Elect. II) (M.A.), dt. 25th March, 2000*]

In exercise of the powers conferred by sub-section (2) of Section 14 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994) the Governor of Andhra Pradesh hereby direct that the amendments issued by the Government to the following Rules in the G.Os. noted therein shall be adopted to the Municipal Corporations of Guntur, Kurnool, Warangal and other Corporations in the State of Andhra Pradesh notified under Section 2(d) of Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994).

(1) The Municipal Corporations of Hyderabad/Visakhapatnam/Vijayawada (Conduct of Election of Deputy Mayor) Rules, 1986 issued in G.O.Ms.No. 184, Municipal Administration, dated 25.03.2000.

(2) Hyderabad Municipal Corporation (Co-option of members having special knowledge or experience in Municipal Administration) Rules, 1995 issued in G.O.Ms.No. 185 Municipal Administration, dated 25.03.2000 ; and

(3) Hyderabad Municipal Corporations (Co-operation of members belonging to minorities) Rules, 1995 issued in G.O.Ms.No. 186, Municipal Administration, dated 25.03.2000.

Andhra Pradesh Land Grabbing (Prohibition) Act - Notification of the Villages and Areas under Sub-section (3-A) of Section-1 of the Act by including the areas and villages covered by Certain Urban Development Authorities

[G.O.Ms.No. 276, Revenue (A&R) Dept., dated 25-02-2009]

Read the following:—

1. G.O.Ms.No.345, M.A.&U.D. Deptt, dated 30.6.2006
2. G.O.Ms.No.695, M.A.&U.D. Deptt,, dated 9.11.1977.

1. Pub. in A.P. Gaz. Part I, ext. No. 152, dt. 25.03.2000.

3. G.O.Ms.No.34, M.A.&U.D. Deptt,, dated 13.02.2004
4. G.O.Ms.No.664, M.A.&U.D. Deptt, dated 27.12.2006
5. G.O.Ms.No.1178, M.A.&U.D. Deptt, dated 6.11.81
6. G.O.Ms.No.148, M.A.&U.D. Deptt,, dated 21.3.2005
7. G.O.Ms.No.149, M.A.&U.D. Deptt,, dated 21.3.2005.
8. G.O.Ms.No.1177, M.A.&U.D. Deptt, dated 6.11.81
9. G.O.Ms.No.412, M.A.&U.D. Deptt,, dated 4.8.2006
10. From the Registrar, 788/2008/Regr/Ser/SC, dated 27.8.2008.
11. From the Registrar, 789/2008/Regr/Ser/SC, dated 27.8.2008.

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ORDER:-

The sub-Section 3-A of Section-1 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 lays down that the provisions of the act also applies to such lands situated in such areas as the Government may having due regard to the urbanisable nature of the land by Notification, apply.

2. In the G.Os. first to ninth read above, orders were issued expanding the jurisdiction of Visakhapatnam Urban Development Authority at Visakhapatnam; Vijayawada, Guntur, Tenali and Mangalagiri Urban Development Authority at Vijayawada; Tirupathi Urban Development Authority at Tirupathi; Kakathiya Urban Development Authority at Warangal; and Sri Satya Sai Urban Development Authority at Puttaparthy by including certain villages and areas shown in the Schedule appended thereto.

3. In the references 10th and 11th read above, the Registrar, Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad has requested the Government to issue a notification extending the application of A.P. Land Grabbing (Prohibition) Act, in respect of the areas and lands in the villages covered by the Schedule to G.Os. first to ninth read above.

4. The Government after careful examination of the matter, decided to extend the application of Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, under Sub-Section 3-A of Section-1 of the said Act in respect of the areas and lands in the villages covered by the G.Os issued by Municipal Administration and Urban Development Department in the respective Urban Development Authorities, as shown below:-

S.No.	G.O.Ms.No. & date	Name of Urban Development Authority
1.	G.O.Ms.No.345, M.A.&U.D., dated 30.6.2006	Visakhapatnam Urban Development Authority at Visakhapatnam
2.	G.O.Ms.No.695, M.A.&U.D., dated 9.11.1977.	Vijayawada, Guntur, Tenali and Mangalagiri Urban Development Authority at Vijayawada

3.	G.O.Ms.No.34, M.A.&U.D., dated 13.02.2004	Vijayawada, Guntur, Tenali and Mangalagiri Urban Development Authority at Vijayawada
4.	G.O.Ms.No.664, M.A.&U.D., dated 27.12.2006	Vijayawada, Guntur, Tenali and Mangalagiri Urban Development Authority at Vijayawada
5.	G.O.Ms.No.1178, M.A.&U.D., dated 6.11.81	Tirupathi Urban Development Authority at Thirupathi
6.	G.O.Ms.No.148, M.A.&U.D., dated 21.3.2005	Tirupathi Urban Development Authority at Thirupathi
7.	G.O.Ms.No.149, M.A.&U.D., dated 21.3.2005	Tirupathi Urban Development Authority at Thirupathi
8.	G.O.Ms.No.1177, M.A.&U.D., dated 6.11.81	Kakathiya Urban Development Authority at Warangal.
9.	G.O.Ms.No.412, M.A.&U.D., dated 4.8.2006	Sri Satya Sai Urban Development Authority at Puttaparthy.

Accordingly, the following notification shall be published in the extraordinary issue of the Andhra Pradesh Gazette dated 02.03.2009. The Commissioner, Printing, Stationery and Stores Purchases, Andhra Pradesh is shall arrange for publication of the Notification and supply thirty copies each of the Notification to the Commissioner of Land Revenue, Hyderabad and to Government for record.

NOTIFICATION

"In exercise of the powers conferred under Sub-section (3-A) of Section-1 of A.P. Land Grabbing (Prohibition) Act, 1982 (Act XII of 1982) the Governor of Andhra Pradesh hereby applies the said Act to all the areas and the lands situated in the villages mentioned in the schedule appended to (i) G.O.Ms.No.345, M.A.&U.D. Deptt, dated 30.6.2006, (ii) G.O.Ms.No.695, M.A.&U.D. Deptt,, dated 9.11.1977, (iii) G.O.Ms.No.34, M.A.&U.D. Deptt,, dated 13.02.2004, (iv) G.O.Ms. No.664, M.A.&U.D. Deptt,, dated 27.12.2006, (v) G.O.Ms.No.1178, M.A.&U.D. Deptt, dated 6.11.81, (vi) G.O.Ms.No.148, M.A.&U.D. Deptt,, dated 21.3.2005, (vii) G.O.Ms.No.149, M.A.&U.D. Deptt,, dated 21.3.2005, (viii)G.O.Ms.No.1177, M.A.&U.D. Deptt, dated 6.11.81, and (ix) G.O.Ms.No.412, M.A.&U.D. Deptt,, dated 4.8.2006.

A.P. Land Grabbing (P) Act – Notification of additional villages and areas under Sub section (3-A) of Section-1 of the Act covered by the schedule appended to G.O.Ms.No.430, M.A.&U.D. Dated:8.06.2007 of Hyderabad Urban Development Authority.

[G.O.Ms.No. 1038, Revenue (A&R) Dept., dated 18-08-2008]

Read the following:—

1. G.O.Ms.No.274, M.A. & U.D. (II) Department, Dt:20.04.2007.
2. G.O.Ms.No.1535, Revenue A & R Department, Dt:17.12.2007.

3. G.O.Ms.No.430, M.A. & U.D. Department, Dt:8.06.2007.
4. From the Register Special Court Hyderabad, Lr.No.78/2008/Regr/Scr/SC, Dt:30.01.2008.

ORDER:

In the circumstances stated by the Registrar, Special Court under A.P. Land Grabbing (P) Act in the letter 4th read above and in continuation of the G.O. 2nd Read above the following notification is issued keeping in view of the orders issued in G.O. 3rd Read above.

2. The following notification shall be published in the extraordinary issue of the Andhra Pradesh Gazette dated: 23.08.2008.

NOTIFICATION

"In exercise of the powers conferred under sub-Section (3-A) of section-1 of A.P. Land Grabbing (Prohibition) Act, 1982 (Act XII of 1982) the Governor of Andhra Pradesh hereby applies the said Act to all the additional areas and the lands situated in the villages mentioned in the schedule appended to the G.O.Ms.No.430, M.A & U.D. (II) Department, Dt:8.06.2007 of Hyderabad Urban Development Authority.

Notification of the Villages and Areas under sub-section (3-A) of Section-1 of the Andhra Pradesh Land Grabbing (Prohibition) Act.

[1][*G.O.Ms.No. 1535, Revenue (A&R), 17-12-2007.*]

In exercise of the powers conferred under Sub-section (3-A) of Section-1 of A.P. Land Grabbing (Prohibition) Act, 1982 (Act XII of 1982) the Governor of Andhra Pradesh hereby applies the said Act to all the areas and the lands situated in the villages mentioned in the Schedule appended to G.O.Ms.No. 274, M.A. & U.D. (II) Department dated 20.4.2007.

Taking over the water supply and sewerage operation & maintenance of remaining erstwhile surrounding Municipalities by HMWSSB, Hyderabad – Orders – Issued.

[G.O.Ms.No. 533, M.A. &U.D. (A-1) Dept., dated 26-07-2007]

Read the following:—

1. G.O.Ms.No. 140, M.A., dated 18-3-1996.
2. G.O.Ms.No. 261, M.A. & U.D. (Elec.II) Dept., dated 16-4-2007.
3. From the Managing Director, HMWSSB, Hyd. Lr.No. MD/HMWSSB/07-08, dated 13-7-2007.

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1. Pub. in the A.P. Gaz. Pt.I, Ext. No. 712, dated 22-12-2007.

ORDER:

The Managing Director, HMWSSB, Hyderabad, has stated that as per orders issued in G.O. 1st read above, the HMWSSB has already taken over the water supply operations of L.B. Nagar, Kukatpally, Qutubullapur areas since 1996 onwards. About 50% of area of Serilngampally Municipality including the Hitech City areas are also under direct operations of the HMWSSB. In the remaining erstwhile municipal areas the Board is directly providing bulk water supplies to the industrial units, residential housing colonies and other high rated bulk customers.

2. In G.O. 2nd read above, orders were issued merging the 12 surrounding municipalities (ULB's) with the Municipal Corporation of Hyderabad and designated the Municipal Corporation of Hyderabad as Greater Hyderabad Municipal Corporation.

3. As per Section 7 of HMWS&S Act, Act 15 of 1989, it shall be the duty of the Board to provide the supply of potable water including planning, design, construction, maintenance, operation and management of water supply system and sewerage, sewage disposal and sewage treatment works including planning, design, construction, maintenance, operation and management of all sewerage and sewage treatment works in the Hyderabad Metropolitan area. As such, it has now become necessary for the Board to take over the water supply system of erstwhile surrounding municipalities now merged in the GHMC.

4. The Managing Director, HMWSSB, has stated that the Board has already formulated the proposals for improvement of water supply in the remaining erstwhile municipalities to maintain the water supply on part with the other core city and the proposals have been submitted to the Government for providing the funds. Further the Board has taken up the preparation of water supply Master plan proposals for all 12 erstwhile surrounding Municipal areas for developing infrastructure such as Reservoirs, inlet mains, trunk distribution mains etc., compatible with the Board transmission mains which is nearing completion. Further as per the water supply Master Plan proposals, DPRs are under separation for seeking funds under JNNURM Project for priority works in various areas. Similarly, the Board has taken up the Sewerage Master Plan proposals for surrounding Municipal areas and the DPRs are under formulation stage for seeking funds from JNNURM.

5. The Managing Director, HMWSSB, Hyderabad has submitted that for providing uniform service throughout the GHMC area, it is advisable that the HMWSSB may take up the day to day operations, regulations and maintenance of water supply and development of infrastructure such as construction of reservoirs, laying of trunk mains, distribution mains, etc., in different hydraulic zones as per the water supply Master Plan proposals, and had requested for necessary orders for commencing its operations in the erstwhile surrounding Municipal areas, along with transfer of assets relating to Water Supply and sewerage system.

6. Government after careful examination and in view of the provisions, contained in Section 7 of HMWS&S Act, 1989, hereby order the Board to commence its operation in all erstwhile surrounding Municipal Areas along with transfer of assests relating to Water Supply and Sewerage System and to continue the present system of bulk supplies payment and collection of water cess by the erstwhile Municipalities from the customers for some time, till the stabilisation of the water supply operations and distribution system, as well as establishment of the revenue collection mechanism, by HMWSSB.

7. Government also request the Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad to place one Asst. Engineer/Asst. Executive Engineer concerned along with operating staff of Water Supply distribution system of the surrounding erstwhile Municipalities at the disposal of the Board on Deputation initially, for a period of one year to enable the Board to commence and stabilise the operations.

8. The Managing Director, HMWSSB, Hyderabad/Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad are requested to take further necessary action accordingly.

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[1]Reduction of Tax on Transfer of Property in Municipal Corporation Areas – Payable on Sale Deeds

[G.O.Ms.No. 622, MA&UD (TC.I), dated 27-06-2005]

In exercise of the powers conferred by Section 261(1)(b) read with 679-E of the Hyderbad Municipal Corporation Act, 1955 and in super session of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Tax on Transfer of Property in all the Municipal Corporation areas in the State of Andhra Pradesh at 2% (two percent) without any deduction towards collection charges with effect from the **1st July, 2005**.

Reduction of Tax on Transfer of Property Duty on Transfer of Property in Municipal Corporations and Municipalities in the State Payable on Sale Deeds

[G.O.Ms.No. 625, MA&UD (TC.I), dated 27-06-2005]

I. In exercise of the powers conferred by Section 261(1)(b) read with 679-E of the Hyderbad Municipal Corporation Act, 1955 and in super session of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Tax on Transfer of Property payable on all sale deeds of Flats/Apartments in Municipal Corporations of the State of Andhra Pradesh at 2% (two percent) without any deduction towards collection charges with effect from the **1st July, 2005**.

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1. Pub. in A.P. Gaz. Pt.I, Ext. No. 462, dt. 29-6-2005.

II. In exercise of the powers conferred by Section 120(b) read with 387-A of the Andhra Pradesh Municipalities Act, 1965 and in super session of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Duty on Transfer of Property payable on all sale deeds of Flats/Apartments in Municipal Areas of the State of Andhra Pradesh at 2% (two percent) without any deduction towards collection charges with effect from the **1st July, 2005.**

District Planning Committees – Preparation of Municipal Development Plans – Guidelines for Preparation of Plans in Urban Local Bodies including guidelines for plan under BRGF

[G.O.Ms.No. 509, MA & UD (UBS) Dept., dated 13-08-2009]

Read the following:—

1. G.O.Ms.No. 142, PR&RD (Pts.II) Dept., dated 18.04.2008
2. G.O.Rt.No. 833, MA & UD Dept., dated 9.06.2008
3. From the C&DMA Lr. Roc.No.19665/2007-N3, dated 30.06.2009

ORDER:

Under Section 7 (1) of A.P. District Planning Committees (DPC) Act 2005, it is mandatory on the part of every Urban Local Body to prepare a comprehensive development plan for every financial year for the functions assigned to them and submit it to the DPC as per the timeline fixed in this regard. The BRGF guidelines also envisage preparation of district development plans by integrating the plans of Urban Local Bodies, PRIs and sectoral departments.

2. In the G.O.1st read above, orders have been issued on process guidelines for preparation of district development plan under BRGF. In accordance with the said GO, all PRIs and Municipal bodies should submit their plans to the District Planning Committee. As per the said G.O., separate guidelines needs to be issued for preparation of plans in Municipalities/Corporations.

3. In the G.O.2nd read above, orders have been issued fixing the criteria for allocation of funds among the Municipalities in BRGF districts and also indicated the funds allocated for each Municipality under BRGF.

4. In the reference 3rd read above, the C&DMA after elaborated discussions with field level functionaries and planning experts has submitted the proposal on guidelines for preparation of plans in Urban Local Bodies.

5. The Government after careful consideration of the proposal hereby issues the guidelines on preparation of comprehensive development plans in Municipalities/Corporations annexed to this Government Order.

6. The Commissioner and Director of Municipal Administration is requested to monitor the process of preparation of plans in all Urban Local Bodies and ensure that the plans are submitted to District Planning Committees within the stipulated time in every year.

MA & UD Dept., Election – Greater Hyderabad Municipal Corporation Elections, 2009 – Constitution of Election Tribunal

[G.O.Ms.No. 85, MA&UD (Elec.II), dated 18-02-2010]

In exercise of the powers conferred by sub-section (1) of Section 75 of the Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act 2 of 1967) the Government of Andhra Pradesh with concurrence of the Chief Justice of the High Court of Andhra Pradesh, hereby specify the court of Chief Judge, City Civil Court, Hyderabad, as an Election Tribunal to try the Election petitions pertaining to the Greater Hyderabad Municipal Corporation under the said Act.

Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act No. 11 of 1956) – Date of constituting Ward Committee for each ward of Municipal Corporation

[G.O.Ms.No. 86, MA&UD (UBS) Dept., dated 19-02-2010]

In exercise of the powers conferred by sub-section (1) of Section 8-A of the Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act No. 11 of 1956), the Government of Andhra Pradesh hereby notify the following dates for constitution of a Ward Committee for each ward of Municipal Corporation:—

(i)	Greater Hyderabad Municipal Corporation (GHMC)	: within three months from the date of publication of the notification in the Andhra Pradesh Gazette
(ii)	Corporations other than Greater Hyderabad Municipal Corporation (GHMC), Greater Visakhapatnam Municipal Corporation (GVMC) and Rajahmundry Municipal Corporation	: within three months from the date of first meeting of the Municipal Corporation after ordinary elections to the Corporation
(iii)	Greater Visakhapatnam Municipal Corporation and Rajahmundry Municipal Corporations	: within three months from the date of expiry of the term of the Chairpersons of existing Ward Committees.

GHMC – Exclusion of Prashasan Nagar Co-operative House Building Society, Jubilee Hills from the purview of G.O.Ms.No. 623, MA, dated 08.09.2008

[G.O.Ms.No. 82, MA & UD (M) Dept., dated 21-02-2011]

Read the following:—

1. G.O.Ms.No.86, MA, dated 03.03.2006
2. G.O.Ms.No.623, MA dated:08.09.2008
3. Commissioner,GHMC Letter No.4/TPS/GHMC/ 2011/109, dated 18.01.2011.

ORDER:

Government vide reference 1st cited have issued Revised CommonBuilding Rules, 2006 applicable to Hyderabad Municipal Corporation area and rest of HUDA area. As per the Rule-5(g) of the said rules "in case of Banjara Hills – Jubilee Hills area covered by Block-1 & 2, and part of Block No.3 of Ward No.8, Municipal Corporation of Hyderabad area, the building restrictions imposed vide G.O.Ms.No.601 MA dated:05.11.1988 read with G.O.Ms.No.423 MA dated:31.07.1998 would be applicable".

2. The Commissioner, GHMC vide reference 3rd cited has informed that, Government earlier in the year 1998 have framed special regulations to the Banjara Hills and Jubilee Hills area covered by Block No.1, 2 and part of Block No.3 of Ward No.8 of erstwhile MCH area. As per the Said regulations, the maximum permissible height of any residential building in the said area is 10mtrs. Same regulations have been stipulated in G.O.Ms.No.423 MA dated:31.07.1998 and G.O.Ms.No.86 MA dated:03.03.2006. Subsequently Government have partly amended the above special regulations vide G.O.Ms.No.623, MA dated:08.09.2008 and permitted individual residential buildings upto 15mtrs height in plots abutting minimum 40' wide road in Banjara Hills and Jubilee Hills areas.

3. The Commissioner, GHMC has further stated that some of the individual plot owners of Prashasan Nagar Layout are obtaining the building permission for construction of Ground + 4 Upper floors individual residential buildings and later converting the same into apartments and other nonresidential purposes by taking undue advantage of the height permitted by the GHMC and resulting into breach of bye-laws of the Prashasan Nagar Co-operative House Building Society, Jubilee Hills and therefore the Commissioner, Greater Hyderabad Municipal Corporation has requested the government to issue necessary amendments to the G.O.Ms.No.623 MA dated:08.09.2008 prohibiting the applicability of the said G.O. to the Prashasan Nagar Co-operative House Building Society, Jubilee Hills.

4. After careful examination of the proposal of the Commissioner, Greater Hyderabad Municipal Corporation and as the Government have allotted these lands for residential purpose of All India Service officers belonging to Andhra Pradesh State Cadre and in order to prevent misuse or diversion of the land for other purposes, in partial modification to the G.O.s mentioned in the references 1st & 2nd read above, Government hereby order that the layout area of Prashasan Nagar Co-operative House Building Society, Jubilee Hills shall be excluded from the provisions of G.O.Ms.No.623 MA dated:08.09.2008 and the special regulations issued vide G.O.Ms.No.601, dated:05.11.1988 and as stipulated in G.O.Ms.No.423 MA dated:31.07.1998 limiting the permissible height of the residential building to 10mtrs with maximum FSI of 1:: 1 shall be applicable to the Prashasan Nagar Co-operative House Building Society, Jubilee Hills.

THE HYDERABAD MUNICIPAL CORPORATIONS (ASSESSMENT OF PROPERTY TAX) RULES, 1990

[1][*G.O.Ms.No.439, Municipal Administration and Urban Development (TC) M.A., dt. 29.10.1990*]

In exercise of the powers conferred by sub-section (1) of Section 585 read with clause (a) of sub-section (1) of Section 212 of the Hyderabad Municipal Corporations Act, 1955, the Governor of Andhra Pradesh hereby makes the following rules relating to assessment of property taxes.

RULES

1. Short title:— These rules may be called the Hyderabad Municipal Corporations (Assessment of Property Tax) Rules 1990.

2. Definitions:— In these rules,

(i) '*Act*' means the Hyderabad Municipal Corporations Act, 1955;

(ii) '*Form*' means a form appended to these rules;

(iii) '*Zone*' means, the area as notified in Form 'A';

(iv) '*Plinth area of the building*' means, the area arrived at by multiplying the length of the building with the breadth as measured outside the basement level;

(v) '*Total plinth area of the building*' includes the plinth area of cellars, ground floor and all the floors above the ground floor of a building;

(vi) '*Houses constructed for urban poor*' means Houses constructed through agencies of State Government under Weaker Section Housing Scheme;

(vii) '*Multi-storied building*' means a building with more than ground and three floors ; and

(viii) '*Rent component of Cost of living Index*' means Rent component of cost of living index as notified by the Director of Economics and Statistics from time to time.

3. Annual Rental Value:— (1) The annual rental value of Lands and Buildings shall be deemed to be the gross annual rent at which they

1. R.S. to Part I, A.P. Gazette, (Ext.), dt. 15.11.1990.

may reasonably be expected to be let from month to month or from year to year with reference to its location, type of construction, plinth area, age of the building, nature to use to which it is put and such other criteria as may be specified.

[1][(2) The Commissioner, shall gather the information relating to the prevailing rental value of 20% of rented buildings of all categories in Form 'D' as specified in Rules 4 to 6 so as to arrive at the rate of rent per month or per year per square meter of plinth area and then issue a gist of draft notification in a daily news paper having circulation in the district and complete draft notification in the District Gazette calling for objections and suggestions from the public so as to read the Commissioner within 15 days from the date of publication of the draft notification, regarding the division of the Corporation into zones and monthly or yearly rental values per square metre of plinth area in each zone.

The Commissioner should consider the objections and suggestions if any, received in response to the said notification and revise the zones and the monthly or yearly in Form 'A' and publish a gist of final notification in a local news paper having circulation the district and full final notification in the District Gazette for information of the public.

(3) The Commissioner should make the District Gazette available to the public at the main office of the Municipal Corporation, circle offices, e-seva centres on payment of reasonable cost from the date of publication of the gist of the draft notification/final notification.]

4. Division of Municipal Corporation to Zones:— The entire Municipal Corporation area shall be divided into convenient territorial zones for the purpose of assessment of taxes based on the following factors, namely:—

(a) Civic amenities like water supply, street lighting, Roads, and drains;

(b) Markets and shopping centres;

(c) Educational Institutions;

(d) Banks, Postal Services, Public Offices;

(e) Medical Institutions;

(f) Factories and Industries; and

(g) Such other relevant factors.

5. Classification of buildings:— After the division of the Corporation into territorial zones, the building situated in each zone shall be classified as follows based on its nature of construction;

1. Subs. by G.O.Ms.No. 596, M.A. & U.D. (T.C.1), dated 20.11.2006.

(a) RCC posh buildings: RCC buildings with superior quality wood, better type of flooring and sanitary fittings and attached bathrooms;

(b) RCC ordinary buildings: RCC buildings with ordinary type of wood, ordinary flooring and sanitary fittings;

(c) Madras terraced or Jack arch roofed or tone slabs or slates roofed buildings;

(d) Mangalore tiled roofed or Asbestos roofed or G.I. roofed buildings;

(e) Country tiled buildings;

(f) Huts.

[1][(g) A building which satisfies the following criteria shall be classified as RCC posh building.

(a) A building which is having superior sanitary and electrical fittings which lead to higher cost of construction.

(b) A building which is having preponderance of marble flooring teak wood for doors, windows and cupboards.

Note: The difference in monthly rental value per sq. mt. of plinth area between RCC posh building and RCC ordinary building shall be limited to 20% of the monthly rental value per sq. mt. of plinth area.]

6. Nature of use of the Buildings:— After classification of the buildings based on the type of construction they shall be further classified into the following categories taking into consideration the nature of use of the buildings:

(a) Residential;

(b) Shops, shopping complexes;

(c) Public use, i.e., office complexes, Public and Private offices, Hospitals and Nursing Homes, Banks, Educational Institutions;

(d) Commercial purposes, i.e., Hotels, Lodges, Restaurants, Godowns and other business Establishments;

(e) Industrial purposes i.e. Factories, Mills, Workshops and other industries;

(f) Cinema theatres or Places of Public Entertainment.

[1][The Commissioner may add any other use, not specified above depending upon, local circumstances and situation as found necessary and incorporate the same in Form 'A' also suitably.]

1. Added by G.O.Ms.No. 596, M.A. & U.D. (T.C.1), dated 20.11.2006.

7. Fixation of monthly or yearly rent:— [1][(1) All buildings located in a zone shall be classified based on types of construction and nature of use. The Commissioner shall gather the information relating to the prevailing rental value of the 20 percent of the rented buildings of various categories in a zone and arrive at average monthly or yearly rent fixable for each category of building per sq. mt. of plinth area.

(1-A) The Commissioner may provide for sub-categorisation of localities in a zone for fixing separate rents for such buildings.

(i) buildings abutting main roads;

(ii) buildings abutting internal roads;

(iii) buildings abutting lanes and by-lanes.]

[1][(2) The Commissioner shall then provisionally fix monthly or yearly rent for each category in a zone for square metre of plinth area and notify the rate of monthly or yearly rental so fixed in Form-A for adopting the said rates for fixation of monthly or yearly rental of the buildings in a zone and publish the same in the District Gazette and gist of draft Notification in Form-A in a local newspaper having circulation in the district calling for objections or suggestions from the public for such adoption regarding the division of Municipal Corporation into zones. The notification shall contain the monthly or yearly rental value of the buildings in a zone together with localities/areas with particulars of door numbers included in the zone. The objections or suggestions, if any, on the said notification shall have to be sent to the Commissioner within 15 days from the date of its publication. The Commissioner shall consider the objections and suggestions, if any, received in response to the said notification and revise the zones and the monthly or yearly rental values wherever necessary. There upon the Commissioner shall publish a final notification in Form-A in the District Gazette and gist of final notification in Form-A in a local newspaper having circulation in the District for information of the public.]

(3) The Commissioner then shall fix the monthly or yearly rent for each category in a zone per square metre [2][or Sq. ft.] of plinth area and notify the rate of monthly or yearly rent so fixed in Form 'A' for adopting the said rates fixation of monthly or yearly rental value of buildings in a zone and for information of the public. The Commissioner shall issue a notification in Form 'A' furnishing the localities, areas included in the zone and particulars of door numbers included in the zone. The notification in Form 'A' shall be published in local newspapers having circulation in the area for information of the public.

1. Subs. by G.O.Ms.No. 596, M.A. & U.D. (T.C.1), dated 20.11.2006.

[1][(3-A) The Commissioner shall make District Gazette available to the public at the main office of the Municipal Corporation, Circle Offices, e-Seva Centres on payment of reasonable cost from the date of publication of the gist of the draft notification / final notification.]

(4) The Commissioner shall obtain information of all buildings in respect of plinth area, type of construction, age of building, nature of use and fix monthly or yearly rental value as per the rate of monthly rents notified for each category or a building in a zone. The property tax assessment list of buildings shall be prepared in Form 'B' [2][and the Commissioner may add columns in Form 'B' wherever found necessary.]

(5) The rates of monthly or yearly rents for each category of building in a zone shall be revised once in 5 years taking into consideration the rent component of cost of living index prevailing at the time of preparation of new assessment books. In respect of value of the lands on which buildings constructed for the purposes of choultries, hotels, lodges and cinema theatres whose value increases and the income on the property does not increase, the average rental value shall be fixed with reference to the income of the property.

(6) In the case of items wherein varying rates are provided, the Municipal Corporation shall adopt the rates found suitable for the particular municipal area after taking the local conditions into account. The Commissioner may also increase the rates so adopted by the Municipal Corporation by not exceeding 10% over the rates aforesaid for superior quality of better type of flooring and fine plastering depending upon the workmanship and cost involved. Where the entire roof is not of the same description appropriate rates shall be adopted for the different types of roof for arriving at the total cost of erection. The rate of cost per square metre plinth area shall be determined in consultation with the concerned Local Engineer belonging to Roads and Buildings Department in consonance with the price levels prevailing at the time of such revision.

(7) In the case of buildings which are partly occupied by the owner and partly let out on rent, property tax shall be levied as per Rules 6 and 3 on owner occupied portions and rented portions respectively.

(8) For the purpose of assessing the vacant land, the estimated capital value of the land shall be the market value fixed by Registration Department for the purpose of registration.

1. Ins. by G.O.Ms.No. 596, M.A. & U.D. (T.C.1), dated 20.11.2006.
2. Added by *Ibid.*

[1][8. Any tax lawfully levied by or on behalf of the Corporation at the commencement of these rules shall notwithstanding any change in the method or manner of assessment under these rules, be continued till assessment under these rules is made.]

[2][x x x x]

1. Added by G.O.Ms.No. 540, MA & UD (TC), dt. 08.11.1991.

2. **Rules 9, 10 and 11 omitted by G.O.Ms.No. 88, MA & UD (TC), Dept., dt. 5.3.2011. Prior to omission the rules were as below:**

"**9. Enhancement on revision in respect of Residential Buildings:—** Notwithstanding anything contained in these rules, where the increase on account of revision of property tax assessment exceeds 75% over the existing tax as on the 31st March, 2002 in respect of residential buildings in the general revision of property tax assessments which has been given effect to from the 1st April, 2002, the increase shall be restricted to 75% of the existing tax in respect of residential buildings.

10. Enhancement on revision in respect of non-residential Buildings:— Notwithstanding anything contained in these rules, where the increase on account of revision of property tax assessments exceeds 100% and 150% over the existing tax as on the 31st March, 2002 in respect of non-residential buildings which are more than twenty five years old and less than twenty five years old respectively in the general revision of property tax assessments which has been given effect to from the 1st April, 2002 and the increase shall be restricted to 100% and 150% of the existing tax in respect of non-residential buildings which are more than twenty five years old and less than twenty five years old respectively.]

11. Enhancement on revision in respect of non-residential Buildings:— Notwithstanding anything contained in these Rules, where the increase on account of revision of Property Tax assessment exceeds 50% over the existing tax as on the 30-9-2007 in respect of non-residential buildings, in the general revision of Property Tax assessments, which has been given effect to from the 1st October, 2007, the increase shall be restricted to 50% of the existing Tax in respect of non-residential buildings."

FORM A

Notification showing the monthly rent fixed per sq. m. [1][or sq. ft] of plinth area

[See Rule 2 (v)]

Rental Data for year .....

..... Municipal Corporation

Zone No. .....

Localities/Areas included in the zone.

Name of the Locality Door Nos. From To

Category of buildings	Nature of usage					
	Residential use	Shops	Public use	Commercial use	Industrial use	Cinema theatres
	Rs.P.	Rs.P.	Rs.P.	Rs.P.	Rs.P.	Rs. P.
(a) RCC posh buildings:						
(b) RCC Ordinary buildings:						
(c) Madras terraced or jack arch roofed or stone slabs or slates roofed buildings.						
(d) Mangalore tiled buildings or asbestos roofed or G.I. roofed buildings:						
(e) Country tiled or buildings:						
(f) Huts:						

Commissioner,

..... Municipal Corporation.

———

1. Added by G.O.Ms.No. 596, M.A. & U.D. (T.C.1), dated 20.11.2006.

FORM—B

Property Tax Assessment of Buildings and Lands of Municipal Corporation

Existing Assessment

Door No.	Name and address of the owner	No. in the assessment register	ARV of the building	ARV of the site	Total property tax Rs. Ps.	Library cess Rs. Ps.	Zone No.	Name of the locality
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Year of completion and age of the building	Description of each storey of the building: Nature and type of roofing	Nature and type of flooring	Nature and type of wood	Nature and type of walls	Amenities provided in the Building: Electricity	Water tap well	Whether connected with Mpl. Drainage	Attached Bathroom
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

Total adjacent premises in Sq. M.	Area of appurtenant land allowed under explanation to Sec. 87 of A.P.M. Act.	Area to be taxed under VLT with Asst. No.	Name and occupation of the occupant (owner or tenant)	Type of construction	Plinth area of the Building per each type of construction in Sq.M.	Nature of use of the building	Monthly rent notified per Sq. M. of plinth area as per type of construction and usage of building. Rs. Ps.	Monthly rental value fixed
(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)

Reasons for Increase/ decrease/ omission	Asst. No. allotted in the New Register	Gross ARV of the building	Age of the building 25 years and below, above 25 years	Allowance for repairs or depreciation/ owner occupied residential building. Rs. P.	Annual Rental Value of the building Rs. P.	Annual Rental Value of the site and premises Rs. P.	Total Annual Rental Value Rs. P.	Revised Asst. as fixed by the Commissioner Rs. P.
(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)

Revised Asst. as fixed by the Commissioner

Conservancy Tax Rs. P.	Lighting Tax Rs. P.	Drainage Tax Rs. P.	Total Property Tax Rs. P.	Library cess Rs. P.	Total ---------- (40) + (41) Rs. P.	Initials of Commissioner	No. of special notice	Date of service of special notice	Date of receipt of complaint petition
(37)	(38)	(39)	(40)	(41)	(42)	(43)	(44)	(45)	(46)

Asst. fixed on Revision Petition

No. of complaint petitions	Orders of the Commissioner	General Tax Rs.P.	Conservancy Tax Rs.P.	Lighting Tax Rs.P.	Drainage Tax Rs.P.	Total Property Tax Rs. P.	Library cess Rs.P.	Total (53)+(54) Rs.P.	Initials of the Commissioner
(47)	(48)	(49)	(50)	(51)	(52)	(53)	(54)	(55)	(56)

FORM—C

Vacant Land Tax Assessment ..... Municipal Corporation

Existing Assessment

Sl. No.	Patta No.	Survey and sub-division No.	Name of the owner with full address	No. in the assessment register	Area of land in Sq. M.	ARV or capital value	Total property of the tax	Description of the land with measurements	Initials or T.I.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Annual rental Value/Capital Value

Name of the occupant	Nature of usage of the land	In case of vacant land let out monthly rent as reported by owner or occupant or as estimated	Area of vacant land in Sq.M.	Capital value of the vacant land	Reasons for increase/ decrease/ omission	Asst. No. allotted in the new register
(11)	(12)	(13)	(14)	(15)	(16)	(17)

Assessment as fixed by the Commissioner.

Property Tax Rs.P.	Total Property Tax Rs.P.	Library cess Rs.P.	Total property tax and library cess Rs.P.	Initials of the Commissioner	No. of special notice	Date of service notice	No. of complaint petition
(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)

Date of receipt of complaint petition	Order of Commissioner	Property Tax Rs.P.	Library Cess Rs.P.	Total Property tax and Library Cess (Rs.P.)	Initials of the Commissioner
(26)	(27)	(28)	(29)	(30)	(31)

[1][FORM—D

Survey of data relating to prevailing rental values of all categories of rented buildings in Municipal Corporation

Sl. No.	PTI No.	Door No.	Existing		Name of the tenant	Nature of Construction
			Property Tax per annum (Rs.)	Gross MRV (Rs.)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Cellar/G. Floor, 1Floor/other Floors	Nature of Usage	Plinth Area (Sq. ft.)	Prevailing MRV (Rs.)	Remarks
(8)	(9)	(10)	(11)	(12)]

1. Added by G.O.Ms.No. 596, M.A. & U.D. (T.C.1), dated 20.11.2006.

THE URBAN DEVELOPMENT AUTHORITY (HYDERABAD) RULES, 1977[1]

[G.O.Ms.No. 215, Housing, Municipal Administration and Urban Development (M.A), 1-4-1977]

In exercise of the powers conferred by sub-section (1) of Section 58 of the Andhra Pradesh Urban Areas (Development) Act, 1975 (Act 1 of 1975), the Governor of Andhra Pradesh hereby makes the following rules, namely:—

RULES

1. Short title, commencement and application:—

(a) These rules may be called the Urban Development Authority (Hyderabad) Rules, 1977.

(b) They shall come into force with effect from the date of publication of these rules in the Andhra Pradesh Gazette.

(c) They shall apply to the Development areas as notified under sub-section (1) of Section 13 of the Andhra Pradesh Urban Areas (Development) Act, 1975.

2. Definitions:— In these rules, unless the context otherwise requires:—

(a) *'Act'* means, the Andhra Pradesh Urban Areas (Development) Act, 1975 ;

(b) *'Authority'* means, the Urban Development Authority for the Hyderabad Development Area constituted under sub-section (1) of Section 3 of the Act ;

(c) *'Commerce'* means carrying on any trade or business, sale or exchange of goods of any type whatsoever, and includes the running, with a view to make profit, of hospitals, nursing homes, infirmaries and educational institutions, and running of eating houses and lodging houses, and sarais not attached to any educational institution, and the word 'Commercial' shall be construed accordingly ;

(d) *' Commercial use'* in relation to land and building includes the use of such land or building or a part thereof for storage of goods, or as an office in connection with commerce and for other purposes of commerce ;

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1. R.S. to Part I (Ext.) A.P. Gazette, dt. 21-4-1977.

(e) *'form'* means the form appended to these rules ;

(f) *'Fund of the Authority'* means and includes all moneys received in any manner on behalf of the Authority for the time being or held by the Authority in cash on hand or in Bank, or funds in the name of the Urban Development Authority ;

(g) *'industrial use'* includes use of any land or building or part thereof for purpose of industry ;

(h) *'industry'* includes the carrying on of any manufacturing process as defined in the Factories Act, 1948 (Central Act 63 of 1948), and the word 'industrial' shall be construed accordingly ;

(i) *'plan'* means the Master Plan or Zonal Development Plan prepared under the provisions of the Act ;

(j) *'prescribed'* means prescribed by regulations made by the Authority under the Act ;

(k) *'Regulation'* means a regulation made under the Act by the Authority and includes zoning and other regulation made as part of a plan.

(l) *'Vice-Chairman'* means the Vice-Chairman of the Urban Development Authority, Hyderabad, or the acting Vice-Chairman of the authority ;

(m) *'year'* means the financial year beginning with the 1st of April, and ending with the 31st March following.

The words used but not defined in these rules shall have the meaning assigned to them in the Act.

[1]["**2-A.** The Chairman and other members who are appointed or nominated as the case may be under sub-section (3) of Section 3 of the Andhra Pradesh Urban Areas (Development) Act, 1975, shall hold office during the pleasure of the Government"]

3. Powers and Functions of the Chairman and Vice-Chairman:— (1) The Chairman shall be member and Chairman of all committees or sub-committees and in the absence of the Chairman, Vice-Chairman shall so preside. In case of equality of votes, the Chairman or Vice-Chairman, whosoever presides shall have a casting vote in all the meetings of the Authority or its committees or sub-committees.

1. Subs. by G.OMs.No. 548, M.A.& U.D (11) M.A., dt. 29-12-2004.

(2) In the absence of the Vice-Chairman on account of leave or any other cause, the Chairman may, in exercise of the powers under Section 4(1) of the Act, delegate the powers and functions of the Vice-Chairman to such other office of the Authority or may himself assume the said functions till the Vice-Chairman joins duty or till the Government make alternative arrangements.

(3) The Chairman shall have overall supervision over the affairs of the Authority ; and Vice-Chairman shall, subject to the overall supervision of the Chairman, exercise all the executive functions of the Authority.

4. Conditions of Service of Chairman and Vice-Chairman:— (1) Chairman :

(i) When a Chairman is appointed on payment of remuneration, he/she shall be paid such salary and allowances as may be determined by the Government.

(ii) The Chairman shall not undertake any work unconnected with his/her office without the prior sanction of the Government.

(iii) If the Chairman is in the service of the Government, the Authority shall make such contribution towards his/her leave, allowances, pension and provident fund of the Chairman, as may be determined by the Government. If the Chairman is not in the service of the Government, the conditions of service of the Chairman in regard to leave, provident fund, discipline and conduct shall be regulated by the Government.

(2) Vice-Chairman:—

(i) The Vice-Chairman shall not engage, his term of office, in any paid employment outside the duties of his office, without the prior sanction of the Government.

(ii) The Government may, from time to time grant leave of absence to the Vice-Chairman for such period as they deem fit.

(iii) The emoluments to be paid to the Vice-Chairman during his leave of absence shall not exceed his last drawn pay or remuneration. The details of the emoluments payable shall be laid down in the regulations, consistent with the Act and rules made thereunder under Section 59 of the Act.

(iv) Any person appointed as acting Vice-Chairman shall be paid such extra allowances as may be prescribed. He shall exercise the powers

conferred and perform the functions imposed on the Vice-Chairman by or under the Act and shall be subject to the same liabilities, restrictions and conditions as the Vice-Chairman.

(v) When the Vice-Chairman is granted leave of absence, the Authority may make additional charge arrangement by an officer of the Authority to act as Vice-Chairman in his place during the period of leave granted :

Provided that the Vice-Chairman may nominate an officer of the Authority to hold charge of the post of Vice-Chairman. In case it is not practicable to obtain the prior approval of the Authority, such additional charge arrangement shall be subject to ratification by the Authority.

5. Disqualifications for membership:— (1) A person other than a person appointed as a member by virtue of his office, shall be disqualified for being chosen as, or for being a member of the Authority.

(i) if he holds any office of profit under the Authority ; or

(ii) if he is of unsound mind and stands so declared by a competent court; or

(iii) if he is an undischarged insolvent ; or

(iv) if he has been convicted by a Criminal Court of an offence involving moral turpitude punishable with imprisonment for a period exceeding six months.

(2) If any member of the Authority other than a person appointed as a member by virtue of his office, during the terms for which he has been appointed or nominated shall be disqualified for being a member of the Authority:—

(i) if he becomes subjected to any disqualification specified in Rule 6 ; or

(ii) if he votes or takes part as a member in the discussion of any matter—

(a) in which he has directly or indirectly by himself or his partner, any share or interest, irrespective of the value of such share or interest ; or

(b) where he is professionally interested ; or

(c) where he is engaged at the time in any proceeding against the Authority.

(3) The Government either suo motu or on a report made to them and after giving a reasonable opportunity to the member concerned to represent his case, shall, on being satisfied that a vacancy has arisen under sub-rule (2) of Rule 5 declare the seat of the person concerned to be vacant.

6. Attendance at meetings of the Authority:— (1) The quorum for meetings of the Authority shall be one-third of the number of members of the Authority or five, whichever is less.

(2) Every member of the Authority is expected to attend every meeting, unless prevented from doing so due to unavoidable reasons.

(3) The Authority may permit any member other than the Vice-Chairman or acting Vice-Chairman to absent himself from meetings of the Authority for *bona fide* reasons to be recorded, while granting such permission.

(4) If any member absents himself for three executive meetings over a period of three months, without being permitted to do so by the Authority he shall cease to be a member of the Authority.

Provided that any such member may be restored to membership of the Authority by resolution of the Authority for reasons to be recorded.

7. Minimum number of members required for enabling the authority to function:— In case the Government do not find it possible to nominate all the members of the Authority as prescribed in sub-section (3) of Section 3 of the Act, or to fill casual vacancies which may have arisen, the Authority may still function, provided there are at least five members of the Authority at the time of the meeting.

8. Filling of casual vacancies:— Any casual vacancy in the composition of the Authority shall be filled by nomination or appointment by the Government in the manner provided in sub-section (2) of Section 3 of the Act, within two months from the date of such vacancy, or as soon as possible, thereafter. Any person so appointed to fill a vacancy shall hold office for the remainder of the term of the member in whose place he is appointed or nominated.

9. Powers of the Authority in relation to creation of posts, appointment of officers and other employees and incurring of non-recurring expenditure:— (1) The posts of Secretary, Chief Accounts Officer, Town Planner and Engineer shall be filled by such persons as may be selected by the Authority with the prior approval of the Government.

(2) The Authority may create such posts as it considers necessary for the efficient performance of its functions and may abolish any posts so created:

Provided that the scales of pay and allowances of all the posts in the Authority shall be fixed by the Authority only with the concurrence of the Government, that for the creation of and appointments to posts the minimum of the scale of which is above is Rs. 430 p.m. the Authority shall obtain the prior sanction of the Government.

(3) Appointment to the posts under the Authority, whether part-time or full-time, shall be governed by the recruitment rules to be made by the Authority with the previous approval of the Government.

(4) The Authority shall not incur any non-recurring expenditure exceeding Rs. [1][2.5 lakhs (Rupees two lakhs and fifty thousand)] in each case without the previous sanction of the Government, even if provision is made for such expenditure in the approved budget of the Authority.

10. The stages by which the development of any particular feature of a zone may be carried out:— As soon as possible after the preparation of the Zonal Development Plan under Section 7, the Authority shall fix priorities for development of the planning zone, the agency or agencies which shall be responsible for the development of the planning zone, and the order or stage in which the development should take place.

[2][**11.** *The Authority for the purpose of preparation of present Land Use map for revision of any Statutory Development Plan undertake a broad existing Land Use Survey either through Primary or Secondary source in such form of maps, diagrams, charts, reports and other matter of explanatory or descriptive nature pertaining to the whole or part of Development area.*]

12. Procedure for preparation and publication of Master Plan:— (1) As soon as may be, after the declaration of the development area, the Authority shall prepare a Master Plan for the development area or any part thereof.

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1. Subs. for "Rs. 10,000" by G.O.Ms.No. 164 (M.A.), dt. 26-3-1990.
2. Subs. by G.O.Ms.No. 404, MA&UD (I_1) Dept., dt. 23-6-2009.
   Note:– The above amendment shall be applicable to only to the areas of Hyderabad Metropolitan Development Authority.

(2) The Master Plan shall:—

(i) indicate broadly the manner in which the lands covered under development area are proposed to be used ;

(ii) allocate areas or zones of land—

(a) for residential, commercial, industrial and agricultural use or purposes;

(b) for public and semi-public open spaces, parks and playgrounds;

(c) for such other purposes as the Authority may think fit ;

(iii) indicate, define and provide for—

(a) the proposed National Highways, arterial roads, ring roads and major streets ;

(b) other proposed lines of communication including railways, tramways, airports and canals ;

(c) such other items, and purposes as the Authority may think fit.

[1][(3) Any such plan shall include such maps and descriptive matter as may be necessary and shall include the broad existing Land Use map referred to in Rule 11 above.]

(4) Soon after the preparation of the draft (Master) Plan for the development area or any part thereof, the Authority shall publish a notice in Form No. 1 appended to these rules in a prominent place in atleast three local daily newspapers inviting objections and suggestions allowing a period not less than 15 days from any person or local authority. The said notice shall also indicate the place and time where copies of the draft Master Plan may be inspected ; Any person residing or owning property within the inspected area or local Authority operating within the affected area will be entitled to represent in writing to the Authority any objections and suggestions which they may have in regard to the Land Use Map or the draft Master Plan.

(5) After expiry of the said period, the Authority shall prepare a list of objections and suggestions in Form No. 11 appended to these rules, to consider

1. Subs. by G.O.Ms.No. 404, MA&UD (I_1) Dept., dt. 23-6-2009.
Note:– The above amendment shall be applicable to only to the areas of Hyderabad Metropolitan Development Authority.

the representations so made within the time specified and any other information available to it, and finalise the present Land Use Map and the draft Master Plan as it thinks fit.

(6) The Authority will then submit the Land Use Map and the draft Master Plan to the Government, as required under Section 9 of the Act for their final approval.

(7) After the Government's approval, the Authority shall publish a notice in a prominent place in atleast three local daily news papers indicating the fact of the final approval of the Land Use Map and the Master Plan and the place(s) and time(s) where a copy of each of the said land use Map and the Master Plan can be inspected.

(8) A land use Map and Master Plan published by the Authority under Section 10 of the Act shall be conclusive proof of their having been duly made and approved. Such land use map and Master Plan shall have effect from the date of publication of such notice and be conclusive proof of their contents. The execution of the plan shall be commenced forthwith.

13. Modifications to the Master Plan:— (1) [1][In case the Authority desires to make any modification in the Land Use Map or Master Plan under sub-section (1) of Section 12 of the Act, a public notice shall be issued in a prominent place in atleast three local (Telugu, Urdu and English) newspapers by the Authority.]

(2) The Authority shall invite, in Form No. III appended to these rules objections and suggestions to be given in Form No. IV appended to these rules from any person or local authority affected directly or indirectly with respect to the Master Plan Land Use Map proposed to be modified.

(3) Soon after the objections and suggestions are received by the Authority, the Authority shall conduct local enquiries and other hearings, if necessary, and given an opportunity to the person affected (whether directly or otherwise) to be held on a specified date or dates before the modifications are finally approved.

[2][13-A. Modifications to the Master Plan by the Government:— [3][(1) In case the Government desire to make any modification to the Master Plan under sub-section (2) of Section 12 of the Act, a notification shall

1. Substituted by G.O.Ms.No. 66 (M.A.), dt. 28-1-1978.
2. Inserted by G.O.Ms.No. 66 (M.A.), dt. 28-1-1978.
3. Subs. by G.O.Ms.No. 320, MA & UD (M.A.), dt. 21-11-1997, pub. in A.P. Gaz. RS Pt. (I) (Ext.), dt. 26-11-1997.

[1][after consultation with the Authority] be published in the Andhra Pradesh Gazette in such form as the Government may deem fit inviting objections and suggestions from any person or local authority affected directly or indirectly with respect to the Master Plan proposed to be modified giving FIFTEEN DAYS time in respect of lands proposed to be converted to other than Industrial use and SEVEN DAYS time in respect of lands proposed to be converted from any use to 'Industrial use' for the receipt of such objections and suggestions.]

(2) Soon after the objections and suggestions are received by the Government, the Government may, if necessary, have local enquiries conducted and give an opportunity to the persons affected to state their objections before the modifications are approved and published in the Andhra Pradesh Gazette.]

14. Procedure for preparation and notification of Zonal Development Plans:— The Procedure laid down in Rules 12 and 13 for the preparation, approval and publication of the draft Master Plan modifications, thereto, shall also be applicable in respect of the preparation, approval and publication of the draft Zonal Development Plan and the modifications thereto.

15. Fee payable on application for permission of the Development of land:— (1) No application for permission under Section 14 (except under the proviso to sub-section (2) of Section 14) of the Act shall be deemed valid unless the person giving an application has paid to the Authority, in advance the fees determined by the Authority from time to time for the grant of permission, and a receipt in token of payment of such fee is attached to the application.

(2) The factors and circumstances to be taken into consideration in determining such fee shall be prescribed by regulations made under the Act from time to time.

(3) Any Government vacant lands which have been developed by the Authority or by any local authority under Chapter V of the Act may be handed over for maintenance either to the local authority concerned or to some other organisation or body. The said local authority or other organisation or body shall maintain the said lands in accordance with the Master Plan, and the directions of the Authority. The detailed terms and conditions on which the land shall be maintained shall be as prescribed (by the Authority) from time to time.

1. Subs. by G.O.Ms.No. 1208 (M.A.), dt. 31-12-1979.

(4) Where in the opinion of the Authority or Director of Town Planning, any development has been carried out contrary to the Master Plan or the Zonal Development Plan and attracts the provisions of Section 42 (1) (i) or (ii) of the Act, the Authority may call for the records and reports of the respective local Authority or other organisation or body. Where either the Authority or the Director of Town Planning has sufficient reason to believe, after examining such records as may be available that unauthorised developments taking place within their respective jurisdiction in the development area or the vicinity area which require immediate stoppage, they may direct the local authority or any officer of the local authority to take immediate action to stop the unauthorised development with immediate effect.

(5) Any person who intends to develop or change any use of any land or building under the provisions of the Act shall, along with the application for permission on a prescribed form, pay the development charges levied at the rates specified in the Table under sub-rule (6) of this rule to the Authority, or to the local authority if powers have been delegated to the latter by the Authority under Section 56 of the Act :

[1][Provided that such development charges shall be levied only with effect from such date as the Government may by notification specify in that behalf.]

(6) The rates of development charges levied under Section 28 of the Act shall be calculated and assessed so as not to exceed the rates prescribed in the Table hereunder in different parts of the development area for different uses.

1. Ins. vide A.P. Gaz. RS to Part I, dt. 28-7-1977, p. 529.

[1][TABLE-1

Rates of Development charges to be levied under Section 28 of Andhra Pradesh Urban Areas (Development) Act, 1975 and under rule 15(6) of the Urban Development Authority Rules, 1977 for Hyderabad Urban Development Authority/Buddha Poornima Project Authority/Hyderabad Airport Development Authority/Cyberabad Development Authority Areas.

Rates in Rupees per Square Meter.

For Institution of use or change of use	For Land		For Built up area		
	In erstwhile Municipal Corporation of Hyderabad area merged in Greater Hyderabad Municipal Corporation	In erstwhile 12 Municipalities merged in Greater Hyderabad Municipal Corporation	Other Municipalities & Gram Panchayats	Greater Hyderabad Municipal Corporation area	Out side Greater Hyderabad Municipal Corporation area
I. Institution of use					
a. Vacant to Residential	75	75	40	100	50
b. Vacant to Commercial	100	100	50	125	60
c. Vacant to Industrial	60	60	30	125	30
d. Vacant to Miscellaneous	60	60	30	125	30
II. Change of land use					
a. Recreational to Residential	200	100	50	100	45
b. Recreational to Commercial	225	150	60	100	60
c. Recreational to Industrial	200	100	60	100	60
d. Recreational to Miscellaneous	200	100	50	60	60
e. Agricultural/Conservation or Green Belt to Residential	150	100	50	75	45
f. Agricultural/Conservation or Green Belt to Commercial	200	100	60	100	60

1. Sybs. by G.O.Ms.No. 439 MA & UD (I_1) dt. 13.06.2007. Pub. in A.P. Gaz. Pt. 1 Ext. No. 39, dt. 15.06.2007.

g. Agricultural/Conservation or Green Belt to Industrial	150	100	60	100	60
h. Agricultural/Conservation or Green Belt to Miscellaneous	75	75	50	75	45
i. Residential to Commercial	200	100	60	100	60
j. Residential to Industrial	100	100	60	100	60
k. Residential to Miscellaneous	100	100	60	100	60
l. Commercial to Residential	75	75	50	75	45
m.Commercial to Industrial	100	100	50	100	45
n. Commercial to Miscellaneous	75	75	50	60	45
o. Industrial to Residential	75	75	50	60	45
p. Industrial to Commercial	150	100	60	100	60
q. Industrial to Miscellaneous	75	75	50	60	45
r. Miscellaneous to Residential	75	75	50	60	45
s. Miscellaneous to Commercial	150	100	60	100	60
t. Miscellaneous to Industrial	100	100	60	100	60

TABLE-2

Rates of Development charges to be levied under Section 28 of Andhra Pradesh Urban Areas (Development) Act, 1975 and under rule 15(6) of the Urban Development Authority Rules, 1977 for Visakhapatnam Urban Development Authority/Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Areas.

Rates in Rupees per Square Meter.

					Outside Municipal Corporation/ Municipality area	
For Institution of use or change of use	Land		Build up Area		Land	Build up Area
	Visakhapatnam/ Vijayawada/Guntur	Other Municipalities	Visakhapatnam/ Vijayawada/Guntur	Other Municipalities		

k. Residential to Miscellaneous	30	40	20	30
l. Commercial to Residential	20	25	15	20
m. Commercial to Industrial	30	40	15	20
n. Commercial to Miscellaneous	20	20	15	20
o. Industrial to Residential	20	20	15	20
p. Industrial to Commercial	45	45	20	30
q. Industrial to Miscellaneous	20	20	15	20
r. Miscellaneous to Residential	20	20	15	20
s. Miscellaneous to Commercial	45	45	20	30
t. Miscellaneous to Industrial	30	40	20	30

Note : In case of developments involving change of land use and institution of use (consts) both the charges shall be payable separately.]

(7) (i) The Authority may, as and when the developments are completed call upon the local authority to assume responsibility for maintenance of amenities which have been provided by the Authority such as roads, water supply and sewage. The Authority may also develop or require to be developed by the local authority amenities such as parks, play fields, community halls, local shopping centres, etc., on terms and conditions to be settled by the Government in consultation with the local authorities and the Authority.

(ii) The authority may, if it considers necessary, entrust the development of any scheme or part thereof and maintenance of the amenities provided therein to any organisation or body on such terms and conditions as it deems fit.

(iii) In case of non-response from the local authority or other organisation or body to which the work has been entrusted in a reasonable period not exceeding three months, the Authority or the Government may at its instance take such steps as may be necessary to direct the local authority or other organisation or body to take up the work without delay.

16. Maintenance of Bank Accounts:— (1) There shall be kept in a current account with any State owned Bank to be opened in the name of the "Vice-Chairman Urban Development Authority, Hyderabad" such sum of money out of the Fund of the Authority as shall not ordinarily exceed rupees five lakhs at any one time.

(2) The Accounts shall be operated upon either by the Vice-Chairman or by any two whole time paid officers of the Authority, who may be nominated by the Vice-Chairman from time to time.

(3) Any sum of money in the Fund of the Authority as it found surplus to the requirements, on a reasonable forecast over the sum referred to sub-rule (1) shall be invested by the Vice-Chairman (or any officer of the Authority, authorised by the Vice-Chairman in this behalf) in such manner as the Authority may think fit.

17. Form of the Budget of the Authority and annual report and the manner of the preparing the same:— The Budget Estimates and the Annual Reports of the Authority shall be prepared in such form as is considered appropriate by the Authority till such time as a separate manual indicating the procedure to be followed for preparing the Budget estimates and Annual report is finalised. Provided that the manual shall be submitted to the Government for approval within a period of one year from the date of which these rules come into force.

APPENDIX

FORM - I

[See Rule 12(4)]

(1) The Draft Land Use Map prepared by the Urban Development Authority, Hyderabad a copy of which is attached hereto for the area described in Schedule below, is hereby published.

(2) The map depicting various land uses may be inspected without charge during office hours at the office of Urban Development Authority.

Any person affected by the Land Use Map may communicate in writing to the Vice-Chairman, Urban Development Authority, Hyderabad the objection relating thereto.

Urban Development Authority, Hyderabad.

Dated :

SCHEDULE

(Here describe the boundary area of the Plan)

Urban Development Authority, Hyderabad

———

FORM - II

[*See Rule 12(5)*]

List of objections received regarding the Draft Land Use Map

Sl. No.	Date of receipt making	Name of person and objections	Nature of objection and suggestions	Recom-mendation of the Vice-Chairman	Orders of the Authority	Remarks
1	2	3	4	5	6	7

FORM - III

[*See Rule 13(2)*]

In exercise of the powers conferred by Section 12 of the Andhra Pradesh Urban Areas (Development) Act, 1975 the Urban Development Authority, Hyderabad hereby modifies the Master Plan as indicated below :

Master Plan proposals as approved	Modification suggested	Reasons for modifications
1	2	3

FORM - IV

[See Rule 13(2)]

Master Plan proposals	Modification suggested	Reasons for modification	Name & Address of the party	Nature of objection	Signature
1	2	3	4	5	6

A.P. MUNICIPAL CORPORATIONS (FIXATION OF CRITERIA FOR SPECIFICATION OF LARGER URBAN AREAS) RULES, 1994

[G.O.Ms.No. 449, Municipal Administration and Urban Development (Elecs.I), (M.A), dt. 18-8-1994]

In exercise of the powers conferred by sub-section (1) of Section 18 of the Andhra Pradesh Municipal Corporation Act, 1994 (Act 25 of 1994), read with clause (d) of Section 2 of the said Act, the Governor of Andhra Pradesh hereby makes the following rules fixing the criteria for notification of larger urban areas.

2. These rules shall come into force with immediate effect.

RULES

1. These Rules may be called the Andhra Pradesh Municipal Corporations (Fixation of Criteria for Specification of Larger Urban Areas) Rules, 1994.

2. An area covered by a similar urban area (Municipality) including adjacent Gram Panchayats if any considered suitable for inclusion may be declared as larger urban area under Section 2(d) of the Andhra Pradesh Municipal Corporations Act, 1994; (Act No. 25 of 1994) provided that following criteria is satisfied:

[1][(a) **Population**	:	3 lakhs provided that a municipality with a lesser Population may also be considered if it is of regional importance or has to play a significant role in regional development by virtue of its strategic location.
(b) **Density of population per Sq.Km.**	:	"Not less than 5,000".
(c) **Economic importance**	:	Established Industries, potential for growth of industries, commerce higher education, medical facilities and adequate infrastructure necessary for economic and industrial growth.
(d) **Other Factors**	:	The number of peripheral villages whose growth and expansion are towards the proposed larger urban area.]

3. An area satisfying the criteria specified in Rule 2 may be declared as a larger urban area by the Government under clause (d) of Section 2 of the Act.

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1. **Subs. by G.O.Ms.No. 571, MA & UD (Elec.II), dt. 14-9-2009.**

ELECTION RULES

1. [1]THE ANDHRA PRADESH MUNICIPAL CORPORATIONS (PREPARATION AND PUBLICATION OF ELECTORAL ROLLS) RULES, 2001

[G.O.Ms.No. 515, Municipal Administration and Urban Development (Elecs. I) M.A., dt. 15.10.2001]

In exercise of the powers conferred by sub-section (1) of Section 585 and Sections 12 and 70 of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956) and Section 18 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994) read with Andhra Pradesh Municipal Laws (Fourth Amendment) Act, 2001 (Act No. 34 of 2001) and in **supersession of the Andhra Pradesh Municipal Corporations (Registration of Electors) Rules, 1994 issued in G.O.Ms.No. 634, MA & UD, dated the 24th December, 1994** the Governor of Andhra Pradesh hereby makes the following rules for Preparation and Publication of Electoral Rolls in Municipal Corporations in the State.

1. Short title, extent and commencement:— (1) These rules may be called the Andhra Pradesh Municipal Corporations (Preparation and Publication of Electoral Rolls) Rules, 2001.

(2) These rules shall apply to all the Municipal Corporations in the State.

(3) These rules shall come into force from the date of publication in Andhra Pradesh Gazette.

2. Definitions:— In these rules, unless the context otherwise requires,—

(a) *"Election Commission"* means the State Election Commission constituted under Article 243-K read with Article 243 ZA of the Constitution of India;

(b) *"Roll"* means the electoral roll of the Corporation;

(c) *"Section"* means a section of the Act;

(d) words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Hyderabad Municipal Corporations Act, 1955;

3. Preparation of Electoral Roll:— The Electoral Roll for the Corporation shall be such part or parts of the current electoral roll of the Andhra Pradesh Legislative Assembly Constituencies, prepared and published

1 Pub. in A.P. Gaz., R.S. to Part I (Ext.), dated 16.10.2001.

under the Representation of the People Act, 1950, as relates to the Corporation, which shall be prepared by such person authorised by the State Election Commissioner, on such date as may be specified by the Election Commission, and any amendments issued to the said electoral roll of the Assembly Constituencies, thereafter, as they relate to the Corporation, upto the date of election notification, shall be carried out therein.

4. Form and language of the roll:— (1) The Roll shall be prepared in such form as the Election Commission may direct.

(2) The Roll shall be prepared in such language or languages in which the roll or rolls of the Andhra Pradesh Legislative Assembly Constituencies, which forms part of Corporation area are specified.

5. Publication of copies of electoral rolls:— (1) As soon as the roll is prepared in accordance with these rules, the same shall be divided into as many lists as there are wards as per the delimitation of wards by the person authorised under Rule 3 and sufficient number of copies shall be taken and shall be published along with notice in Form-I for inspection by the general public:—

(a) on the notice board of the Ward office concerned;

(b) on the notice board of the office of the person authorised under Rule 3;

(c) on the notice board of the office of the concerned Mandal Revenue Officer;

(d) on the notice board of the office of the concerned Revenue Divisional Officer;

(e) supply free of cost one copy of each separate list of the roll to every political party for which a symbol has been exclusively reserved by the Election Commission;

(2) Upon such publication under this rule, the roll shall be the electoral roll of the Corporation and shall remain in force till a fresh electoral roll is prepared and published.

6. Procedure for lodging claims and objections:— All omissions of names in any part of the roll or objections to any entry in the roll, at any point of time after its publication under Rule 5, shall be settled only after a suitable amendment to the relevant entry in the electoral roll of the Legislative Assembly Constituency is made based on which the Corporation electoral roll was prepared. Anybody wishing to prefer a claim for inclusion or deletion of any name in the roll or objection in any respect of any entry

in the roll so published, shall submit a proper claim or objection under the provisions of the Registration of Electors Rules, 1960 made under the Representation of the People Act, 1950 to the Electoral Registration Officer of the concerned Legislative Assembly Constituency. Subject to the provisions of Section 12 of the Hyderabad Municipal Corporations Act, 1955 and based on the orders of the Electoral Registration Officer of the Assembly Constituency on such claims and objections, the person authorised by the State Election Commissioner shall carry out consequential amendments in the Electoral Roll of the Corporation upto the date of election notification. In case of any clerical or printing error or both, or when the entries deviate from the particulars of the Assembly Electoral Roll, the person authorised by the State Election Commissioner may cause such errors rectified, so as to bring it in conformity with the particulars of the Assembly Electoral roll concerned. However, the person authorised by the State Election Commissioner, shall not resort to *suo motu* revision of the rolls by way of deletions or additions or modifications.

FORM I

Notice of Publication of Electoral Roll

(See Rule 5)

1. Notice is hereby given that the electoral roll of the corporation has been prepared ward-wise as per delimitation of wards, in accordance with the Andhra Pradesh Municipal Corporations (Preparation and Publication of Electoral Rolls) Rules, 2001 by adopting the existing entries in the relevant part of the Electoral Roll for Legislative Assembly constituency prepared under the Representation of the People Act, 1950. The same is kept open for inspection by general public.

2. Any person who wishes to lodge any claim for including his/her name in the roll or any objection to the inclusion of a name or any objection to the particulars in any entry in the said roll, shall first get such claim or objection settled with reference to the corresponding entry in the Electoral roll of the Assembly Constituencies by lodging suitable claim or objection under the provisions of the Representation of the People Act, 1950 and the Registration of Electors Rules, 1960 made thereunder, before the Electoral Registration Officer of the concerned Assembly Constituency.

3. All orders of inclusion, deletion or corrections issued on the basis of these claims and objections by the said Electoral Registration Officer till the date of the election notification will be duly incorporated in the electoral roll of the Corporation.

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2. HYDERABAD MUNICIPAL CORPORATIONS (ELECTION OF CHAIRPERSON OF STANDING COMMITTEE) RULES, 1995

[1][*G.O.Ms.No. 143, M.A. and U.D. (Elec-I), dt. 18.03.1995*]

In exercise of the powers conferred by Section 585 read with Section 93 of the Hyderabad Municipal Corporations, Act, 1955 and in supersession of the all previous Bye-laws issued on the subject, the Governor of Andhra Pradesh hereby makes the following rules:—

RULES

1. Short Title:— These rules may be called the Hyderabad Municipal Corporations (Election of Chairperson of Standing Committee) Rules, 1995.

2. Definitions:— (1) In these rules, unless the context otherwise requires:—

(i) *'Act'* means the Hyderabad Municipal Corporations Act, 1955 (Act No. II of 1956.)

(ii) *'Form'* means form appended to these rules.

(iii) *'Government'* means the State Government of Andhra Pradesh.

(iv) *'Member'* means a member of the Standing Committee.

(v) *'Secretary'* means Secretary to the Corporation appointed by Government under Section 133 of the Act.

(vi) *'Standing Committee'* means the Standing Committee constituted under sub-section (1) of Section 93 of the Act,

(vii) *'State Election Commission'* means the State Election Commission constituted under clause (51-a) of Section 2 of the Act.

The words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. Constitution of Standing Committee:— Immediately after General Elections to the Corporation are completed, the Government shall, by order constitute Standing Committee for Municipal Corporation.

4. Election of Chairperson:— (1) The Secretary in consultation with the Commissioner shall within fifteen days from the date of Election of Chairpersons of Wards Committees under the Andhra Pradesh Municipal

1. Pub. in A.P. Gazette, R.S. to Part I (Ext.) No. 14, dt. 20.03.1995.

Corporations (Constitution, Election of Chairperson and Powers & Functions, etc., of Ward Committees). Rules issued a notice of seven clear days but not exceeding fifteen days to the members of the Standing Committee fixing the date, time and place of a meeting specially convened for the purpose to elect the Chairperson of the Standing Committee from among themselves. He shall also conduct election to the Office of Chairperson on the appointed day.

(2) The meeting shall be presided by the Secretary and the quorum for the meeting shall be not less than one-half of the members of the Standing Committee.

(3) If at such meeting the Chairperson is not elected, another special meeting shall be convened for the purpose by the Secretary within 7 days from the date of such meeting. A notice of three (3) clear days shall be given to the members of the Standing Committee for convening the meeting indicating therein the date, time and place of the meeting :

Provided that where the election of Chairperson could not be conducted in the first two meetings for want of quorum, the Chairperson shall be elected in the third meeting from among the members present without insisting quorum.

(4) If within half an hour after the time appointed for a meeting quorum is not present, the meeting shall stand adjourned, unless all the members present agree to wait longer.

5. (1) A member shall propose only once the name of one of the members as Chairperson of the Standing Committee. The names of all the candidates duly proposed shall be read out by the Secretary, and the contesting candidates shall be given thirty minutes time for withdrawal.

(2) After withdrawal if there is only one validly nominated candidate, he shall be declared to have been elected. If there are two or more candidates, an election shall be held by secret ballot.

(3) Where the election has to be conducted under these rules a symbol shall be assigned to each candidate by the Secretary in consultation with the candidates. Serial numbers shall also be assigned to the candidates with reference to the alphabetical order of their surnames in Telugu. Where there is no surname, the proper name shall be taken into consideration and when initials only precede the proper name, the initials have to be ignored. The secretary shall then announce to the members the serial numbers and symbols assigned to each candidate.

Note:— The symbols shall conform to the instructions issued by the State Election Commission from time to time.

6. (1) At the place set apart for voting, the Secretary shall provide a ballot box and voting compartment. The ballot box shall be so constructed that the ballot papers can be inserted herein but cannot be withdrawn there from without the box being unlocked.

(2) The Secretary shall immediately before the votes are taken show the ballot box empty to such members as may be present so that they may see that it is empty and shall then lock it up and place his seal upon it in such manner as to prevent its being opened without breaking such seal. The ballot box shall then be kept in full view of the members present.

(3) Every member wishing to vote shall be supplied with a ballot paper in Form-I on which the Secretary shall have, before its supply, affixed a stamp and signed on the reverse portion thereon so as to indicate its authenticity.

(4) No member shall be allowed to enter the voting compartment when another member is inside the compartment.

(5) If owing to blindness or other physical infirmity a member is unable to recognise the symbols on the ballot paper or to make a mark thereon, the Secretary shall record vote on the ballot paper in accordance with the wishes of the member, fold it so as to conceal the vote and insert it into the ballot box.

(6) While acting under sub-rule (5) the Secretary shall observe such secrecy as is feasible and shall keep a brief record of each such instance but shall not indicate therein the manner in which any vote has been given.

(7) After all the members present at the meeting have voted, the Secretary shall close the poll and take up counting of votes.

(8) The Secretary shall then open in the presence of the members present the ballot box, take out the ballot papers therefrom, count them and record the number thereof in a statement.

A ballot paper shall be rejected if :

(a) the mark is not made thereon ;

(b) if bears any mark by which a voter can be identified ;

(c) it does not bear the signature of the Secretary ;

(d) the mark is set opposite the name of more than one candidate so as to render it doubtful to which candidate it is intended to apply ;

(e) it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established ; or

(f) it bears more marks than the vacancies to be filled up.

7. The Secretary shall then declare the results in accordance with the following instructions ;

(i) if there are only two candidates, the one who secures the higher number of votes shall be declared to have been elected. In the event of there being an equality of votes between the two candidates, the Secretary shall draw lots in the presence of members present and the candidate whose name is first drawn shall be declared to have been duly elected ;

(ii) if there are more than two candidates, the one who obtains the lowest number of votes shall be eliminated and the voting shall be conducted again. If there is an equality of votes among all the candidates or if two or more candidates lowest on the list have obtained an equal number of votes the Secretary shall by drawing lots in the presence of the members present decide which of such candidates shall be eliminated. The elimination shall be repeated until two candidates only are left, than voting shall be taken for the last time and the candidate who secures the higher number of votes shall be declared to have been duly elected. In the event of there being an equality of votes at the final stage between the two remaining candidates, the Secretary shall draw lots in the presence of the members present and the candidate whose name is first drawn shall be declared to have been duly elected.

8. Immediately after the declaration of the results, the Secretary shall prepare a record of the proceedings at the meeting and sign it attesting with his initial every correction made therein and also permit any member present at the meeting to affix his signature to such record, if that member expresses his desire to do so.

9. (1) The Secretary shall then make up into separate packets the ballot papers relating to each candidate, whether counted or rejected, seal up each packet and note thereon a description of its contents, the election to which it relates and the date thereof.

(2) These packets shall not be opened and their contents shall not be inspected or produced except under order of a competent Court.

(3) The packets shall be retained in the safe custody in the Municipal Corporation Office by the Commissioner for a year and shall then, unless otherwise directed by the orders of a competent Court, be destroyed.

10. After the declaration of the results, the Secretary shall issue the proceedings in the Form-II indicating the name of the person elected as Chairperson. The Secretary shall thereafter send an attested copy of the form to the Commissioner and the Government and shall also place a copy of it on the Notice Board of the Municipal Corporation Office.

FORM I

[*See Rule 6(3)*]

Ballot Paper

Sl.No.	Name of the Candidate.	Symbol assigned.
1	2	3
1.		
2.		
3.		
4.		
5.		

FORM II

[*See Rule 10*]

This is to notify that Sri/Smt .... has been declared elected as Chairperson of Standing Committee ..... Municipal Corporation in the Special meeting held on .....

Secretary,

Municipal Corporation .....

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3. THE ANDHRA PRADESH MUNICIPAL CORPORATIONS (CONDUCT OF ELECTION OF MEMBERS, ELECTION EXPENSES AND ELECTION PETITIONS) RULES, 2005

[1][*G.O.Ms.No. 713, Municipal Administration & Urban Development (Ele. II), 21st July, 2005*]

In exercise of the powers conferred by sub-section (1) of Section 585 read with Sections 20B, 60A, 67, 71, 617B and 617C of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956), Sections 7 and 11 of the Visakhapatnam Municipal Corporation Act, 1979 (Act No. XIX of 1979), Sections 7 and 11 of the Vijayawada Municipal Corporation Act, 1981 (Act No. XXIII of 1981) and Sections 7, 14 and 18 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. XXV of 1994), and in supersession of all the previous rules on the subject, the Governor of Andhra Pradesh, hereby, makes the following rules relating to the Election of Members, Election Expenses and Election Petitions, namely:–

CHAPTER I

PRELIMINARY

1. Short title and application:– (1) These rules may be called the Andhra Pradesh Municipal Corporations (Conduct of Election of Members, Election Expenses and Election Petitions) Rules, 2005.

(2) They shall apply to the Municipal Corporations of Hyderabad, Visakhapatnam, Vijayawada and to all Municipal Corporations constituted under the Andhra Pradesh Municipal Corporations Act, 1994.

2. Definitions:– (1) In these rules, unless the context otherwise requires:–

(a) '*Act*' means the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956);

(b) '*ballot box*' includes any box, bag or other receptacle used for the insertion of the ballot paper by a voter;

(c) '*counterfoil*' means the counterfoil attached to a ballot paper printed under the provisions of these rules;

(d) '*electoral roll*' means the electoral roll for the Corporation concerned prepared and published under Section 12 of the Act;

(e) '*electronic voting machine*' means, the voting machine referred to in Section 60 A of the Act;

1. Pub. in A.P. Gaz. R.S. to Part I Ext. No. 51, dated 23-07-2005.

(f) '*Form*' means a form appended to these rules and includes a translation thereof in Telugu or any other languages specified in Schedule 8 of the Constitution;

(g) '*Marked copy of the Electoral Roll*' means the copy of the electoral rolls set apart for the purpose of marking the names of electors to whom ballot papers are issued at an election or the names of electors who are allowed to vote through electronic voting machine;

(h) '*Voter*' in relation to an election to any Municipal Corporation means a person in the electoral roll of the ward concerned for the time being in force and who is not subject to any disqualification for voting;

(2) Words and expressions used in these rules but not defined shall have the meaning assigned to them in the Act.

(3) For the purpose of these rules, a person who is unable to write his name shall, unless otherwise expressly provided in these rules, be deemed to have signed an instrument or other paper if,–

(a) he has placed a mark on such instrument or other paper in the presence of the Commissioner, the Returning Officer or the Presiding Officer or such other officer as may be specified in this behalf by the Commissioner, and

(b) the officer aforesaid on being satisfied as to his identity has attested the mark as being the mark of that person.

CHAPTER II

ELECTION OF MEMBERS

3. Deposit:– (1) A candidate shall not be deemed to be duly nominated unless he deposits or caused to be deposited a sum of rupees two thousand and where the candidate is a member of any of the Scheduled Castes or Scheduled Tribes the amount to be deposited by him or on his behalf shall be rupees one thousand only:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same ward not more than one deposit shall be required of him under this sub-rule.

(2) Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited under that sub-rule unless at the time of delivery of the nomination paper under sub-section (1) of Section 36 of the Act, the candidate has either deposited or caused to be deposited

that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the State Bank of Hyderabad or a Government Treasury.

4. Declarations to accompany Nomination Paper:– (1) Every nomination paper delivered under Section 36 of the Act, shall be accompanied by such declaration as are specified in Forms I, II and III, provided that declaration in Form II shall be required–

(a) in the case of an election in a Ward where the seat to be filled is reserved for the Scheduled Tribes, Scheduled Castes or Backward Classes;

(b) the nomination papers to be presented by or on behalf of any candidate or accepted by the Returning Officer for election in the Ward under sub-section (8) of Section 36 of the Act, shall not exceed four;

(2) Every candidate shall along with the nomination paper also file an affidavit with regard to his criminal antecedents, assets and liabilities and educational qualifications as required by the State Election Commission and in the prescribed format sworn before a Notary Public or a Magistrate of the First Class.

5. Receipt of nomination papers and notice of scrutiny:– The certificate required under Section 38 of the Act, shall be in Form IV and the receipt for nomination and the notice of scrutiny shall be in Form V.

6. Notice of nominations received:– The notice of nomination to be affixed under Section 38 of the Act, shall be in Form VI.

7. List of validity nominated candidates:– (1) After making endorsement on the nomination paper as required under sub-section (6) of Section 39 of the Act, the Returning Officer shall sign thereon a certificate of scrutiny in Form VII.

(2) The list of validly nominated candidates referred to in sub-section (8) of Section 39 of the Act, shall be in Form VIII.

(3) The name of every such candidate shall be shown in the list of validity nominated candidates as it appears in his nomination paper:

Provided that if a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or is different from the name by which he is popularly known, he may at any time before the list of contesting candidates is prepared furnish in writing to the Returning Officer, the proper form and spelling of his name and the Returning Officer shall, on being satisfied as to the genuieness of the request, make the

necessary correction or alteration in the list in Form VIII and adopt the form and spelling in the list of contesting candidates.

8. Receipt of notice of withdrawal:– (1) On receipt of the notice of withdrawal of candidature, the Returning Officer shall note thereon the date on which it was delivered. The receipt of notice of withdrawal to be handed over to the person delivering the said notice shall be in Form IX.

(2) The notice of withdrawal to be affixed under sub-section (3) of Section 40 of the Act, shall be in Form X.

9. Publication of the list of contesting candidates:– (1) On the expiry of the time allowed for withdrawal of candidature, the Returning Officer shall prepare a list in Form XI of persons whose nominations have not been rejected and who have not withdrawn their candidature which may be called as list of contesting candidates and publish it on the notice board of his Office forthwith.

(2) The list of the contesting candidates shall be prepared in such languages as the State Election Commission may direct and shall contain the names in alphabetical order and addresses of the contesting candidates as given in the nomination paper. The alphabetical order shall be determined with reference to the surnames of candidates having surnames and the names proper of other candidates, and if the list is prepared in more than one language, the names of candidates therein shall be arranged in alphabetical order according to the script of such one of those languages as the State Election Commission may direct. If a poll is found to be necessary, the Returning Officer shall specify symbol assigned to each candidate:

Provided that if two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. The names of such candidates shall be arranged in the order in which their nominations were received by the Returning Officer.

(3) If a poll is found to be necessary the Returning Officer shall assign to every contesting candidate a distinctive symbol as per the provisions of Section 34 of the Act read with paragraph 6 of the Registration of Political Parties and Allotment of Symbols Order, 2001 issued by the State Election Commission and any other instructions issued by the State Election Commission in this behalf from time to time.

(4) In every case where a symbol has been assigned to a candidate under sub-rule (3) such candidate or his election agent shall forthwith be informed of the symbol so assigned and be supplied with a specimen thereof by the Returning Officer.

10. Appointment of Election Agent:– The Appointment of an election agent under Section 43(1) of the Act shall be made in Form XII and the notice of such appointment shall be given by forwarding the same in duplicate to the Returning Officer who shall return one copy thereof to the candidate or the election agent after affixing thereon his seal and signature in token of his approval of the appointment.

11. Revocation of appointment of Election Agent and Appointment of another person:– The revocation of appointment of an election agent under sub-section (1) of Section 45 of the Act shall be in Form XIII. The procedure laid down in Rule 10 shall apply for appointment of another person to be an election agent under sub-section (2) of Section 45 of the Act.

12. Appointment of Polling Agents:– (1) The number of polling agents that may be appointed under Section 47 of the Act shall be one agent and two relief agents for each polling station.

(2) Every such appointment shall be made in duplicate in Form XIV and a copy of such appointment shall be given to the Returning Officer and a duplicate copy thereof shall be made over to the polling agent for production at the polling station or the place fixed for the poll, as the case may be.

(3) No polling agent shall be admitted into the polling station or the place fixed for the poll unless he has delivered to the Presiding Officer the instrument of his appointment under sub-rule (2) after duly completing and signing before the Presiding Officer, the declaration contained therein.

13. Appointment of Counting Agents:– (1) The number of counting agents that a candidate may appoint under Section 48 of the Act shall be one agent for each table plus one more at the table of the Returning Officer.

(2) Every such appointment shall be made in Form XV in duplicate one copy of which shall be forwarded to the Returning Officer while the other copy shall be made over to the counting agent for production before the Returning Officer not later than one hour before the time fixed for counting of votes.

(3) No counting agent shall be admitted at the place fixed for counting, unless he has delivered to the Returning Officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the Returning Officer an authority for entry into the place fixed for counting.

14. Revocation of appointment or death of Polling Agent:– (1) The revocation of the appointment of a polling agent under sub-section (1)

of Section 49 of the Act shall be in Form XVI and be lodged with the Returning Officer while sending a copy thereof to the Presiding Officer of the polling station at which the polling agent is appointed.

(2) In the event of any such revocation, the candidate / his election agent may at any time before the poll is closed, make a fresh appointment in the manner specified in Rule 12 and the provisions of that rule shall apply to every such appointment.

15. Revocation of appointment or death of Counting Agent:– (1) The revocation of appointment of counting agent under sub-section (2) of Section 49 of the Act shall be in Form XVII and be lodged with the Returning Officer.

(2) In the event of any such revocation before the commencement of counting of votes, the candidate/election agent may make a fresh appointment in accordance with the provisions of Rule 13.

16. Admission to Polling Station:– (1) The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all other persons except:

(a) the polling officers;

(b) each candidate, his election agent, and one polling agent of each candidate;

(c) other public servants on duty;

(d) a child in arms accompanying a voter;

(e) the companions of blind or infirm voters who cannot move without help; and

(f) such other persons as the Presiding Officer may, from time to time, admit for the purpose of identifying voters or otherwise assisting him in taking the poll.

(2) The Presiding Officer shall close the polling station at the hour fixed in that behalf under Section 57 of the Act and shall not admit thereto any voter after that hour:

Provided that all voters present within the polling station before it is so closed shall be entitled to have their votes recorded.

(3) If any question arises as to whether any voter shall, for the purpose of the proviso to sub-rule (2) be deemed to be present within the polling station before it is closed, the question shall be referred for the decision of the Presiding Officer of such polling station and his decision shall be final.

17. Arrangements for secrecy of voting and special facilities for Women voters at polling station:– (1) Each polling station shall be furnished with a compartment (referred to in these rules as a voting compartment) in which voters can, one after another, cast their votes screened from observation and no voter shall be allowed to enter such voting compartment when another voter is inside the same for the purpose of recording his vote.

(2) Where a polling station is for both men and women voters, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.

(3) The Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist women voters and also to assist the Presiding Officer generally in taking the poll in respect of women voters and in particular, to help in searching any woman voter incase it becomes so necessary.

(4) The Presiding Officer may permit a voter to enter the voting compartment with a child in arms for the purpose of voting.

18. Provision of ballot boxes and other election material at polling station:– (1) There shall be displayed prominently outside each polling station:–

(a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station, or the particulars of the voters so entitled; and

(b) a copy of the list of contesting candidates for Member in the same language or languages and in the same order in which the name of contesting candidates at the election are published under Rule 9.

(2) The Returning Officer shall provide for each polling station:–

(a) as many ballot boxes as may be necessary;

(b) a sufficient number of ballot papers and copies of the relevant part of the list of voters in respect of the polling area, the voters where of are entitled to vote at the polling station;

(c) instruments for stamping the distinguishing mark on ballot papers and articles necessary for the voters to mark the ballot papers.

19. Distinguishing mark on ballot paper:– (1) Every ballot paper before it is delivered to a voter at a polling station shall bear such distinguishing mark as the State Election Commission may direct and it shall be kept secret.

(2) When any direction under sub-rule (1) has been issued by the State Election Commission, the Returning Officer shall provide at each polling station, instrument or instruments required for stamping such mark on the ballot paper.

(3) The Presiding Officer at each polling station shall sign his name in full on the back of each ballot paper before it is issued to the voter.

20. Ballot Boxes to be locked and sealed before the commencement of poll:– (1) Every ballot box shall be of such design and colour as have been previously approved of by the State Election Commission. It shall be so constructed that ballot papers can be inserted therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken.

(2) The Presiding Officer at each polling station, shall immediately before the commencement of poll, allow the candidates, their election agents and their polling agents who may be present at such station to inspect each ballot box to be used at the poll and demonstrate to them that it is empty and bears the labels both inside and outside marked with,

(a) the serial number, if any, and name of the Ward;

(b) the serial number and name of the polling station;

(c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and

(d) the date of poll.

(3) When it is necessary to use a paper seal for securing the ballot box, the Presiding Officer shall fix in the space meant there for in each such box a paper seal provided for the purpose. He shall also affix on such paper seal his own signature or seal of such candidates or of such election or polling agents of the candidates as may be present and may desire to affix such signature or seals. He shall then secure and seal each box in their presence in such manner that the slit in the box for insertion of ballot papers therein remains open.

(4) Where it is not necessary to use a paper for securing the ballot box, the Presiding Officer shall after complying with the provisions of sub-rule (2), secure and seal the box in such manner that the slit in the box for insertion of ballot papers therein remains open and shall also allow the candidates or their election or polling agents, who may be present affix their own seals on the space in the box meant there for if they so desire.

(5) The paper seal or the other seals used for securing a ballot box shall be affixed in such a manner that after the box has been closed, sealed

and secured, then they shall be placed in full view of the Presiding Officer and the agents referred to in sub-rule (2).

21. Special procedure for prevention of personation of voters:– (1) Subject to the other provisions of this rule every voter who applies for a ballot paper for the purpose of voting at a polling station shall, before receiving such paper allow;

(a) the inspection of his left fore-finger to the Presiding Officer or any Polling Officer, and

(b) an indelible ink mark to be put on his left fore-finger;

(2) If any such voter:–

(a) refuses to allow such inspection of his left fore-finger;

(b) refuses to allow an indelible ink mark to be put on his left forefinger, or

(c) persists in doing any act with a view to remove such mark after it has been put;

he shall not be entitled to be supplied with any ballot paper or to record his vote at the election.

(3) No person who has already such a mark on his left fore-finger at the time he enters the polling station shall be supplied with any ballot paper and if any such person applies for a ballot paper he shall be liable to be arrested and prosecuted for personation.

(4) Any reference in this rule or in Rule 22 to the left fore-finger of a voter shall, in the case where the voter has his left fore-finger missing, be construed as a reference to any finger of his hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the fore-finger or any other finger of his right hand, and shall, in the case where all his fingers of both the hands are missing, be construed as a reference such extremity of his left or right arm he possesses.

22. Procedure before recording of votes:– (1) The voter on entering the polling station shall first have his left fore-finger to be inspected by a polling officer for the purpose of ascertain if he/she already has any mark of indelible ink on that finger. If there is no such mark, such or any other polling officers:–

(a) shall ascertain the voter's name and address and such other particulars as appear in the electoral roll and, after having checked these by reference to the electoral roll shall call out the number, name and description of the voter according to the entry in the electoral roll;

(b) shall thereafter cause the left hand fore-finger of the voter to be marked with indelible ink and then deliver a ballot paper. Before delivering the ballot paper to a voter where a direction has been issued in this behalf under Rule 19, the polling officer shall stamp the ballot paper and its counterfoil on the back with such mark as may have been specified under that rule; and

(c) shall before delivering the ballot paper to a voter:–

(i) record on its counterfoil the part number and the serial number of the voter in the electoral roll as entered in the marked copy of the electoral roll;

(ii) obtain the signature or thumb impression of that voter on the said counterfoil; or

(iii) mark the name of the voter in the marked copy of the list of voters to indicate that the ballot paper has been issued to him without however recording therein the serial number of the ballot paper issued to the voter:

Provided that no ballot paper shall be delivered to voter unless he has affixed his signature or thumb impression on the counterfoil of that ballot paper. It shall not be necessary for any Presiding Officer or Polling Officer or any other Officer to attest the thumb impression of the voter on the counterfoil.

(2) No person in the polling station shall note down the serial numbers of the ballot papers issued to particular voter.

(3) In deciding the right of a person to obtain a ballot paper under this rule, the Presiding Officer at any polling station may interpret an entry in the electoral roll so as to overlook merely clerical or printing errors, provided that he is satisfied that such person is identical with the voter to whom such entry relates.

23. Identification of voters:– (1) The Presiding Officer may employ at the polling station such persons as he thinks fit to assist him or any Polling Officer in identifying the voters.

(2) Where the electors have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960 issued under Representation of People Act, 1950, the elector shall produce his identity card before the Presiding Officer or the Polling Officer authorized by him in this behalf. Where such identity cards are not issued, each elector shall establish his identity by producing any such documents as are specified, by order, by the State Election Commission.

24. Casting of votes after the receipt of Ballot Papers:– (1) The voter on receiving the ballot paper shall forthwith:–

(a) proceed to the voting compartment;

(b) make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) if required, show to the Presiding Officer the distinguishing mark on the ballot paper;

(e) insert the folder ballot paper into the ballot box;

(f) quit the polling station.

(2) Every voter shall vote without undue delay.

(3) No voter shall be allowed to enter a voting compartment, when another voter is inside it.

(4) The Presiding Officer at a polling station shall, when he is so requested by a voter, explain to him the instructions contained in these rules for recording of vote.

(5) If a voter to whom a ballot paper has been issued, refuses after warning given by the Presiding Officer to observe the procedure as laid down in sub-rule (1) the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the Presiding Officer or by a Polling Officer under the directions of the Presiding Officer.

(6) After the ballot paper has been taken back the Presiding Officer shall record on its back the words "cancelled: voting procedure violated", and put his signature below those words.

(7) All the ballot papers on which the words "cancelled: Voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "ballot papers: voting procedure violated".

(8) Without prejudice to any other penalty to which voter from whom a ballot paper has been taken back under sub-rule (5) may be liable, the vote if any, recorded on such ballot paper shall not be counted.

25. Recording of Votes of Blind or infirm Voters:– (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmity a voter is unable to read the names or recognize the symbols on the ballot-paper or to make a mark thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of

not less than eighteen years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes and, if necessary for folding the ballot paper so as to conceal the vote inserting it into the ballot box:

Provided that no person shall be permitted to act as the companion of more than one voter at any polling station on the same day :

Provided further that before any person is permitted to act as companion of a voter on any day under this rule, the person shall be required to declare, that he will keep secret the vote recorded by him on behalf of the voter and that he has not already acted as companion of any other voter at any Polling Station on that day.

(2) The Presiding Officer shall keep a record in Form XVIII of all cases under this rule.

26. Voter to be questioned in case of doubt as to his identity:– At any time before a ballot paper is delivered to a voter, the Presiding Officer or a Polling Officer may of his own motion, if he has reason to doubt the identity of the voter or his right to vote at such election and shall if so required by a candidate or polling agent, put to the voter the following questions:–

(1) Are you the person enrolled as follows:–

(reading the whole entry from the electoral roll)

(2) Have you already voted at the present election in this Ward?

(3) Have you already voted at the present election in any other Ward?

And the voter shall not be supplied with a ballot paper if he refuses to answer any of these questions and unless he answers the first question in the affirmative, the second and the third question in the negative.

27. Form of Ballot Paper:– (1) Every ballot paper to be used at an election shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such colour, form and the particulars therein shall be in such language, or languages as the State Election Commission may direct. It shall also contain the symbols allotted to the candidates.

(2) The ballot paper shall contain the name of candidates in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4) The ballot papers shall be serially numbered and the counterfoils thereof shall have on their faces the same serial numbers as those contained on the faces of the ballot paper.

28. Tendered Votes:– (1) If a person representing himself to be a particular voter seeks a ballot paper after another person has already voted as such voter, he shall on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled subject to the following provisions of this rule, to mark a ballot paper (hereinafter in these rules referred to as a "tendered ballot paper") in the same manner as any other voter.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form XIX.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling station except that–

(a) such tendered ballot papers shall be serially the last in the bundle of ballot papers issued for use at the polling station; and

(b) such tendered ballot paper and its counterfoil shall be endorsed on the back with the words "tendered ballot paper" by the Presiding Officer, in his own hand and signed by him.

(4) The voter after making a tendered ballot paper in the voting compartment and filing it, shall instead of putting it into the ballot box, give it to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

29. Challenged Votes:– (1) Any polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of Rupees five in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, the Presiding Officer shall:–

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the list of voters in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form XX, and

(d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary enquiry in respect of the challenge and may for that purpose,

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

(b) put to the person challenged any question necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the enquiry, Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote; and if he considers that the challenge has been established he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to the Municipal Corporation concerned and in any other case he shall return it to the challenger at the conclusion of the enquiry.

30. Spoilt and Returned Ballot Papers:– (1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked "Spoilt : cancelled" by the Presiding Officer.

(2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked as 'returned: cancelled" by the Presiding Officer.

(3) All the ballot papers cancelled under sub-rule (1) and sub-rule (2) shall be kept in separate packet.

31. Adjournment of poll in emergencies:– (1)(a) Where the poll is adjourned under Section 58 of the Act, the fact that the poll has been so stopped shall be immediately be announced by the Presiding Officer to the persons present at the polling station.

(b) If the Presiding Officer considers it necessary to stop polling for a short interval due to heavy rain or dislocation of work in the polling station for some reason or other or due to disturbance of peace in the neighbourhood of the polling station, he can do so by informing the public to that effect under intimation to the Commissioner through the Returning

Officer. In such an event, the poll can be resumed and continued beyond the period fixed for the poll to the extent of the time for which the poll was stopped.

(2) Where a Presiding Officer stops a poll under sub-rule (1)(a), he shall observe the procedure laid down in Rule 34 and make a full report of the circumstances to the Commissioner through Returning Officer. The Commissioner in turn shall forward the same expeditiously with his remarks thereon, to the State Election Commission through the Election Authority.

(3) The State Election Commission shall thereupon order:–

(a) that the poll be continued at the polling station for the number of hours for which it was not held on the previous occasion, provided that not less than 50% of the voters had cast their votes; or

(b) that the proceedings at the poll held at the polling station on the previous occasion be ignored and that a fresh poll be held at such polling station for the full number of hours for which it should have been held on the previous occasion.

(4) Any order passed under sub-rule (3) shall state,–

(i) the date on which and the hours between which the continuation poll or the fresh poll, as the case may be, shall be held; and

(ii) the date on which and the place and hour at which, the Returning Officer will commence the counting of the votes; and

(5)(a) where an order is passed under clause (a) of sub-rule (3) for the continuation of the poll, the Returning Officer shall proceed afresh for conducting the poll and return to the Presiding Officer appointed all the packets received by him under sub-rule (2).

(b) the Presiding Officer shall open the packets just before the commencement of the continuation poll in the presence of such persons as may be present at the polling station and commence such poll precisely at the hour fixed there for in the order passed by the State Election Commission under clause (a) of sub-rule (3).

(c) at the continuation poll, the Presiding Officer shall allow only such electors to vote who did not vote on the previous occasion.

(6) Where an order is passed under clause (b) of sub-rule (3) for holding a fresh poll, the Returning Officer shall proceed afresh for conducting a fresh poll which shall be held at the polling station concerned in accordance

with the provisions of these rules in all respects as if it were being held at such polling station for the first time.

Explanation:– There shall be no fresh nominations in cases falling under this sub-rule.

(7) Notwithstanding anything contained in this rule, if a candidate belonging to a recognised political party or a registered political party to which a symbol, if any, is reserved, dies at any time before orders are passed by the State Election Commission under sub-rule (3) or at any time after the passing of such orders but before the commencement of continuation poll or of the fresh poll, as the case may be, the Returning Officer shall upon being satisfied of the fact of the death of the candidate, intimate such fact to the State Election Commission through the Commissioner and stop all further proceedings in connection with the election and start election proceedings afresh in all respects as if for a new election to the seat concerned:

Provided that no fresh nomination shall be necessary in the case of the remaining candidates who stood nominated at the time when poll was stopped.

32. Fresh poll in case of destruction of ballot box:– (1) If at any election, a ballot box is unlawfully taken out of the custody of the Returning Officer or the Presiding Officer and is in any way damaged or tampered with or is either accidentally or intentionally destroyed or lost, the procedure prescribed in Section 59 of the Act shall be followed.

33. Adjournment of poll etc., on the ground of booth capturing:– Where booth capturing taken place the procedure prescribed in Section 59-A of the Act shall be followed.

34. Delivery of Ballot Boxes to the Returning Officer after the close of the Poll:– (1) The Presiding Officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of any candidates or their election or polling agents who may be present, close the slit for insertion of ballot papers of each ballot box, or where the box does not contain any mechanical devise for closing the slit, seal up the slit, and seal and secure all the ballot boxes used at the polling station. The Presiding Officer shall allow the candidates or their election agents and their polling agents present at the polling station to fix their seals on the slit of the ballot box or boxes.

(2) After sealing and securing the ballot box or boxes in accordance with the provisions of sub-rule (1), the Presiding Officer shall cause each such ballot box wrapped with new cloth which shall be sealed on the seams

with his seal and also with the seals of any candidates or their election or polling agents who may be present and desire to affix their seals thereon. He shall also put his signature, and allow those candidates or their election or polling agents who may be present and desire to do so, to put their signature on a piece of paper which shall be properly pasted on the cloth in which each such ballot box has been wrapped.

(3)(i) The Presiding Officer shall also make up into separate packets:–

(a) the unused ballot paper (i.e., those with the signature of the Presiding Officer and without the signature of the Presiding Officer);

(b) Counterfoils of the used ballot papers;

(c) the covers containing the tendered ballot papers;

(d) the returned ballot paper (i.e., those cancelled under Rule 30 and for violation of voting procedure under Rule 24);

(e) the marked copy of the electoral roll;

(f) the cover containing the tendered ballot papers and the list in Form XIX;

(g) the list of challenged votes; and

(h) any other papers directed by the Returning Officer to be kept in a sealed packet.

(ii) Each such packet shall be sealed with the seal of the Presiding Officer and also of such candidates or their election or polling agents as may be present and may desire to affix their seals thereon. He shall as soon as practicable deliver the ballot box or boxes and all such packets and all other papers used at the poll or cause them to be delivered to the Returning Officer at such place as the Returning Officer may direct, subject to any general or special instructions issued in this behalf by the Commissioner.

35. Account of Ballot Papers to be prepared by the Presiding Officer after the close of the poll:– The packets referred to in Rule 30 shall be accompanied by an account of ballot papers in Form XXI made by the Presiding Officer showing the total number of ballot papers entrusted to him, for the polling station and the number of ballot papers returned by him to the Returning Officer as un-used, tendered and returned ballot papers as also the number of ballot papers which should be found in the ballot boxes. The Presiding Officer shall furnish to every polling agent present at the close of the poll, a true copy of the entries made in the

ballot paper account after obtaining a receipt from the said polling agent thereof and shall also attest it as a true copy.

36. Transport of Ballot Boxes and Packets and their Custody:– The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets, and other papers referred to in Rule 30 and for their safe custody until the commencement of the counting of votes.

37. Special Procedure for voting by certain Class of Persons:– At an election where a poll is taken, any member of the armed forces of the Union or a Member of the Armed Police Force of the State serving outside the State may give his vote by postal ballot and such person shall not be entitled to give his vote in any other manner.

38. Voting by Persons Subject to Preventive Detention:– (1) Subject to the other provisions of this rule, a voter of a Ward may, if he is subjected to preventive detention under any law for the time being in force, give his vote by postal ballot at any election in such Ward where a poll is taken and such a voter shall not so long as he is subject to such detention, be entitled to give his vote in any other manner.

(2) As soon as possible after a notification calling upon to elect a Member has been issued, the Commissioner shall ascertain if any voter for the Ward is subject to preventive detention under any law for the time being in force and shall within ten days from the date of publication of such notification forward to the Returning Officer the names of such voters in that Ward who are under such detention together with their addresses and serial numbers in the electoral roll and the particulars about their places of detention.

(3) Any voter of a Ward who is subject to preventive detention under any law for the time being in force may, within ten days from the date of publication of a notification calling upon that Ward to elect Member apply to the returning officer of the Ward for permission to give his vote by postal ballot at such election. Every such application shall specify the name of the voter, his address, his serial number in the electoral roll and the particulars regarding his place of detention.

(4) If the Returning Officer is satisfied that the person whose name has been forwarded under sub-rule (3) is under preventive detention and is a voter of the Ward to which the election relates and is entitled to vote at such election, he shall permit such person to give his vote at the election by postal ballot.

(5) While granting any such permission the Returning Officer shall at the same time cause suitable notes to be recorded in each copy of the electoral roll in which such person is registered and which is intended to be used at the polling station where such person would if he had not been under detention, have normally voted so as to indicate that such person has been permitted to give his vote at the election by postal ballot.

39. Voting by persons employed on duty at polling station:– (1) Presiding Officer, polling officer, or public servant, who is a voter for any Ward and is by reason of his being on duty at a polling station unable to be present and to vote at the polling station where he is entitled to vote, may apply to the Returning Officer of the Ward for which he is a voter atleast seven days before the date or the first of the dates fixed for the poll at the Ward for permission to vote at the election by postal ballot. Every such application which shall be in Form-XXII shall, specify the name of the voter, his address and his serial number in the electoral roll.

(2) If the Returning Officer is satisfied that the claim is just and that the applicant is entitled to vote in the Ward, he shall allow the application and permit the applicant to give his vote at the election by postal ballot and thereupon the applicant may give his vote at such election by postal ballot and shall not be entitled to give his vote thereat in any other manner.

(3) While allowing such an application the Returning Officer shall, at the same time cause suitable notes to be recorded in each copy of the electoral roll in which the applicant is registered and which is intended to be used at the polling station where the applicant would otherwise have normally voted so as to indicate that the applicant has been permitted to give his vote at the election by the postal ballot.

(4) Where such voter, being a Polling Officer, Presiding Officer or other public servant on election duty in the Ward of which he is an elector, wishes to vote in person at an election in a Ward and not by post, he shall send an application in Form XXIII to the Returning Officer so as to reach him at least four days, or such shorter period as the Returning Officer may allow, before the date of poll; and if the Returning Officer is satisfied that the applicant is such public servant and voter on election duty in the ward he shall–

(a) issue to the applicant an election duty certificate in Form XXIV

(b) mark 'EDC' against his name in the marked copy of the electoral roll to indicate that an election duty certificate has been issued to him, and

(c) ensure that he is not allowed to vote at the polling station where he would otherwise have been entitled to vote.

40. Returning Officer to send Ballot Papers for Postal Voting:– (1) The Returning Officer shall, in the case of every voter, who is authorised under Rule 37 or who has been permitted under sub-rule (4) of Rule 38 to give his vote at the election by postal ballot, as soon as may be after the publication under Rule 9 of the list of contesting candidates at the election and in the case of every voter who has been permitted under sub-rule (2) of Rule 38 to give his vote at the election by postal ballot as soon as may be after such permission has been granted, send by post under certificate of posting to each such voter, a ballot paper in Form XXV. The names of the candidates shall be arranged on the postal ballot paper, in the order in which they appear in the list of contesting candidates. If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. The Returning Officer shall at the same time:

(a) record on the counterfoil of the ballot paper the electoral roll number of the voter as entered in the marked copy of the electoral roll;

(b) mark the name of the voter in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that voter; and

(c) ensure that the voter is not allowed to vote at a polling station.

(2) A postal ballot paper shall be sent to the voter by post under certificate of posting together with,–

(a) a declaration in Form XXVI

(b) an envelope in Form XXVII with the number of ballot paper entered on its face;

(c) a large cover addressed to Returning Officer himself in Form XXVIII; and

(d) instructions for guidance of voter in Form XXIX.

(3) The ballot paper together with the cover, envelope and letter shall be sent:

(a) in the case where the voter is a member of the Armed Forces of the Union to the address of the voter as shown in the electoral roll;

(b) in the case where the voter is a person subject to preventive detention to such voter at the place of his detention; and

(c) in the case where the voter is a person, who has been permitted under sub-rule (2) of Rule 38 to give his vote by postal ballot, to such voter at the address given in the application made by him under sub-rule (1) of that rule.

(4) After all the ballot papers have been issued under this rule, the Returning Officer shall seal up in a packet the counterfoils of all such ballot papers and record on such packet the description of its contents and the name of the Ward and the date of the election to which it refers.

(5) No election shall be invalidated by reason that a voter has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

41. Recording of vote:– (1) A voter who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained in Part I of Form XXIX and then enclose it in the cover in Form XXVII.

(2) The voter shall sign the declaration in Form XXVI in the presence of and have the signature attested by a Stipendiary or Honorary Magistrate or such other officer specified below as may be appropriate, to whom he is personally known, or to whose satisfaction he has been identified,

(a) in the case of member of the Armed Force of the Union or an Armed Police Force of the State but in serving outside the State, such officer as may be appointed in this behalf by the commanding officer of the unit, ship or establishment in which the voter or her husband, as the case may be, is employed;

(b) in the case of a voter on election duty, any Gazetted Officer,

(c) in the case of a voter under preventive detention, the superintendent of the jail or the commandant of the detention camp in which the voter is under detention.

42. Assistance to Illiterate or Infirm voters: :– (1) If a voter unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper together with the declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of Rule 38 and request the officer to record his vote and sign his declaration on his behalf.

(2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of voter in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form XXVI.

43. Re-issue of Ballot Paper:– (1) When a postal ballot paper and other papers sent under Rule 38 are for any reason returned undelivered, the Returning Officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the voter personally on a request being made by him.

(2) If any voter has inadvertently dealt with the ballot paper or any of the other papers sent to him under Rule 40 in such a manner that they cannot conveniently be used, a second set of papers shall be issued to him after he has returned the spoilt papers satisfying the Returning Officer of the inadvertence.

(3) The Returning Officer shall cancel the spoilt papers so returned and keep them in separate packet after noting thereon the particulars of the election and the serial number of the cancelled ballot papers.

44. Return of Ballot Papers:– (1) After a voter has recorded his vote and made his declaration under Rule 41 or Rule 42, he shall return the ballot paper and declaration to the Returning Officer in accordance with the instructions communicated to him in Part-II of Form XXIX, so as to reach the Returning Officer before the hour fixed for the commencement of counting of votes.

(2) If any cover containing a postal ballot paper is received by the Returning Officer after the expiry of the time fixed in sub-rule (1), he shall note thereon the date and time of the receipt and shall keep all such covers together in a separate packet.

(3) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all cover containing postal ballot papers received by him.

45. Safe custody of covers containing Postal Ballot Papers received by the Returning Officer:– The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him under Rule 41 or Rule 43.

46. Time and place for counting of votes:– (1) The counting of votes shall commence on the day and at the place and hour appointed in that behalf. Votes shall be counted by or under the supervision of the Returning Officer. Each candidate, the election agent and the counting agent of each candidate shall have a right to be present at the time of counting. No other person shall be allowed to be present except such person as the Returning Officer may appoint to assist him in counting votes and no person shall be appointed to assist in counting votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

(2) If, at the time so appointed for the counting of votes at any such place all the ballot boxes containing ballot papers which are to be counted at such place under sub-rule (1) have not been received by the Returning Officer or, if for any other unavoidable cause he is unable to proceed with the counting of votes at the time and date appointed under sub-rule (1), the Returning Officer may postpone the counting, and fix the date and time of counting as per the directions of State Election Commission and may fix, if necessary, another place for the counting of votes on the date to which the counting has been so postponed, and shall give notice thereof in writing to all the candidates or their election agents.

47. Admission to place fixed for counting:– (1) The Returning Officer shall exclude from the place fixed for counting of votes all persons except:–

(a) persons appointed as counting supervisors and counting assistants to assist him in the counting.

(b) persons authorised by the State Election Commission or by the Election Authority;

(c) Public servants on duty in connection with the election; and

(d) Candidates, their election agents and counting agents.

(2) No person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).

(3) The Returning Officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.

(4) Any person who, during the counting of votes, misconducts himself or fails to obey the lawful directions of the Returning Officer may be removed from the place where the votes are being counted by the Returning Officer or by any police officer on duty or by any person authorised in this behalf by the Returning Officer.

48. Maintenance of secrecy of voting:– The Returning Officer shall, before he commences the counting of votes read the provisions of Section 602 of the Act to such persons as are present.

49. Counting of postal ballot papers:– The Returning Officer shall first deal with the postal ballot papers in the manner hereinafter provided;

(a) no cover in Form XXVIII received by the Returning Officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.

(b) other covers shall be opened one after another and as each cover is opened the Returning Officer shall first scrutinise the declaration in form XXVI contained therein.

(c) if the said declaration is not found or has not been duly signed, attested or is otherwise substantially defective or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in From XXVII, that cover shall not be opened, and after making an appropriate endorsement thereon, the Returning Officer shall reject the ballot paper therein contained.

(d) each cover so endorsed and the declaration received with it shall be replaced in the cover in Form XXVIII and all such covers in Form XXVIII shall be kept in a separate packet, on which shall be recorded the name of the Ward, the date of counting and brief description of its contents.

(e) the Returning Officer shall then place all the declarations in Form XXVI which he has found to be in order in a separate packet which shall be sealed before any cover in Form XXVII is opened and on which shall be recorded the particulars referred to in sub-rule (d).

(f) the covers in Form XXVII not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the Returning Officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.

(g) a postal ballot paper shall be rejected.

(i) if it bears any mark (other than the mark to record the vote) or writing by which the voter can be identified; or

(ii) if no vote is recorded thereon; or

(iii) if votes are given on it in favour of more candidates than one;

(iv) if it is a spurious ballot paper; or

(v) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(vi) if it is not returned in the cover sent along with it to the voter by the Returning Officer.

(h) A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(i) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(j) The Returning Officer shall count all the valid votes given by postal ballot in favour of each candidate, record the total thereof in the result sheet in Form XXX and announce the same.

(k) Thereafter all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seal of Returning Officer and of such of the candidates, their election agents, counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the Ward, the date of counting and a brief description of its contents.

50. Scrutiny and opening of ballot boxes:– (1) The Returning Officer shall open, or cause to be opened, simultaneously the ballot box or boxes used at more than one polling station and shall have the total number of ballot papers found in such box or boxes counted and recorded in Part II of Form XXI.

Provided that discrepancy, if any, between the total number of such ballot papers recorded as aforesaid and the total number of ballot papers shown against item No. 5 of Part I shall also be recorded in Part II of Form XXI.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The Returning Officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the Returning Officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in Section 59 of the Act, in respect of that polling station.

51. Counting of Votes:– (1) Subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, the ballot papers taken out of all boxes used at more than one polling station in a ward shall be mixed together and then arranged in convenient bundles and scrutinised.

(2) The Returning Officer shall reject a ballot paper if ;

(a) it bears any mark or writing by which the voter can be identified, or

(b) to indicate the vote, it bears a mark made otherwise than with the instrument supplied for the purpose, or

(c) votes are given on it in favour of more than one candidate, or

(d) the mark indicating the votes thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or

(e) it is a spurious ballot paper; or

(f) it is so damaged or mutilated that its identify as a genuine ballot paper cannot be established; or

(g) it bears a serial number, or is of a design different from the serial numbers, or, as the case may be design of the ballot papers authorised for use at the particular polling station; or

(h) does not bear the mark which it should have borne under the provisions of sub-rule (1) or Rule 19 :

Provided that where the Returning Officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of the Presiding Officer or polling officer the ballot paper shall not be rejected merely on the ground of such defect:

Provided further that the ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (1) the Returning Officer shall allow the counting agents present, a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper. The Returning Officer shall record on every ballot paper which he rejects the letter "R" and the ground of rejection in abbreviated form either in his own hand or by means of rubber stamp and shall initial such endorsement. All ballot papers rejected shall be bundled together. Every ballot paper which is not rejected under this rule shall be counted as one valid vote provided that no cover containing 'Tendered ballot paper" shall be opened and no such paper shall be counted.

(4) After the counting of all papers contained in all the ballot boxes used in a Ward has been completed, the Returning Officer shall make the entries in a result sheet in Form XXX and announce the particulars.

(5) The decision of the Returning Officer as to the validity of a ballot paper contained in ballot box or of a postal ballot paper or of a vote given on a postal ballot paper shall be final subject to any decision to the contrary given by a tribunal on the trail of an election petition calling in question the election.

52. Counting to be continuous:– The Returning Officer shall, as far as practicable, proceed continuously with the counting and shall, during any intervals when the counting has to be suspended, keep the ballot papers, packets and all other papers relating to the election sealed with his own seal and the seals of such candidates or election agents as may desire to affix their seals and take sufficient precaution for their safe custody during such intervals.

53. Recommencement of counting after fresh poll:– If a fresh poll is held, under Section 59 of the Act, Returning Officer shall after completion of the poll recommence counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidates and their election agents.

54. Recount of votes:– (1) After completing of the counting, the Returning Officer shall record in the result sheet in Form XXX the total number of votes polled by each candidate and announce the same.

(2) After such announcement has been made, a candidate or in his absence, his election agent or any of his counting agents may apply in writing to the Returning Officer to recount the votes either wholly or in part stating the grounds on which he demands such recount.

(3) On such an application being made, the Returning Officer shall decide the matter and may allow the application in whole or in part or may reject it in toto, if it appears to him to be frivolous or unreasonable.

(4) Every decision of the Returning Officer under sub-rule (3) shall be in writing and contain the reasons therefor.

(5) If the Returning Officer decides under sub-rule (3) to allow a recount of the votes either wholly or in part, he shall:–

(a) do the re-counting;

(b) amend the result sheet in Form XXX to the extent necessary after such recount; and

(c) announce the amendments so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5) the Returning Officer shall

complete and sign the result sheet in Form XXX and no application for another recount shall be entertained thereafter.

(7) Any candidate or his agent shall on application be supplied with a copy of the result sheet in Form XXX.

55. Declaration of result of election and return of election:– The Returning Officer shall subject to the provisions of Sections 64,65 and 66 of the Act, and so far they apply to any particular case,

(a) declare in Form XXXI the candidate to whom the largest number of valid votes have been given, to be elected under Section 65 of the Act, and send a signed copy thereof to the State Election Commission, Election Authority and the Commissioner as required under Section 66 of the Act and

(b) complete and certify a return of election in Form XXXII and send signed copies thereof to the State Election Commissioner, Election Authority and the Commissioner.

56. Grant of Certificate of Election to Returned Candidate:– As soon as may be after a candidate has been declared by the Returning Officer under the provisions of Section 65 of the Act, to have been elected, the Returning Officer shall grant to such candidate a certificate of election in Form XXXIII and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgement to the Municipal Secretary.

57. Custody and the Return of ballot boxes and papers relating to election:– All ballot boxes used in the election and the packets of ballot papers and all other papers relating to the election shall be kept in such custody as the Commissioner may direct.

58. Production and inspection of election papers:– While in custody of the Returning Officer;

(a) the packets of unused ballot papers with the counterfoil attached thereto,

(b) the packets of used ballot papers whether valid, tendered or rejected,

(c) the packets of counterfoils of used ballot papers,

(d) the packet of marked copy of electoral roll,

(e) the packets of the declaration by voters and attestation of their signatures, and

(f) the counterfoils of the postal ballot papers;

shall not be opened and their contents shall not be inspected by or produced before any person of authority excepts under the order of a competent court or of a tribunal.

59. Disposal of election papers:– (1) The packets referred to in Rule 58 shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the State Election Commission or by a competent court or by a tribunal.

(2) All other papers relating to the election shall be retained for a period of two years from the date of declaration of the result of election.

60. Return or the forfeiture of candidate's Deposit:– (1) The deposit made under Rule 3 shall either be returned to the person making it or his legal representative or be forfeited to the Municipal Corporation concerned in accordance with the provision of this rule.

(2) Except in cases hereinafter mentioned in this rule the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

'(4) Subject to the provisions of sub-rule (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one sixth of the total number of valid votes polled by all the candidates.

(5) Notwithstanding anything in sub-rules (2), (3) and (4) if at an election the candidate is a contesting candidate in more than one Ward not more than one of the deposits shall be returned and other shall be forfeited.

CHAPTER III

VOTING BY ELECTRONIC VOTING MACHINES

61. Design of Voting Machine:– Every Electronic Voting Machine (hereinafter referred to as the Voting machine) shall have a Control Unit and a Balloting Unit and shall be of such designs as may be approved by the State Election Commission.

62. Preparation of Voting Machine by the Returning Officer:– (1) One Voting Machine shall be used for Election to the Office of Ward Member.

(2) The Balloting Unit of the voting machine shall contain such particulars in such language or languages as the State Election Commission may specify.

(3) The names of the candidates shall be arranged on the Balloting Unit in the same order in which they appear in the list of the contesting candidates.

(4) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

Subject to the foregoing provisions of the rule, the Returning Officer shall,

(a) fix the label containing the names and symbols of the contesting candidates in the Balloting Unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

(b) Set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

63. Arrangements at the Polling Station:– (1) Outside each polling station there shall be displayed prominently,–

(a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and when the polling area has more than one polling station, the particulars of the electors so entitled; and

(b) a copy of the list of contesting candidates.

(2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.

(3) The Returning Officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.

64. Admission to Polling Station:– The provision of Rule 16 shall apply to regulate the entry of electors and other persons inside the polling station.

65. Preparation of voting machine for poll:– (1) The control unit and balloting unit of every voting machine used at a polling station shall bear a label marked with,–

(a) the serial number and the name of the ward;

(b) the serial number and the name of the polling station;

(c) the serial number of the unit; and

(d) the date of poll.

(2) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (4) of Rule 62.

(3) A paper seal shall be used for securing the control unit of the voting machine, and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as are desirous of affixing the same.

(4) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.

(5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result button" without breaking the seal.

(6) The control unit shall be closed and secured and placed in full view of the Presiding Officer and the polling agents and the balloting unit placed in the voting compartment.

66. Marked copy of electoral roll:– Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the polling agents and others present, that the marked copy of the electoral roll to be used during the poll does not contain any entry other than that made with regard to issue of postal ballot papers and election duty certificates.

67. Facilities for Women electors:– (1) Where a polling station is for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) The Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors, and in particular, to help/frisking any woman elector in case it becomes necessary.

68. Identification of electors:– (1) The Presiding Officer may employ at the polling station such persons, as he thinks fit to help identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling station, the Presiding Officer/ or the polling officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.

(3) Where the electors have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960 issued under Representation of People Act, 1950, the elector shall produce his identity card before the presiding officer of the polling officer authorised by him in this behalf. Where such identity cards are not issued, each elector shall establish his identity by producing any such documents as are specified, by order, by the State Election Commission.

(4) In deciding the right of a person to cast his vote, the Presiding Officer or the polling officer, as the case may be, shall overlook the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the elector to whom such entry relates.

69. Facilities for public servants on election duty:– (1) The provisions of Rule 68 shall not apply to any person, who produces at the polling station an election duty certificate issued by Returning Officer and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.

(2) On production of such certificate, the presiding officer shall,–

(a) obtain thereon, the signature of the person producing it;

(b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as for an elector entitled to vote at that polling station.

70. Challenging of Identity:– Where the identity of an elector is challenged, the provisions of Rule 29 shall apply.

71. Safeguard against personation:– (1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.

(2) If any elector,

(a) refuse to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his

left forefinger or does any act with a view to removing the ink mark, or

(b) fails or refuses to produce his identity card as required by sub-rule (3) of Rule 68 he shall not be allowed to vote.

(3) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, he construed as a reference to any other finger to his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of both the hands are missing be construed as a reference to such extremity of his left or night arm as he possesses.

72. Procedure for voting by voting machines:– (1) Before permitting an elector, to vote the polling officer shall–

(a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form-XXXIV,

(b) obtain the signature or the thumb impression of the elector on the said register of votes, and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote.

Provided that no elector shall be allowed to vote unless he has affixed his signature or thumb impression on the register of voters.

(2) It shall not be necessary for any Presiding Officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

73. Maintenance of secrecy of voting by electors within the polling station and voting procedure:– (1) Every elector who has been permitted to vote under Rule 72 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote the elector shall proceed to the Presiding Officer or the polling officer in-charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit, for recording of elector's vote.

(3) The elector shall thereafter forthwith

(a) proceed to the voting compartment:

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote, and

(c) come out of the voting compartment and leave the polling station.

(4) Every elector shall vote without undue delay.

(5) No elector shall be allowed to enter the voting compartment when another elector is inside it.

(6) If an elector who has been permitted to vote under Rule 72 or Rule 76 refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) or sub-rule (3) of Rule 76, the Presiding Officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.

(7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form-XXXIV by the Presiding Officer under his signature.

74. Recording of votes of blind or infirm electors:– (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities an elector is unable to read the names or recognise the symbols on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the elector to take with him a companion of not less than eighteen years off to the voting compartment for recording the vote on his behalf and in accordance with his wishes :

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day :

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

(2) The Presiding Officer shall keep a record of all cases under this rule in Form-XVIII.

75. Elector deciding not to vote:– If an elector, after his electoral roll number has been entered in the register of voters in Form-XXXIV and has put his signature or thumb impression thereon as required under clause (b) of sub-rule (1) of Rule 72, decided not to record his vote, a remark to this effect shall be made against the said entry in Form -XXXIV

by the Presiding Officer and the signature or thumb impression of the elector shall be obtained against such remark.

76. Tendered Votes:– (1) If a person representing him to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactory answering such questions relating to his identity as the Presiding Officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be such design and the particulars of which shall be in such language or languages as the State Election Commission may specify.

(2) Every such elector shall before being supplied with tendered ballot paper affix his signature or thumb impression against the entry relating to him in a list in Form-XXXV.

(3) On receiving the ballot paper he shall forthwith:–

(a) proceed to the voting compartment;

(b) record there his vote on the ballot paper by placing a cross mark "X" with instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote.

(c) fold the ballot paper so as to conceal his vote,

(d) give it to the presiding officer who shall place it in a cover specially kept for the purpose, and

(e) leave the polling station.

(4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance the presiding officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in Rule 74 for recording the vote in accordance with his wishes.

77. Presiding Officer's entry in the voting compartment during poll:– (1) The Presiding Officer may whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(2) If the Presiding Officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

78. Closing of Poll:– (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under Section 57 of the Act, and shall not thereafter admit any elector into the polling station :

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the Presiding Officer and his decision shall be final.

79. Account of votes recorded:– (1) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Form-XXXVI and enclose it in a separate cover with the words " Account of Votes Recorded" superscribed thereon.

(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll, a true copy of the entries made in Form XXXVI after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

80. Sealing of voting machine after poll:– (1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from control unit.

(2) The control unit and the balloting unit shall thereafter be sealed, and secured separately in such manner as the State Election Commission may direct and the seal used for securing them shall be affixed that it will not possible to open the units without breaking the seals.

(3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

81. Sealing of other packets: – (1) The Presiding Officer shall then make into separate packets,–

(a) the marked copy of the electoral roll;

(b) the register of voters in Form XXXIV;

(c) the cover containing the tendered ballot papers and the list in Form XXXV;

(d) the list of challenged votes; and

(e) any other papers directed by the State Election Commission to be kept in a sealed packet.

(2) Each packet shall be sealed with the seal of the Presiding Officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

82. Transmission of voting machine, etc., to the Returning Officer:– (1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct:–

(a) the voting machine;

(b) the account of votes recorded in Form XXXVI;

(c) the sealed packets referred to in Rule 81 and

(d) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

83. Procedure on adjournment of poll:– (1) If the poll at any polling stations is adjourned under sub-section (1) of Section 58 of the Act, the provisions of Rules 79 to 82, shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under Section 57 of the Act.

(2) When an adjourned poll is recommended under sub-section (2) of Section 58 of the Act, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held, with sealed packet containing the marked copy of the electoral roll, register of voters in Form XXXIV and a new voting machine.

(4) The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for making the names of the electors who are allowed to vote at the adjourned poll.

(5) The provisions of Rules 61 to 82 shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

84. Closing of voting machines in case of booth capturing :– Where the Presiding Officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately

close the control unit of voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

85. Scrutiny and inspection of voting machines:– (1) The Returning Officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are in tact.

(3) The Returning Officer shall satisfy himself that none of the voting machines has in fact been tampered with.

(4) If the Returning Officer is satisfied that any voting machine has in fact been tampered with he shall not count the votes recorded in that machine and shall report the matter to the State Election Commission.

86. Counting of votes:– (1) After the Returning Officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the election officers shall have,–

(a) number of such votes recorded separately in respect of each candidate in Part II of Form XXXVI;

(b) part II of Form XXXVI completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(c) corresponding entries made in a result sheet in Form XXX, and the particulars so entered in the result sheet announced.

87. Sealing of Machines:– (1) After the result of voting recorded in control unit has been ascertained candidate-wise, and entered in Form XXXVI, and in the form prescribed for this purpose, the Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not oblitered and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the election officer shall record the following particulars, namely:–

(a) the serial number and name of the ward;

(b) the particulars of the polling station where the control unit has been used;

(c) serial number of the control unit;

(d) date of poll; and

(e) date of counting.

88. Custody of voting machines and papers relating to election:– (1) All voting machines used at an election shall be kept in the custody of the concerned Collector & District Election Authority or the Officer authorized by him.

(2) The Collector & District Election authority or the Officer authorized by him shall keep in the safe custody,

(a) the packets of marked copy of the electoral roll;

(b) the packets containing register of voters in Form XXXIV;

(c) the packets containing the number of votes recorded in respect of each candidate in Form XXXVI.

(d) all other papers relating to election.

89. Production and Inspection of voting machines and election papers:– (1) While in the custody of the Collector & District Election Authority or the Officer authorized by him:–

(a) the packets of marked copy of electoral roll;

(b) the packets containing registers of voters in Form XXXIV;

shall not be opened and their contents shall not be inspected by, or produced before any person or authority except under the order of the competent court.

(2) The control unit sealed as per the provisions of Rule 87 and kept in the custody of the Collector & District Election Authority or the Officer authorised by him and shall be stored in Government Treasury or Sub-Treasury and shall not be opened and inspected by, or produced before any person or authority except under the order of the competent court.

90. Safe custody of voting machines and all other packets:– (1) The Voting machines kept in the custody of the Collector & District Election Authority or the Officer authorized by him shall be retained in tact for

such period as the State Election Commission may direct and shall not be used at any subsequent election without previous approval of the State Election Commission.

(2) All other packets relating to elections where there is no election petition, shall be destroyed as per the provisions of these rules.

91. Power of the SEC to issue directions: – Subject to the other provisions of these rules, the State Election Commission may issue such directions as it may consider necessary to facilitate the proper use and operation of the voting machines and also as occasion requires to facilitate the holding of elections under these rules.

CHAPTER IV

ELECTION EXPENDITURE RETURNS

92. Particulars of account of election expenses:– (1) The account of election expenses to be kept by a candidate or his election agent shall contain such particulars and shall be in such proforma as may be specified by the State Election Commission.

(2) The account of Election Expenses shall be submitted to the District Election Authority through the Commissioner within forty-five days of the declaration of the result of the election. The date of submitting the return in the Office of the Commissioner shall be deemed to be the date of filing the return under Section 617C of the Act. The Commissioner shall forward all returns received by him to the District Election Authority immediately on the expiry of forty-five days from the date of declaration of the results of elections.

(3) The Commissioner shall also send a list of contesting candidates who have failed to submit the accounts of election expenditure within the time specified in sub-rule (2). He shall also forward any accounts of election expenditure submitted after the due date with his report.

93. Notice by District Election Authority for inspection of accounts:– The District Election Authority shall, within two days from the date on which the account of election expenses has been received by him, cause a notice to be affixed to his notice board, specifying,–

(a) the date on which the account has been lodged before the Commissioner,

(b) the name of the candidate ; and

(c) the time and place at which such account can be inspected by any intending person.

94. Inspection of account and the obtaining of copies thereof:– Any person shall on payment of a fee of five rupees, be entitled to inspect any such account and on payment of a fee equal to cost of making copies be entitled to obtain attested copies of such account or of any part thereof.

95. Report by District Election Authority as to the lodging of the Account of election expenses and the decision of the State Election Commission thereon:– (1) As soon as may be, after the expiration of the time specified in Section 617C of the Act for the lodging of the accounts of election expenses at any election, the District Election Authority shall, report to the State Election Commission.

(a) the name of each contesting candidate;

(b) whether such candidate has lodged his account of election expenses, and if so, the date on which such account has been lodged; and

(c) whether in his opinion such account has been lodged within the time and in the manner required by the Act and these rules.

(2) Where the District Election Authority is of the opinion that the account of election expenses of any candidate has not been lodged within the due date or lodged by not in the manner required by the Act and these rules, he shall make a report to the State Election Commission and with every such report, forward the account of election expenses of that candidate and the vouchers lodged along with it, if any.

(3) Immediately after the submission of the report referred to in sub-rule (1), the District Election Authority shall publish a copy thereof affixing the same on his notice board.

(4) As soon as may be, after the receipt of the report referred to in sub-rule (1), the State Election Commission shall, consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these rules.

(5) Where the State Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and/or in the manner required by the Act and these rules, it shall by notice in writing call upon the candidate to show cause why he should not be disqualified, and declared to have ceased to hold office in case he is elected under Section 20B of the Act for the failure.

(6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may, within twenty days of the receipt of such notice, submit in respect of the matter a representation in writing to the State

Election Commission, and shall at the same time send to District Election Authority a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

(7) The District Election Authority shall, within five days of the receipt thereof, forward to the State Election Commission, the copy of the representation and the account, if any, with such comments as he wishes to make thereon.

(8) If, after considering the representation submitted by the candidate and the comments made by the District Election Authority, and after such inquiry as it thinks fit, the State Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him by an order made under Section 20B of the Act to be ineligible for a period of three years, from the date of the said order, to contest any election held for any Office under the Act and if he is an elected candidate declare him to have ceased to hold office with immediate effect and publish the order in the Official Gazette.

96. Maximum election expenses:– The total of the expenditure of which account is to be kept under Section 617-B of the Act, and which is incurred or authorised in connection with an election shall not exceed the amount specified for in the order made by the State Election Commission in this behalf.

CHAPTER V

ELECTION PETITIONS

97. Place of Trial:– The trial of election petitions shall be held at such place as the Government may appoint:

Provided that a tribunal may, in its discretion sit for any part of the trial at any other place in which the election to which the petition relates has taken place.

98. Another person appointed as Tribunal:– If during the course of the trial the person appointed under Section 75 of the Act, as an election tribunal, is for any reason unable to perform his functions the Government shall appoint another person as election tribunal in accordance with the provisions of Section 75 of the Act, and the trial shall thereafter be contained as if he has been appointed as the tribunal from the commencement of the trial:

Provided that the tribunal so appointed may if it thinks fit recall and re-examine any of the witness already examined.

99. Attendance of Law Officer:– (1) The Tribunal may require the Government Pleader incharge of Municipal Administration or some person acting under his instruction to attend at the trial.

(2) The said Government Pleader or the person acting under his instructions shall when so required, attend at the trial and shall take such part therein as the Tribunal may direct.

100. Procedure before the Tribunal:– (1) Subject to the provisions of the Act and these rules every election petition shall be tried by the Tribunal as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act V of 1908) to the trial of suits:

Provided that the tribunal shall have the discretion to refuse for reasons to be recorded in writing to examine any witness or witness if it is of the opinion that their evidence is not material for the decision the petition or that the party tendering such witness or witnesses in doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872, (1 to 1872) shall subject to the provisions of these rules be deemed to apply in all respects to the trial of an election petition.

(3) This Tribunal shall dismiss an election petition which does not comply with the provisions of Sections 71,72, or Rule 114.

(4) Any candidate not already a respondent shall upon application made to the tribunal within fourteen days from the commencement of the trial and subject to the provisions of Rule 106 be entitled to be joined as respondent.

Explanation:– For the purpose of this sub-rule and of Rule 99 the trial of petition shall be deemed to commence on the date fixed for the respondents to appear, before the Tribunal and answer the claim or claims made in the petition.

(5) The Tribunal may upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt or illegal practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment to the petition which will have the effect of introducing particulars of a corrupt or illegal practice not previously alleged in the petition.

101. Appearance before the Tribunal:– Any appearance, application or act before tribunal may be made or done by the party in person or by a pleader duly appointed to act in his behalf:

Provided that it shall be open to the tribunal to direct any party to appear in person.

102. Documentary Evidence:– Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

103. Secrecy of voting not to be infringed:– No witness or other person shall be required to state for whom he has voted at an election.

104. Answering of criminating questions and certificate of indemnity:– (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that,–

(a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal.

(b) an answer given by a witness to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceedings.

(2) When a certificate of indemnity has been granted to any witness it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code (Act 45 of 1860) or under Sections 17 and 599 to 612 (both inclusive) of the Act arising out of the matter to which such certificate relates but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by the Act or any other law.

105. Expenses of witness:– The reasonable expenses incurred by any person in attending to give evidence may be allowed by the tribunal to such person, and shall, unless the Tribunal otherwise directs be deemed to be part of the costs.

106. Recrimination when seat claimed:– (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have

been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has within fourteen days from the date of commencement of the trial, given notice to the tribunal of his intention to do so and has also given the security and the further security referred to in Rules 114 and 115 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and particulars required by Section 73 of the Act.

107. Withdrawal of Petition:– (1) An application for withdrawal of an election petition may be made before the Tribunal and such election petition may be withdrawn only by leave of the Tribunal.

(2) Where an application for withdrawal is made under sub-rule (1) notices thereof fixing a date for the hearing of the application shall be given to all other parties to the petition.

108. Procedure for withdrawal of petitions before the Tribunal:– (1) If there are more petitions than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if in the opinion of the Tribunal such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted,–

(a) the petitioner shall be ordered to pay the costs of the respondent therefor incurred or such portion thereof as the tribunal may think fit;

(b) notice of withdrawal shall be published in the Andhra Pradesh Gazette by the Tribunal;

(c) a person who might himself have been a petitioner, may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing and upon compliance with the conditions of Rule 114 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

109. Procedure where the petitioner fails to appear:– (1) Where the petitioner fails or if there are more petitioners than one, all the petitioners fail to appear at any stage during the trial of the petition, the Tribunal may on the application of any other person who might himself have been a petitioner and if satisfied that it is necessary for ends of justice so to do, instead of dismissing the petition for default order that person to be

substituted for the original petitioner to petitioners upon such terms as it thinks just.

(2) When a petition is dismissed for default, the notice of dismissal, shall be published in the Andhra Pradesh Gazette by the Tribunal.

110. Abatement of election petitions:– An election petition shall abate only on the death of a sole petitioner or of the survivor or several petitioners.

111. Abatement of petition:– Where an election petition abates under Rule 103 notice of abatement shall be published in the Andhra Pradesh Gazette by the Tribunal.

112. Substitution on death of Petitioner:– After a notice of abatement of an election petition is published under 111 any person who might himself have been a petitioner may within fourteen days of such publication, apply to be submitted as petitioner and upon compliance with the condition of Rule 107 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think.

113. Abatement of substitution on death of Respondent:– If before the conclusion of the trial of an election petition the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondent dies or give such notice and there is no other respondent who is opposing the petition, the Tribunal shall cause notice of such event to be published in the Andhra Pradesh Gazette and there upon any person who might have been a petitioner may within fourteen days of such publication apply to be substituted in place of such respondent oppose the petitions and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit.

114. Deposit Security:– The petitioners shall enclose with the petition a Government treasury receipt showing that a deposit of rupees one thousand has been made by him either in a Government treasury or in the State Bank of Hyderabad /State Bank of India in favour of the Commissioner concerned, Municipal Corporation as security for the costs of the petition.

115. Further Security for Costs:– During the course of the trial of an election petition the Tribunal may at any time call upon the petitioner to give such further security for costs as the Tribunal may direct and may if he fails to do so dismiss the petition.

116. Security for cost from a respondent:– No person shall be entitled to be joined as a respondent under sub-rule (4) of Rule 100 unless he has given security for costs as the tribunal may direct.

117. Costs:– (1) Costs including pleader's fee shall be in the discretion of the Tribunal.

(2) The Tribunal may allow interest on costs at rate not exceeding three per cent per annum and such interest shall be added to the costs.

118. Payment of costs out of Security Deposits and Return of such Deposits:– (1) If, in any order as to costs, there is a direction for payment of costs by any party to any person, such costs shall if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party on an application made in writing in that behalf within a period of six months from the date of pronouncement of the order of the Tribunal unless an appeal is preferred therefrom in which case from the date of pronouncement of the order of the High Court to the Commissioner by the person in whose favour the costs have been awarded.

(2) If there is any balance left on any of the said security deposits after payment under sub-rule (1) of the costs referred to in that sub-rule, such balance or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits may on an application made in that behalf to the Commissioner by the person by whom the deposits have been made or if such person dies after making such deposits, by the legal representative of such person be returned to the said person or to his legal representative as the case may be.

119. Execution of orders as to costs:– Any order as to costs may be produced before the principal Civil Court of original jurisdiction, within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such Court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-rule (1) of Rule 118, no application shall lie under this rule within a period of six months from the date of pronouncement of the order of the tribunal unless an appeal is preferred therefrom in which case from the date of announcement of the order of the High Court unless it is for recovery of the balance of any costs which has been left unrealised after an application has been made under the sub-rule owing to the insufficiency of the amount of the security deposits referred to in that sub-rule.

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4. ANDHRA PRADESH MUNICIPAL CORPORATIONS (CONDUCT OF ELECTION OF MAYOR AND DEPUTY MAYOR) RULES, 2005

[G.O.Ms.No.762, Municipal Administration and Urban Development (ELE.II), 19th August, 2005][1]

In exercise of the powers conferred by sub-section (1) of Section 585 read with Section 90 of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956), Sections 7 and 11 of the Visakhapatnam Municipal Corporation Act, 1979 (Act No.XIX of 1979), Section 7 of the Vijayawada Municipal Corporation Act, 1981 (Act No.XXIII of 1981) and Sections 14 and 18 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No.XXV of 1994), and in supersession of all the existing rules on the subject, the Governor of Andhra Pradesh, hereby, makes the following rules relating to conduct of election of Mayor and Deputy Mayor of Municipal Corporation.

1. Short title:– (1) These Rules may be called the Andhra Pradesh Municipal Corporations (Conduct of Election of Mayor and Deputy Mayor) Rules, 2005.

(2) These rules shall apply to all Municipal Corporations in the State.

2. Definitions:– In these Rules, unless the context otherwise requires,-

(i) "*Act*" means the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956);

(ii) "*Election Authority*" means such officer or authority as may be appointed by the State Election Commission under clause (15a) of Section 2;

(iii) "*Form*" means the Form appended to these Rules;

(iv) "*Section*" means a section of the Act; and

(v) Words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. Powers of Election Authority:– Subject to the general superintendence, direction and control of the State Election Commission, the Election Authority shall be responsible for the conduct of elections of the Mayor and Deputy Mayor.

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1. Pub. in A.P. Gaz., RS to Pt. I, Ext. No. 62, dated 28-8-2005.

PART II

ELECTION OF MAYOR AND DEPUTY MAYOR OF MUNICIPAL CORPORATION

4. Convening of Special Meeting for Election of Mayor:– (1) A special meeting of the members of Municipal Corporation specified in sub-sections (1) and (1A) of Section 5 of the Act shall be held in the office of the Municipal Corporation [1][or at any other convenient place within the jurisdiction of the Municipal Corporation] by the District Collector or Joint Collector authorised by the Election Authority in this behalf in Form I, for the election of Mayor and Deputy Mayor in the manner laid down hereafter.

(2) Notice of the date and hour of such meeting shall be given in Form-II to the members specified in sub-sections (1) and (1A) of Section 5 of the Act atleast three clear days in advance of the date of the meeting fixed for the election of the Mayor and Deputy Mayor by the District Collector or the Joint Collector authorised by the Election Authority.

5. Quorum:– No meeting for the conduct of election of Mayor or Deputy Mayor shall be held unless there be present at the meeting atleast one-half of the number of members then on the Corporation, who are entitled to vote at the election within one hour from the time appointed for the meeting:

Provided that where at an election held for the purpose, the Mayor or Deputy Mayor is not elected, a fresh election shall be held on the next day whether or not it is a public holiday for the Corporation concerned and where the Mayor or Deputy Mayor could not be elected on the next day also, the matter shall be reported to the State Election Commission for fixing another date for holding election.

Provided further, that where the Election of Mayor or Deputy Mayor could not be conducted in the first two special meetings, convened for the purpose for want of quorum, the Mayor or Deputy Mayor shall be elected in the subsequent meeting/meetings convened for the purpose from among the members present without insisting for quorum.

Explanation:– For the purpose of this rule, it is hereby clarified that in determination of one-half of the members under this rule, any fraction below 0.5 should be ignored and any fraction of 0.5 or above shall be taken as one.

6. Manner of election:– (1) A candidate for the office of Mayor or Deputy Mayor shall be proposed by one member and seconded by another, who are entitled to vote. If any candidate claims to be contesting on behalf of a recognised political party, he shall produce an authorisation, from the President of the party in the State or a person duly authorised

1. Ins. by G.O.Ms.No. 675, MA & UD (Elec.II), dt. 24-11-2009.

by the State President under his Office seal and such authorisation shall be produced before the Presiding Officer on or before 10.00 A.M on the day of the election.

The names of all candidates validly proposed and seconded shall be read out, along with the name of the Political Party which has set him up, by the Presiding Officer in such a meeting.

(2) If only one candidate is duly proposed, there shall be no election and he shall be declared to have been elected.

(3) If there are two or more such candidates, an election shall be held by show of hands and votes taken of the members present at the meeting.

(4) When an election notice is issued for conducting election to both the offices of Mayor and Deputy Mayor, no election to the office of the Deputy Mayor shall be conducted, unless the office of the Mayor is filled up. Only after completion of election of Mayor, the Presiding Officer shall conduct election of Deputy Mayor.

(5) The Presiding Officer shall thereafter record the number of votes polled, for each such candidate ascertained by show of hands. He shall announce the number of votes secured by each candidate and shall declare the candidate who secures the highest number of votes, as elected.

(6) In the event of there being an equality of votes between two or more candidates, the Presiding Officer shall draw lots in the presence of the members and the candidates whose name is first drawn shall be declared to have been duly elected.

(7) Every recognised political party may appoint on behalf of that political party a whip and intimation of such appointment shall be issued by the State President or a person authorised by him under his seal and such intimation shall be sent to the Presiding Officer to reach him on or before 11.00 A.M. on the day preceding the day of election to the Office of the Mayor and Deputy Mayor.

Explanation:– Recognised political party means a political party recognised by Election Commission of India, New Delhi as per the provisions of Election Symbols (Reservation and Allotment) Order, 1968 issued under Article 324 of Constitution of India.

(8)(i) Any member of the Corporation, elected on behalf of a recognised political party shall cease to be a Member of the Corporation for disobeying the direction of the Party Whip so issued.

(ii) The Presiding Officer shall, on receipt of a written report from the party Whip within three days of the election that a member belonging to his party has disobeyed the Whip issued in connection with the election, give a show-cause notice to the member concerned as to why he should not be declared to have ceased to hold office and that he should make any representation within seven days from the date of the notice. The Presiding Officer shall, consider any explanation given and pass a speaking order in the matter of cessation for disobedience of the Whip. If no explanation is received, the Presiding Officer shall pass an order on the basis of the material available with him.

7. Record of Proceedings:– Immediately after the declaration of the result of the election, the Presiding Officer, shall,-

(a) prepare a record of the proceedings of the meeting and sign it attesting with his initials every correction made therein and shall also have the said record of proceedings attested by a majority of the members who participated in the meeting.

(b) publish on the notice board of the Corporation a notice signed by him stating the name of the person elected as Mayor and Deputy Mayor of the Corporation and send a copy of such notice to the State Election Commission, the Commissioner and Director of Municipal Administration. A copy of the notice shall also be given to the candidate who is declared elected as Mayor/Deputy Mayor.

PART III

FILLING UP OF CASUAL VACANCIES IN THE OFFICE OF MAYOR AND DEPUTY MAYOR OF MUNICIPAL CORPORATION

8. Procedure for filling casual vacancies:– The Rules in Part-II shall apply for filling up a casual vacancy in the office of the Mayor and Deputy Mayor.

Provided that every casual vacancy shall be filled up within a period of six months from the date of occurrence of such vacancy.

FORM I

[*See Rule 4(1)*]

I,.....(name and designation) being the Election Authority, hereby authorise Sri ..... (name and designation), to convene the special meeting of the elected and *ex-officio* members of the Municipal

Corporation..... for election of the Mayor and Deputy Mayor of ..... Municipal Corporation.

Place: (Signature)

Date : Election Authority

FORM II

Notice of Special Meeting for Election of Mayor and Deputy Mayor

[*See Rule 4(2)*]

Notice is hereby given to Sri ..... elected/*ex-officio* member of the.....Municipal Corporation that a special meeting of the members of the Municipal Corporation will be held at (time.....) on (date).....at its office for the election of the Mayor and Deputy Mayor. The member is requested to make it convenient to attend the meeting.

Place: (Signature)

Date : District Collector/Joint Collector, authorised by the Election Authority.

5. ANDHRA PRADESH MUNICIPAL CORPORATION (RESERVATION OF SEATS) RULES, 1995

[G.O.Ms.No. 44, Municipal Administration & Urban Development (Elecs. II), dt. 06-02-1995]

In exercise of the powers conferred by Section 585 read with sub-section (2) of Section 5 of the Hyderabad Municipal Corporations Act, 1955 (Act No. II of 1956) and Section 6 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994) and in supersession of rules issued in G.O.Ms.No. 173, Elections, M.A., dated the 10th February, 1987, the Governor of Andhra Pradesh hereby makes the following rules relating to the reservation of seats in Municipal Corporations of the State.

RULES

1. Short title and extent:—

(a) These rules may be called the Andhra Pradesh Municipal Corporations (Reservation of Seats) Rules, 1995.

(b) They shall extend to all Municipal Corporations in the State.

2. Definitions:— In these rules unless the context otherwise requires:

(a) '*Act*' means the Hyderabad Municipal Corporations Act, 1955 (Act No. II of 1956) or the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994) as the case may be.

(b) '*Government*' means the State Government of Andhra Pradesh.

(c) '*Election Authority*' means officer or authority defined in clause 15(A) of Section 2 of the Hyderabad Municipal Corporations Act, 1955 or clause (b) of Section 2 of the Andhra Pradesh Municipal Corporations Act, 1994, as the case may be.

3. Notification of Number of Seats Reserved:— The Government shall, by notification in the Andhra Pradesh Gazette, specify the number of seats reserved for Scheduled Tribes, Scheduled Castes, Backward Classes and Women in each of the Municipal Corporations and determine the specific wards in which reserved seats shall be set apart.

4. Seats to be Reserved for Scheduled Tribes, Scheduled Castes and Backward Classes:— While determining the number of seats in a Municipal Corporation to be reserved in favour of Scheduled Tribes, Scheduled Castes or Backward Classes as the case may be in accordance with the relevant provisions of the Act, any fraction of less than one-half shall be

reserved, and atleast fraction equal to or more than one-half shall be counted as one :

Provided that there the proportion of the population of the Scheduled Tribes or Scheduled Castes in a Municipal Corporation as the case may be to the total population of the Municipal Corporation does not constitute a required proportion enabling them for reservation of atleast one seat, there shall be reserved one seat for these categories without reference to the proportion.

5. Seats to be Reserved for Women:— The number of seats to be reserved for Women (including the number of seats reserved for Women belonging to Scheduled Tribes, Scheduled Castes and Backward Classes) shall be not less than one-third of total number of seats in the Municipal Corporation and any fraction thereof shall be rounded off to one.

6. Seats to be Reserved for Women Belonging to Scheduled Tribes, Scheduled Castes and Women:— Not less than one-third of the total number of seats reserved for Scheduled Tribes, Scheduled Castes and Backward Classes shall be reserved for Women belonging to these categories:

Provided that where only one seat is reserved for Scheduled Tribes or Scheduled Castes in a Municipal Corporation as the case may be, then no seat be reserved for Women belonging to Scheduled Tribes, or Scheduled Castes and where only two seats are reserved for Scheduled Tribes or Scheduled Castes as the case may be, one of the two seats shall be reserved for Women belonging to Scheduled Tribes or Scheduled Castes as the case may be :

Provided further that where more than two seats are reserved for Scheduled Tribes, Scheduled Castes or Backward Classes as the case may be, not less than one third of such seats shall be reserved for women of that category and any fraction shall be taken into consideration so as to ensure that not less than one third of the total number of seats reserved for the above categories are reserved for Women :

Provided further that the reservation of seats for Women belonging to Scheduled Tribes, Scheduled Castes or Backward Classes as the case may be, shall be made from among the wards reserved for these categories in which the percentage of population of women is the largest in descending order.

7. Order of Reservation:— The reservation of seats for various categories shall be made in the order of Scheduled Tribes, Scheduled Castes, Backward Classes and Women.

8. Rotation of seats:— The seats reserved for Scheduled Tribes, Scheduled Castes and Women shall be allotted by rotation to different wards in a Municipal Corporation. The Municipal Commissioner shall maintain a Register for this purpose in Form I.

[1][Provided that whenever an exercise for division of Municipal Corporations into wards under the A.P. Municipal Corporation (Delimitation of wards) Rules, 1996, has been taken up the cycle of reservation of seats shall start afresh.]

9. Manner of Reservation:— The Reservation of seats for members belonging to Scheduled Tribes, Scheduled Castes and Women in the Wards of the Municipal Corporations shall be made with reference to largest percentage of population of the said category to the total population of the ward in the descending order.

[2]**[10. Reservation of Seats to Backward Classes:—** After arriving at the Wards proposed to be reserved for Scheduled Tribes, Scheduled Castes, in different wards in a Municipal Corporation the seats to be reserved for Backward Classes in the remaining wards in the Municipal Corporation shall be on rotation basis with reference to the largest percentage of voters of the said category to the total number of voters of the ward in the Municipal Corporation concerned in the descending order.

11. Reservation of Seats to Women:— Reservation of seats for Women other than those provided for Scheduled Tribes, Scheduled Castes, Backward Classes shall be made from among the wards in which the percentage of population of Women is the largest in descending order.

FORM I

[*See Rule 8*]

Form showing the roaster for reservation of seats in Municipal Corporation

Name of the Municipal Corporation

Sl. No.	Ward No.	Year of Reservation	Category to which it was was reserved	Proceedings No. and date in which orders were issued
1	2	3	4	5

1. Added by G.O.Ms.No.750, M.A. & U.D. (Elec.II), dt. 13-8-2005.
2. Subs. by G.O.Ms.No.334, M.A. & U.D. (Elec.II)., (M.A.), dt. 21-7-2001. Pub. in A.P. Gaz. Pt. Ext.No. 39, dt. 21-7-2001.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT – ELECTIONS – FIXING THE NUMBER OF WARDS RESERVED FOR MEMBERS BELONGING TO SCHEDULED TRIBES, SCHEDULED CASTES, BACKWARD CLASSES, AND WOMEN IN GREATER HYDERABAD MUNICIPAL CORPORATION – NOTIFICATION – ISSUED.

[G.O.Ms.No. 445, Municipal Administration & Urban Development (Elec.II) Department, dated: 10.07.2009]

Read the following:—

1. G.O.Ms.No.44, MA&UD (Elec.II) Dept., Dated 06.02.1995
2. G.O.Ms.No.349, MA&UD(Elec-II) Dept., Dated 23.05.2009
3. From Commissioner, GHMC, Hyderabad, Lr.No.1620/Elecs./GHMC/2009/1472, Dated. 07.07.2009.

NOTIFICATION

In exercise of powers conferred under sub-section (2) of Section 5 of Hyderabad Municipal Corporation Act, 1955 read with rule 3 of Andhra Pradesh Municipal Corporations (Reservation of seats) Rules, 1995 issued in G.O.Ms. No. 44, MA&UD (Elec.II) Department, dated: 06.02.1995, and G.O.Ms.No.349, MA&UD (Elec.II) Department, dated: 23.05.2009, the Governor of Andhra Pradesh in supersession of all the previous notifications on the subject, hereby fix the number of seats reserved for Scheduled Tribes, Scheduled Castes, Backward Classes and Women in the Greater Hyderabad Municipal Corporation as specified in the annexure.

ANNEXURE

WARDS IN WHICH SEATS ARE RESERVED FOR SCHEDULED TRIBES, SCHEDULED CASTES, BACKWARD CLASSES AND WOMEN IN GREATER HYDERABAD MUNICIPAL CORPORATION:

Total Number of wards: 150

Category	General	Women	Total
Scheduled Tribes (STs)	1	1	**2**
Scheduled Castes (SCs)	8	4	**12**
Backward Classes (BCs)	33	17	**50**
Women (General)	---	28	**28**
Un-reserved	58	---	**58**
Total	**100**	**50**	**150**

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6. MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT DEPARTMENT – ELECTIONS – SETTING APART THE WARDS RESERVED FOR MEMBERS BELONGING TO SCHEDULED TRIBES, SCHEDULED CASTES, BACKWARD CLASSES, WOMEN AND GENERAL IN GREATER HYDERABAD MUNICIPAL CORPORATION – NOTIFICATION – ISSUED.

[G.O.Ms.No. 455, Municipal Administration & Urban Development (Elec.II) Department, dated: 14.07.2009]

Read the following:—

1. G.O.Ms.No.44, MA&UD (Elec.II) Dept., Dated 06.02.1995
2. G.O.Ms.No.334, MA&UD(Elec-II) Dept., Dated 21.07.2001
3. G.O.Ms.No.445 MA&UD (Elec-II) Dept, Dated 10.07.2009
4. From Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad, Lr.No.1620/Elecs./GHMC/2009-1512, dated. 13.7.2009.

ORDER:—

The appended notification will be published in the Extra- ordinary issue of the Andhra Pradesh Gazette Dated 15.07.2009.

2. The Commissioner, Printing Stationery and Stores Purchase is requested to send 100 copies of the notification to Government urgently.

NOTIFICATION

In exercise of powers conferred under sub-section (2) of section 5 of the Hyderabad Municipal Corporations Act, 1955 read with rule 3 of Andhra Pradesh Municipal Corporation (Reservation of Seats) Rules, 1995 issued in G.O.Ms.No.44, MA&UD Dept., Dated 06.02.1995 and G.O.Ms.No.334, MA&UD Dept., Dated 21.07.2001, and also read with G.O.Ms.No.445 MA&UD (Elec-II) Dept, Dated 10.07.2009, the Governor of Andhra Pradesh, in suppression of all the previous notifications on the subject, hereby determine the specific wards in which the seats are reserved for Scheduled Tribes, Scheduled Castes, Backward Classes and Women in the Greater Hyderabad Municipal Corporation as specified in the annexure.

ANNEXURE

WARDS IN WHICH SEATS ARE RESERVED FOR SCHEDULED TRIBES, SCHEDULED CASTES, BACKWARD CLASSES, AND WOMEN IN GREATER HYDERABAD MUNICIPAL CORPORATION:

Total Number of wards: 150

Sl. No.	Category	No. of seats to be reserved	Ward Nos. in which reservation is proposed
1	ST (General)	1	99
2	ST (Women)	1	26
3	SC (General)	8	59, 62, 94, 111, 133, 139, 141, 146
4	SC (Women)	4	132, 134, 145, 150
5	BC (General)	33	18, 31, 36, 41, 42, 46, 50, 51, 52, 54, 55, 58, 64, 66, 69, 70, 72, 75, 79, 84, 85, 102, 107, 112, 113, 114, 116, 125, 126, 127, 128, 130, 142
6	BC (Women)	17	43, 44, 45, 53, 61, 63, 65, 68, 71, 76, 82, 90, 115, 143, 144, 147, 149
7	Women (General)	28	5, 9, 12, 14, 15, 16, 17, 49, 60, 73, 74, 80, 87, 89, 91, 93, 95, 100, 104, 105, 108, 109, 135, 136, 137, 138, 140, 148
8	Un-Reserved	58	1, 2, 3, 4, 6, 7, 8, 10, 11, 13, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 32, 33, 34, 35, 37, 38, 39, 40, 47, 48, 56, 57, 67, 77, 78, 81, 83, 86, 88, 92, 96, 97, 98, 101, 103, 106, 110, 117, 118, 119, 120, 121, 122, 123, 124, 129, 131

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7. THE ANDHRA PRADESH MUNICIPAL CORPORATIONS (SUPPLY OF IDENTITY CARDS TO VOTERS) RULES, 1986

[1][*G.O.Ms. No. 627 (M.A.) Housing, Municipal Administration and Urban Development (Elections) Department, dated 12.11.1986*]

In exercise of the powers conferred by sub-section (1) of Section 585 read with Section 60-A of the Hyderabad Municipal Corporations Act, 1955 (Act No. II of 1956), the Governor of Andhra Pradesh hereby makes the following rules relating to the supply of identity cards to voters in the elections to the Municipal Corporations in the State, namely:—

1. (1) These rules may be called the Andhra Pradesh Municipal Corporations (Supply of Identity Cards to Voters), Rules, 1986.

(2) They shall apply to all the Municipal Corporations in the State of Andhra Pradesh.

2. (1) In these rules, unless the context otherwise requires:—

(a) '*Act*' means the Hyderabad Municipal Corporations Act, 1955.

(b) '*Election Authority*' means the Commissioner of the Municipal Corporation concerned ;

(c) (i) '*Election Officer*' means the Commissioner or any person or Officer authorised or appointed by the Election Authority to do any act or perform any function in connection with the conduct of election of Mayor and Members of the Municipal Corporation concerned ;

(ii) '*Attesting Officer*' means an Officer or Officers of the Corporation or the Government appointed by the Election Officer to assist the Election Officer in the performance of his functions and to perform all or any of the functions assigned to him under the rules, subject to the control of the Election Officer ;

(d) '*Electoral Roll*' means the Electoral Roll prepared and published under Section 12 of the Hyderabad Municipal Corporations Act, 1955 ;

(e) '*Form*' means a form appended to these rules ;

(f) '*Government*' means the State Government of Andhra Pradesh;

(g) '*Identity Card*' means the identity card as specified in Form I appended to these rules ;

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1. Pub. in A.P. Gazette, Pt. I (Ext.), dt. 28.11.1986.

(h) '*Photograph*' means the photograph of passport size of the voter affixed to the identity card within the space specified in the identity card ;

(i) '*Signature*' or '*L.T.I.*' means the signature or Left Thumb Impression of the voter on the identity card ;

(j) '*Voter*' in relation to an election of Mayor or Councillor means a person whose name appears in the Electoral Roll for the Municipal Corporation as in force, except a person who is declared to be a man of unsound mind and stands so declared by a competent court.

(2) Words and expressions used but not defined in these rules shall have the meanings respectively assigned to them, in the Act.

3. (1) The identity card as specified in Form I of all the voters in the Municipal Corporation shall be prepared by the Election Officer who shall be such officer of the Government or the Municipal Corporation as the Election Authority may designate or nominate in this behalf.

(2) The identity cards shall be numbered serially-divisionwise.

4. The Election Officer may appoint as many Attesting Officers as required to assist him in the preparation and distribution of identity cards.

5. (i) The Election Officer shall, subject to such general or special directions, if any, as may be given by the Election Authority in this behalf, prepare and supply the identity cards to every voter in the Municipal Corporation with a photograph of passport size together with the signature or Left Thumb Impression and the identification marks of the voter and such other particulars in Form I :

Provided that such of the voters who were not supplied with identity cards before the earlier ordinary elections, shall be supplied with the identity cards free of cost before each casual election if the application is received from the voter 20 days prior to the date of casual election, subject to such directions as may be issued by the Election Authority.

(ii) The identity cards so supplied shall be valid for the casual elections also until a new identity card is supplied.

(iii) The form of identity card shall be in Telugu or in such other language as the Election Authority may direct.

6. A register in Form II shall be maintained in duplicate divisionwise for obtaining acknowledgments of the voters in both the registers for the receipt of the identity cards/duplicate cards supplied. The original register

with photos affixed shall be kept under the custody of the Election Officer/ Commissioner.

7. The preparation of identity cards in respect of a Municipal Corporation shall be commenced from and completed within a period of sixty days from such date as may be specified by the Election Authority.

8. (i) The Election Officer shall cause wide publicity within the limits of the Municipal Corporation fixing a programme locality-wise for taking photographs of voters in duplicate (one photo for identity card and duplicate to be affixed in the Register) and for the collection of the particulars of the identity card so that the voter may be present on the specified date or dates for taking his photograph and other particulars ;

(ii) in case the presence of the voter could not be secured due to any reason, the Election Officer shall make arrangements for taking the photographs and particulars on some other date or dates within the programme specified in sub-rule (i) ;

(iii) in cases, where any voter has not been covered during the programme as announced under sub-rule (i) due to neglect or default or absence of the voter, such a voter shall, at least twenty days before the date of the poll, apply in Form III duly furnishing two copies of photograph and furnishing the other particulars in person and take his identity card from the Election Officer.

[1][**9.** No identity card shall be supplied to any voter within two days prior to the date fixed for the poll.]

10. The identity cards shall be supplied to the voter free of cost, subject to the conditions stipulated in Rules 8(iii) and 11.

11. (i) The Election Officer on application received twenty days before the date of poll in Form IV, shall supply a duplicate identity card, immediately in case of loss, mutilation or defacement, on payment of a fee of rupees ten.

(ii) The fee specified in sub-rule (i) shall be remitted:—

(a) in the Municipal Treasury ; or

(b) in Government Treasury or Bank where the Municipal Corporation funds are lodged and the receipt obtained thereof shall be enclosed to the application together with the defaced or mutilated card.

1. Subs. by G.O.Ms.No. 407, H.M.A. & U.D. (Election) (M.A.), dt. 06.03.1987.

12. In case of any doubt or dispute in the preparation and supply of identity cards, the decision of the Election Authority shall be final.

FORM I

Municipal Corporation Elections 19

Voters Identity Card

[*See Rule 3*]

Corporation .....

Division No. .....

Sl. No. .....
(of identity card)

Passport Size Photograph

1. Name of the voter ; Sri/Smt./Kum. .....
2. Father/Husband .....
3. Age : .....
4. House No. .....
5. Occupation .....
6. Part/Page(s)/Serial No. ..... in the voters list.
7. Identification Marks :

(1)

(2)

8. Signature of L.T.I. of voter.

Attesting Officer :

Designation :

Officer Seal :

Note:— The Attesting Officer shall affix his signature on the photo with his seal.

FORM II

[See Rule 6]

Register of Acknowledgements of Voters for Identity Card/ Duplicate Card divisionwise ..... Corporation

Part No.

Sl.No.	Name of the Voter	S.No. of the identity card supplied	Date of supply
1	2	3	4

Signature or Left Thumb Impression of the Voter	Date of application for supply of duplicate card	Date of supply	Signature or Left Thumb Impression of the Voter	Signature of the Election Officer
5	6	7	8	9

FORM III

[See Rule 8(iii)]

Application for supply of Identity card

To

The Election Officer,

..... Corporation.

I am a voter in Division No. ..... and my name is registered as a voter at Sl.No. ..... of Part No. ..... on Page No. ..... of the Electoral Roll of ..... Corporation. I am not supplied with the identity card as I was absent during the period specified by you due to the reason that ..... my name does not find place in any other Division.

I enclose 2 copies of my passport size photographs. I request you to kindly issue the identity card.

Date :

Station : Yours faithfully

( )

(The application should be presented in person)

Acknowledgement

Received application from ..... on ..... for issue of identity card.

Signature of Election Officer or
Authorised Person

Station :

Date :

FORM IV

[See Rule 11]

Application for supply of Duplicate Identity card

To

The Election Officer,

..... Municipal Corporation.

.....

I am a voter in Division No. ..... and my name is registered as a voter at Part No. ..... S.No. ..... and my name is at page No. ..... of the Electoral Roll of ..... Municipal Corporation.

*I have lost my identity card supplied to me.

**I enclose my defaced/mutilated identity card.

I enclose two passport size photographs.

I also enclose the receipt in proof of payment of fee of rupees ten.

I request you to kindly issue a duplicate identity card.

Station : Yours faithfully

Date : ( )

*Strike off one of the alternatives which is not required.

Acknowledgement

Received application form from ..... on ..... for issue of duplicate identity card.

Station : *Signature of Election Officer or*

Date : *Authorised Person*

8. HYDERABAD MUNICIPAL CORPORATIONS (CONSTITUTION, ELECTION OF CHAIRPERSON AND POWERS AND FUNCTIONS ETC., OF WARDS COMMITTEES) RULES, 1995

[*G.O.Ms.No.142, Municipal Administration & Urban Development (Elecs-I) (M.A.), dated 18.03.1995*]

In exercise of the powers conferred by Section 585 read with Section 8-A of the Hyderabad Municipal Corporations Act, 1955 (Act No. II of 1956), the Governor of Andhra Pradesh hereby makes the following rules:—

RULES

1. Short title:— (1) These rules may be called the Hyderabad Municipal Corporations (Constitution, Election of Chairperson and powers and functions etc., of Wards Committees) Rules, 1995.

2. Definitions:— (1) In these rules, unless the context otherwise requires,—

(i) *'Act'* means the Hyderabad Municipal Corporations Act, 1955 (Act No. II of 1956).

(ii) *'Government'* means the State Government of Andhra Pradesh.

(iii) *'Commissioner'* means Commissioner of the Municipal Corporations.

(iv) *'Corporation'* means Municipal Corporation of Hyderabad.

(v) *'Form'* means Form appended to these rules.

(vi) *'Secretary'* means an Officer specified by the Commissioner to be the Secretary of Wards Committee.

(vii) *'Wards Committee'* means Wards Committee constituted under sub-section (1) of Section 8A of the Hyderabad Municipal Corporations Act, 1955.

(viii) *'Member'* means a member of Wards Committee.

(ix) '*Chairperson*' means the person elected by the members of Wards Committee in accordance with these rules ;

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1. Pub. in A.P. Gazette, R.S. to Part-I (Ext.), dt. 20.3.1995.

(x) *'State Election Commission'* means the State Election Commission constituted in pursuance of Article 243K of the Constitution of India.

(2) Words and expressions used in these rules but not expressly defined herein shall have the meanings assigned to them in the Act.

Constitution of Wards Committees

3. (1) The Government shall after consulting the Corporation constitute such number of Wards Committees as determined by them duly maintaining the geographical contiguity as far as possible.

(2) Each Wards Committee shall consisting not less than (10) Wards.

(3) The Government shall by order specify the number of Wards Committees and also Wards comprised therein.

(4) Where an order issued under sub-rule (3) results in the material alteration of the Wards Committees of a Corporation, the Government may direct that the alterations shall take effect from the next General Elections.

4. The Commissioner within a week from the date of issue of the order constituting Wards Committees shall specify an officer of the Corporation to be the Secretary of each Wards Committee who shall be referred to as Secretary in these rules.

5. (1) The Secretary shall within fifteen (15) days from the date of order constituting the Wards Committee issue a notice of seven (7) clear days but not exceeding fifteen days to the members of Wards Committee fixing the date, time and place to elect the Chairperson of the Wards Committee from among themselves in a meeting specially convened for the purpose. He shall also conduct Election to the Office of the Chairperson on the appointed day.

(2) The quorum for the meeting shall be not less than one half of the members of the Wards Committee.

(3) If, at such a meeting a Chairperson is not elected, another special meeting shall be convened for the purpose within seven (7) days from the date of such meeting. A notice of three (3) clear days shall be given to the members of the Wards Committee for convening the meeting indicating therein the date, time and place of the meeting provided that where the election of Chairperson could not be conducted in the first two meetings for want of quorum, the Chairperson shall be elected in the third meeting from among the members present without insisting quorum.

6. The meetings for election of Chairperson shall be presided over by the Secretary of the Wards Committee.

7. (1) If within half an hour after the time appointed for a meeting a quorum is not present the meeting shall stand adjourned, unless all the members present agree to wait longer.

(2) A member shall propose the name of the one of the members as Chairperson. A member can propose a name only once in a meeting for election. The names of all the candidates duly proposed shall be read out by the Secretary and within half an hour a candidate may withdraw from the contest.

8. (1) If there is only one validly nominated candidate he shall be declared to have been elected.

(2) If there are two or more candidates, an election shall be held by secret ballot.

(3) Where the election has to be conducted under sub-rule (2) a symbol shall be assigned to each candidate by the Secretary in consultation with the candidates. Serial numbers shall also be assigned to the candidates with reference to the alphabetical order of their surnames in Telugu. Where there is no surname the proper name shall be taken into consideration and when initials only precede the proper name, the initials have to be ignored. The Secretary shall then announce to the members the serial numbers and symbols assigned to each candidate.

Note:— The symbols shall conform to the instructions issued by the State Election Commission from time to time.

9. (1) At the place set apart for voting, there shall be provided a ballot box and voting compartment. The ballot box shall be so constructed that the ballot papers can be inserted therein but cannot be withdrawn therefrom without the box being unlocked.

(2) The Secretary shall immediately before the voting is taken, show the ballot box empty to such members as may be present, so that they may see that it is empty and shall then lock it up and place his seal upon it in such a manner as to prevent its being opened without breaking such seal. The ballot box shall then be kept in full view of those present at the meeting.

(3) Every member wishing to vote shall be supplied with a ballot paper in Form I on which the Secretary shall have, before its supply, affixed a stamp and signed on reverse portion thereof so as to indicate its authenticity.

(4) No member shall be allowed to enter the voting compartment when another member is inside the compartment.

(5) If, owing to blindness or other physical infirmity, a member is unable to recognise the symbol on the ballot paper or to make a mark thereon, the Secretary shall record vote on the ballot paper in accordance with the wishes of the member, fold it so as to conceal the vote and insert it into the ballot box.

(6) While acting under sub-rule (5), the Secretary shall observe such secrecy as is possible and shall keep a brief record of each such instance but shall not indicate therein the manner in which any vote has been given.

(7) After, all the members present at the meeting have voted, the Secretary shall close the poll and take up counting of the votes.

(8) The Secretary shall then open in the presence of the members present the ballot box, take out the ballot papers therefrom, count them and record the number thereof in a statement. A ballot paper shall be rejected if:—

(a) The mark is not made thereon;

(b) It bears any mark by which a voter can be identified;

(c) It does not bear the signature of the Secretary;

(d) The mark is set opposite the name of more than one candidate so as to render it doubtful to which candidate it is intended to apply ;

(e) It is so damaged or mutilated that its identity as a genuine ballot paper cannot be established;

(f) It bears more marks than the vacancies to be filled up.

10. The Secretary shall then declare the results in accordance with the following instructions,—

(1) If there are only two candidates, the one who secures the higher number of votes shall be declared to have been elected. In the event of there being an equality of votes between the two candidates, the Secretary shall draw lots in the presence of members present and the candidate whose name is first drawn shall be declared to have been duly elected.

(2) If there are more than two candidates, the one who obtains the lowest number of votes shall be eliminated and the voting be taken again.

If there is an equality of votes among all the candidates or if two or more candidates lowest on the list have obtained an equal number of votes, the Secretary shall decide by drawing lots in the presence of the members present which of such candidates shall be eliminated. The elimination shall be repeated until two candidates only are left, when voting shall be taken for the last time and the candidate who secures higher number of votes shall be declared to have been duly elected. In the event of there being an equality of votes at the final stage between the two remaining candidates, the Secretary shall draw lots in the presence of the members present and the candidate whose name is first drawn shall be declared to have been duly elected.

11. Immediately after the declaration of the results, the Secretary shall prepare a record of the proceedings at the meeting and sign it attesting with his initial every correction made therein and also permit any member present at the meeting to affix his signature to such record if that member expresses his desire to do so.

12. (1) The Secretary shall then make up into separate packets the ballot papers relating to each candidate, whether counted or rejected, seal up each packet and note thereon a description of its contents as to the election to which it relates and the date of the election.

(2) These packets shall not be opened and their contents shall not be inspected or produced except under the orders of the competent Court.

(3) The packets shall be retained in the safe custody in the Municipal Corporation Office by the Commissioner for one year and shall then unless otherwise directed by the competent Court, be destroyed.

13. After the declaration of the result, the Secretary shall sign the proceedings in the Form-II indicating the name of the person elected as Chairperson. Thereafter, the Secretary shall send an attested copy of the Form to the Commissioner and the Government and shall also place a copy of it on the notice board of the Municipal Corporation Office.

14. (1) The Chairperson elected shall hold office for a period of one year from the date of election and shall be eligible for re-election.

(2) The Chairperson shall cease to hold Office if he/she ceases to be a member of the Wards Committee. Any such casual vacancy of the Chairperson shall be filled by the election of another Chairperson from amongst members of the Wards Committee within fifteen (15) days of the occurrence of the vacancy in accordance with the procedure prescribed in these rules.

(3) A Chairperson elected against a casual vacancy shall enter upon Office forthwith and hold Office only so long as the person in whose place he/she is elected would have been entitled to hold Office if the vacancy had not occurred.

Powers and Functions of Chairpersons

15. (1) The Chairperson of the Wards Committee shall convene the meetings of Wards Committee. Every meeting of the Wards Committee shall be presided over by the Chairperson.

(2) At the first meeting in every year of the Wards Committee the Chairperson may nominate from among the members, a panel of not more than two temporary Chairpersons, any one of whom presides at any meeting of the Wards Committee in the absence of Chairperson in the order in which they are nominated in the panel.

(3) The Chairperson shall preside over and shall decide all points of orders arising at or in connection with the meeting. There shall be no discussion on any point of order and the decision of Chairperson on any point of order shall be final.

(4) When the conduct of a member in the opinion of the Chairperson is disorderly, he may direct that such member shall withdraw from the meeting of Wards Committee and such member shall thereupon withdraw and shall not be allowed to attend for the remainder of the day's meeting.

(5) If any member who has been ordered to withdraw continues to remain in the meeting, the Chairperson may take steps to cause him to be removed.

16. The Chairperson shall refer any resolution of the Wards Committee to the Standing Committee or the Corporation, as the case may be, for its consideration which in his opinion is in excess of the powers of the Wards Committee.

17. All Official correspondence between the Wards Committee and the Standing Committee/Corporation shall be conducted in the name of the Chairperson.

18. The Chairperson may incur in each case contingent expenditure incidental to the Office administration of Wards Committee an amount not exceeding Rs.200/-.

19. He shall report the expenditure so incurred to the Wards Committee at its next meeting. Provided that no such expenditure shall be incurred if there is no provision available to meet the expenditure under the relevant Head in the Budget of the Wards Committee.

20. The Chairperson if he so chooses to resign may send his letter of resignation in writing to the Secretary of Wards Committee. The Secretary shall on receipt of such resignation place it before the next meeting of the Wards Committee which shall accept the resignation after satisfying the genuineness of the resignation. Before the resignation is accepted by the Wards Committee, it shall be open to the Chairperson to withdraw such resignation by writing a letter under his hand addressed to the Secretary.

21. In case the Chairperson is incapacitated due to any reason or a vacancy arises due to death or resignation, the Wards Committee shall elect another member from among themselves for the remaining term of the Office of Chairperson within fifteen (15) days from the date of occurrence of vacancy in accordance with the procedure prescribed in these rules.

Duties and Powers of Members

22. (1) No member shall vote or take part in discussion of any question coming up for consideration at a meeting of the Wards Committee, if the question is one in which apart from its general application to the Public he has personal interest or he or his partner has any direct or indirect pecuniary interest.

(2) The Chairperson may prohibit any member from voting or taking part in the discussion of any matter in which he for reasons to be recorded in writing, believes such member to have such interest, or he may require such member to absent himself during the discussions.

(3) Such member may challenge the decision of the Chairperson who shall, thereupon, put the question to the meeting and the decision of the meeting shall be final.

(4) If any member present at the meeting believes that the Chairperson has any such personal or pecuniary interest in any matter under discussions, the Chairperson shall, if a motion to that effect is carried absent himself from the meeting during discussion.

(5) The member concerned shall not be entitled to vote on the question referred to in sub-rule (3) and the Chairperson concerned shall not be entitled to vote on the motion referred to in sub-rule (4).

23. (1) Any member may call the attention of the Chairperson to any neglect in the execution of Municipal work, to any waste to municipal property or to the wants of any locality and may suggest any improvements which may appear desirable.

(2) Every member shall have the right to move resolutions and to interpolate the Chairperson on matters connected with the Municipal administration.

(3) Every member shall have access during office hours to the records of the Wards Committee after giving a reasonable notice to the Chairperson:

Provided that the member shall not have access to such records of the Wards Committee, if they are considered as confidential or secret by the Chairperson.

Powers and Functions of Wards Committee:

24. The Wards Committee shall be assigned with the functions of:

(i) Maintenance of sanitation.

(ii) Maintenance of water supply and drainage whatsoever they are under the control of the Corporation.

(iii) Maintenance of street lighting.

(iv) Maintenance of roads.

(v) Maintenance of markets.

(vi) Maintenance of parks and playgrounds, and

(vii) Maintenance of School buildings wherever they are under the control of the Corporation.

25. The Wards Committee shall have powers to review the revenue collections.

26. The Wards Committee shall prepare draft annual budget and forward to the Standing Committee for consideration and incorporation in the annual budget of the Corporation.

27. The works/schemes sanctioned for the Wards Committee shall be executed by the Commissioner.

Mode of Transaction of Business

28. The Wards Committee shall provide an office and shall meet therein for the transaction of business atleast once in every fortnight upon such days and at such times as it may fix and also at other times as often as a meeting is called by the Chairperson :

Provided that no meeting shall be held on public holiday and on the day on which a meeting of the Standing Committee of Corporation is proposed to be held.

29. (1) No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given atleast three (3) clear days before the day of the meeting.

(2) In case of urgency the Chairperson may convene a meeting on giving shorter notice than that specified in sub-rule (1).

(3) The agenda for the meeting shall be prepared by the Secretary in consultation with the Chairperson. The Secretary may include in the agenda any subject which in his opinion should be considered by the Wards Committee and shall include therein any subject specified by the Chairperson. On any subject included in the agenda, the Chairperson as well as the Secretary shall have the right of recording his views in a note and such note shall be circulated to the members or placed before the Wards Committee at the time of the consideration of such subject by the Wards Committee.

30. (1) The Chairperson shall, on the requisition in writing of not less than one half of the members then on the Wards Committee convene a meeting of the Wards Committee provided the requisition specifies the day, other than a public holiday, the time and the purpose for which the meeting is to be held. The requisition shall be delivered at the Wards Committee Office during office hours to the Chairperson or Secretary or any other person who may then be incharge of the Wards Committee Office atleast seven (7) clear days before the day of the meeting.

(2) Where the Chairperson fails within forty-eight (48) hours from the delivery of such requisition to call a meeting on the day specified therein, such meeting may be called by the member who signed the requisition on giving the notice of three (3) clear days to the other members.

31. All the meetings of the Wards Committee shall be open to the public :

Provided that the Chairperson may, and at the request of the Wards Committee shall, in any particular case, for reasons to be recorded in Minutes Book kept under Rule 36 direct that the public generally or any particular person shall withdraw.

32. (1) All questions which may come before the Wards Committee at any meeting shall be decided by a majority of the members present and voting at the meeting and in every case of equality of votes, the Chairperson shall have a casting vote.

(2) When a member gives a dissent note, the Chairperson shall incorporate the same in the Minutes Book. If the Chairperson fails to record the dissent note given by any member in the Minutes Book the Secretary shall record the same and intimate the Member who gave the dissent note.

33. No business shall be transacted at a meeting unless there be present atleast one half of the total members then on the Wards Committee.

34. If within half an hour after the time appointed for a meeting a quorum is not present the meeting shall stand adjourned, unless all the members present agree to wait longer.

35. No resolution of Wards Committee shall be modified or cancelled within three (3) months after the passing thereof except at a meeting specially convened in that behalf and by a resolution of the Wards Committee supported by not less than one half of the members then on the Wards Committee.

36. Minutes of the proceedings at the meetings of the Wards Committee shall be drawn up and entered in a book to be kept for that purpose and shall be signed by the Chairperson and the said minutes shall, at all reasonable times and without charge be open at the Wards Committee Office to the inspection of any person who pays any tax under this Act in the area of Wards Committee.

37. Within three (3) days of the date of the meeting, a copy of the minutes of the proceedings at such meeting in English and in the main language of the District shall be forwarded by the Secretary to the Corporation. An authenticated copy of the said minutes shall also be affixed on the notice board of the Committee Office.

38. The Secretary shall have the custody of the proceedings and records of the Wards Committee and may grant copies of any such proceeding and records on payment of such fees as the Corporation may by general or special order determine copies shall be certified by the Secretary as provided in Section 76 of the Indian Evidence Act, 1872 (Central Act 1 of 1872) and copies so certified may be used to prove the records of the Wards Committee in the same manner as they may, under sub-section (5) of Section 71 of the said Act, be used to prove the proceedings of that body.

APPENDIX

FORM I

[See Rule 9(3)]

Ballot Paper

Sl.No.	Name of the Candidate	Symbol assigned
1		
2		

FORM II

[See Rule 13]

Proceedings of election of Chairperson of Wards Committee

No. ..... of ..... Municipal Corporation.

This is to notify that Sri/Smt. ..... has been declared elected as Chairperson of Wards Committee No. ..... Comprising Wards ..... to of Municipal Corporation at a Special ..... meeting held on ..... in the premises of .....

———

9. THE HYDERABAD MUNICIPAL CORPORATIONS (CO-OPTION OF MEMBERS BELONGING TO MINORITIES) RULES, 1995

[1][*G.O.Ms.No.230, Municipal Administration & Urban Development (Elections-I), dt. 16.05.1995*]

In exercise of the powers conferred by sub-section (1) of Section 585 read with sub-section (1C) of Section 5 of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956), the Governor of Andhra Pradesh hereby makes the following rules;

1. Short title, commencement and extent:— These rules may be called the Hyderabad Municipal Corporations (Co-option of Members belonging to Minorities) Rules, 1995.

(2) They shall come into force at once.

(3) These rules shall apply to Hyderabad, Visakhapatnam and Vijayawada Municipal Corporations.

2. Definitions:— (1) In these rules, unless the context otherwise requires—

(i) *"Act"* means the Hyderabad Municipal Corporations Act, 1955.

(ii) *"Government"* means the Government of Andhra Pradesh.

(iii) *"Commissioner"* means Commissioner of the Municipal Corporation appointed by Government under Section 104 of the Hyderabad Municipal Corporations Act, 1955;

(iv) *"Secretary"* means Secretary of the Municipal Corporation appointed under Section 133 read with Section 136 of the Hyderabad Municipal Corporations Act, 1955;

(v) *"Minorities"* means the Communities specified below which were notified as such by Ministry of Welfare, Government of India in S.O. No. 816 that may be notified by the Government of India from time to time.

(a) Muslims

(b) Christians

(c) Sikhs

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1. Pub. in A.P. Gaz., R.S. to Part 1 (Ext.), dt. 31.5.1995.

(d) Buddhists

(e) Zoroastrians (Parsis)

(2) The words and expressions used but not desired in these rules shall have the meanings respectfully assigned to them in the Act.

3. Qualification:— The person to be co-opted shall be:—

(a) a registered voter in the Corporation; and

(b) shall not be less than 21 years of age.

4. Disqualifications:— The provisions contained in Sections 22 & 23 of the Hyderabad Municipal Corporations Act, 1955 with regard to disqualification of members shall *mutatis mutandis* apply to the co-opted members.

5. Procedure for Co-option of Members:— (1) The Mayor shall convene a special meeting of the Corporation for co-option of Members belonging to minorities [1][within sixty (60) days from the date of first meeting of the Corporation].

(2) A Notice of seven clear days shall be given to the members including *ex-officio* members for convening the meeting.

(3) No business shall be transacted at the meeting unless there be present atleast one half of the sanctioned strength of the corporation including *ex-officio* members :

Provided that where minority members could not be co-opted in the first two meetings for want of quorum the minority members shall be co-opted in the third meeting even without the quorum.

(4) If within half-an-hour after the time appointed for the special meeting the quorum is not present the meeting shall stand adjourned unless all the members present agree to wait longer.

6. (1) The Mayor shall call for proposals for co-option of members belonging to minorities.

(2) Any member including an *ex-officio* member can propose the name of the member belonging to minorities and another member has to second such proposal.

(3) If two persons are proposed to be co-opted they shall be declared to have been co-opted.

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1. Subs. by G.O.Ms.No.297, MA & UD (Elec.II) M.A., dt. 15.5.2000.

(4) If three or more persons are proposed to be co-opted two persons shall be co-opted by voice vote.

7. While co-opting the members, preference may be given to the members belonging to such of the communities which are not represented on the Council through direct election.

8. The provisions contained in sub-section (2) of Section 92 of the Hyderabad Municipal Corporations Act, 1955 with regard to resignation of members shall *mutatis mutandis* apply to the co-opted members.

9. A casual vacancy in the office of co-opted member shall be filled in by following the procedure prescribed in these rules within three months from the date of occurrence of the vacancy:

Provided that the casual vacancy occurred within three months before the date on which the terms of office of the member expires by efflux of time shall be filled in:

Provided further that a member co-opted by the Council to a casual vacancy shall hold office as long only as the member in whose place he is co-opted would have been entitled to hold office if the vacancy had not occurred.

10. The Mayor shall issue a notification prescribed in indicating the names of the persons co-opted by the Corporation and the Commissioner shall thereafter send an attested copy of the notification to the Government for publication in the Andhra Pradesh Gazette and he will also place a copy of it on the Notice Board of the Corporation.

FORM I

Notification

(See Rule 10)

This is to notify that Sri (1) ..... and (2) Sri ..... has/have been co-opted as members belonging to minorities of ..... Municipal Corporation in its special meeting held on ..... in the premises of ..... and presided over by me.

Mayor Municipal Corporation

10. HYDERABAD MUNICIPAL CORPORATION (CO-OPTION OF MEMBERS HAVING SPECIAL KNOWLEDGE OR EXPERIENCE IN MUNICIPAL ADMINISTRATION) RULES, 1995[1]

[G.O.Ms.No.145, Municipal Administration & Urban Development (M.A.), dt. 18.03.1995]

In exercise of the powers conferred by Section 585 read with Section 5 of the Hyderabad Municipal Corporations Act, 1955 (Act No.II of 1956), the Governor of Andhra Pradesh hereby makes the following rules:—

1. Short title:— These rules may be called the Hyderabad Municipal Corporations (Co-option of Members having Special Knowledge or Experience in Municipal Administration) Rules, 1995.

2. Definitions:— (1) In these rules unless the context otherwise require,—

(i) *"Act"* means the H.M.C. Act, 1955 (Act II of 1956).

(ii) *"Commissioner"* means the Commissioner appointed under Section 104 of the Hyderabad Municipal Corporations Act, 1955.

(iii) *"Corporation"* means Municipal Corporation of Hyderabad.

(iv) *"Government"* means Government of Andhra Pradesh.

(v) *"Secretary"* means the Secretary appointed under Section 133 of the Hyderabad Municipal Corporations Act, 1955.

(2) Words and expressions used in these rules but not expressly defined herein shall have the meanings assigned to them in the Act.

(3) ***Persons eligible for Co-option:—*** *Qualifications:—*

(a) No person shall be eligible to be co-opted as member of the Corporation unless he is a registered voter in the Electoral Roll of the Corporation; and

(b) A person who has held office of a Chairperson/Mayor, Vice-Chairman/Deputy Mayor or member of a Municipality/Municipal Corporation or a combination of these offices for a total period of not less than [2][five (5) years;]

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1. Pub. in A.P. Gaz., R.S. to Part 1 (Ext.), dt. 20.3.1995.
2. Subs. by G.O.Ms.No.216, MA & UD (Elec.II), M.A., dt.10.4.2000.

(or)

(c) Persons who have retired from service after holding Gazette post under the State Government or Central Government and having special knowledge and experience in Municipal Administration.

4. Disqualification procedure for Co-option of members:— The provisions relating to disqualification of an elected member shall apply to co-opted members.

5. (1) The Secretary of the Corporation in consultation with the Commissioner, shall, [1][within sixty (60) days from the date of first meeting of the Corporation] call for applications from the eligible candidates by giving wide publicity in Newspapers giving seven (7) days time for submission of applications.

(2) The applications received shall be scrutinised by the Secretary within three (3) days from the last date of receipt of applications.

(3) The list of eligible applicants shall be placed before the Corporation at its special meeting to be convened by the Mayor within a fortnight from the last date fixed for receipt of applications by giving not less than seven (7) clear days notice to the elected members including *ex-officio* members:

Provided that no business shall be transacted at the meeting unless there be present atleast one half of the sanctioned strength of the Corporation including *ex-officio* members :

Provided further that where the members could not be co-opted in the first two meetings for want of quorum, the members shall be co-opted in the third meeting even without quorum.

(4) If within half-an-hour after the time appointed for the special meeting, the quorum is not present, the meeting shall stand adjourned unless all the members present agree to wait longer.

6. (1) In case there are more number of eligible applicants than the number of persons to be co-opted, the Corporation shall co-opt the required number of persons by a voice vote.

(2) If the number of applications received from eligible candidates is less than the number of persons to be co-opted or if no applications are received from the eligible candidates applications shall be invited again by giving wide publicity. The applications already received shall be considered along with fresh applications received and the procedure provided in Rule 5 shall be allowed.

1. Subs. by G.O.Ms.No. 296, MA & UD (Elec.II), M.A., dt. 15.5.2000.

7. The provisions relating to the resignation of the elected members of the Corporation shall apply to the co-opted members.

8. A casual-vacancy in the office of co-opted members shall be filled in by following the procedure prescribed in these rules within three (3) months from the date of occurrence of the vacancy :

Provided that no casual vacancy occurred within three months before the date on which the term of office of the members expires shall be filled in :

Provided further that a member co-opted by the Corporation to a casual vacancy shall hold office to the residuary period of the tenure.

9. The Commissioner shall issue proceedings in the form appended to these rules indicating the names of persons co-opted by the Corporation and the Commissioner shall thereafter send an attested copy of the proceedings to the Government and he will also place a copy of it on the Notice Board of the Corporation.

Annexure

Form

(See Rule 9)

This is to notify that Sri .....

(1) .....

(2) .....

(3) .....

(4) .....

(5) ..... has/have been co-opted as members of the Municipal Corporation in the category of having special knowledge or experience in Municipal Administration. The said Co-option was made by the Municipal Corporation in its special meeting held on ..... in the premises of .....

Commissioner Municipal
Corporation of
.....

11. [1]ANDHRA PRADESH MUNICIPAL CORPORATIONS (USAGE OF ELECTRONIC VOTING MACHINES) RULES, 2001

[G.O.Ms.No. 544, M.A., Municipal Administration & Urban Development (Elections-II), 01.11.2001]

In exercise of the powers conferred by sub-section (1) of Section 585 read with Section 60-A of the Hyderabad Municipal Corporations Act, 1955, (Act II of 1956) and as amended by the Andhra Pradesh Municipal Laws (Second Amendment) Act, 2001 (Act No. 11 of 2001) and Section 18 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25 of 1994), the Governor of Andhra Pradesh hereby makes the following rules for usage of electronic voting machines in the election to the Municipal Corporations in the State:

1. Short title, extent, and commencement:— (1) These rules may be called the Andhra Pradesh Municipal Corporations (Usage of Electronic Voting Machines) Rules, 2001.

(2) These rules shall apply to all the Municipal Corporations in the State.

2. Design of Voting Machine:— Every Electronic Voting Machine (hereinafter referred to as the Voting machine) shall have a Control Unit and a Balloting Unit and shall be of such designs as may be approved by the State Election Commission.

3. Preparation of Voting Machine by the Election Officer:— (1) Two separate Voting Machines shall be used one for Election to the Office of Mayor and another for Ward Member in cases of simultaneous elections.

(2) The Balloting Unit of the voting machine shall contain such particulars in such language or languages as the State Election Commission may specify.

(3) The names of the candidates shall be arranged on the Ballot Unit in the same order in which they appear in the list of the contesting candidates.

(4) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

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1. Pub. in A.P. Gaz., R.S. to Part I (Ext.), dated 02.11.2001.

(5) Subject to the foregoing provisions of this rule, the returning officer shall:

(a) fix the label containing the names and symbols of the contesting candidates in the Balloting Unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

(b) Set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

4. Arrangements at the Polling Stations:— (1) Outside each polling station there shall be displayed prominently.

(a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and

(b) a copy of the list of contesting candidates.

(2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.

(3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.

(4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the previous approval of the State Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

5. Admission to Polling Stations:— The Presiding Officer shall regulate the number of electors, to be admitted at any time inside the Polling Station and shall exclude therefrom all persons other than:

(a) Polling Officers;

(b) public servants on duty in connection with the election;

(c) persons authorised by the State Election Commission;

(d) candidates, their election agents appointed subject to the provisions of Rule 16 of the Municipal Corporation of Hyderabad (Election

of Mayor, Members and Election Petitions) Rules, 1987, one polling agent of each candidate;

(e) a child in arms accompanying as elector;

(f) a person accompanying a blind or infirm elector who cannot move without help; and

(g) such other persons as the Presiding Officer may employ from time to time admit for the purpose of identifying voters or otherwise assisting him in taking the poll.

6. Preparation of voting machine for poll:— (1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with:—

(a) the serial number and the name of the ward;

(b) the serial number and the name of the polling station or stations as the case may be;

(c) the serial number of the unit; and

(d) the date of poll.

(2) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no voter has been already recorded in the voting machine and it bears the label referred to in sub-rule (4) of Rule 3.

(3) A paper seal shall be used for securing the control unit of the voting machine, and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as are desirous of affixing the same.

(4) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefor in the control unit of the voting machine and shall secure and seal the same.

(5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result button" without breaking the seal.

(6) The control unit shall be closed and secured and placed in full view of the Presiding Officer and the polling agents and the balloting unit placed in the voting compartment.

7. Marked copy of electoral roll:— Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the polling agents and others present that the market copy of the electoral roll to be used during the poll does not contain:

(a) any entry other than that made in pursuance of sub-rule (3) of Rule 40 of the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election Petitions) Rules, 1987; and

(b) any mark other than the mark made in pursuance of clause (b) of sub-rule (1) of Rule 41 of the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election Petitions) Rules, 1987.

8. Facilities for Women electors: (1) Where a polling station is for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) The Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of woman electors, and in particular, to help/frisking any woman elector in case it becomes necessary.

9. Identification of electors:— (1) The Presiding Officer may employ at the polling station such persons, as he thinks fit to help identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.

(3) Where the polling station is situated in a ward electors of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960 issued under Representation of People Act, 1950, the elector shall produce his identity card before the Presiding Officer or the Polling Officer authorised by him in this behalf.

(4) In deciding the right of a person to cast his vote, the Presiding Officer or the Polling Officer, as the case may be shall over look the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the elector to whom such entry relates.

10. Facilities for public servants on election duty:— (1) The provisions of Rule 9 shall not apply to any person, who produces at the polling station an election duty certificate issued by Returning Officer and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.

(2) On production of such certificate, the Presiding Officer shall

(a) obtain thereon, the signature of the person producing it;

(b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as for an elector entitled to vote at that polling station.

11. Challenging of Identity:— (1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of five rupees in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, the Presiding Officer shall,—

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 14 of the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election Petitions) Rules, 1987; and

(d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose,

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit

made under sub-rule (1) be forfeited to the Municipal Corporation funds and in any other case, returned to the challenger at the conclusion of the inquiry.

12. Safeguards against personation:— (1) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or Polling Officer and an indelible ink mark to be put on it.

(2) If any elector,—

(a) refuse to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or

(b) fails or refuses to produce his identity card as required by sub-rule (3) of Rule 9 he shall not be allowed to vote.

(3) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger to his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

13. Procedure for voting by voting machines:— (1) Before permitting an elector to vote, the Polling Officer shall,—

(a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form I.

(b) Obtain the signature or the thumb impression of the elector on the said register of votes; and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote :

Provided that no elector shall be allowed to vote unless he has affixed his signature or thumb impression on the register of voters.

(2) It shall not be necessary for any Presiding Officer or Polling Officer or any other officer to attest the thumb impression of the elector on the register of voters.

14. Maintenance of secrecy of voting by electors within the polling station and voting procedure:— (1) Every elector who has been

permitted to vote under Rule 13 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote the elector shall proceed to the Presiding Officer or the Polling Officer in-charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.

(3) The elector shall thereafter forthwith,—

(a) proceed to the voting compartment;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and leave the polling station.

(4) Every elector shall vote without undue delay.

(5) No elector shall be allowed to enter the voting compartment when another elector is inside it.

(6) If an elector who has been permitted to vote under Rule 13 or Rule 17 refuses after warning given by the Presiding Officer to observe the procedure laid down in sub-rule (3) of Rule 14 or sub-rule (3) of Rule 17, the Presiding Officer or a Polling Officer under the direction of the Presiding Officer shall not allow such elector to vote.

(7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall, be made against the elector's name in the register of voters in Form-I by the Presiding Officer under his signature.

15. Recording of votes of blind or infirm electors:— (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities an elector is unable to read the names or recognise the symbols on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day :

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be

required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

(2) The Presiding Officer shall keep a record of all cases under this rule in Form 12 prescribed under the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election Petitions) Rules, 1987.

16. Elector deciding not to vote:— If an elector, after his electoral roll number has been duly entered in the register of voters in Form-I and has put his signature or thumb impression thereon as required under clause (b) sub-rule (1) of Rule 13, decided not to record his vote, a remark to this effect shall be made against the said entry in Form-I by the Presiding Officer and the signature or thumb impression of the elector shall be obtained against such remark.

17. Tendered Votes:— (1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the State Election Commissioner may specify.

(2) Every, such elector shall before being supplied with tendered ballot paper affix his signature or thumb impression against the entry relating to him in a list in Form-II as prescribed in the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election Petitions) Rules, 1987.

(3) On receiving the ballot paper he shall forthwith,—

(a) proceed to the voting compartment;

(b) record there his vote on the ballot paper by placing a cross mark "X" with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote.

(c) fold the ballot paper so as to conceal his vote;

(d) give it to the Presiding Officer who shall place it in a cover specially kept for the purpose; and

(e) leave the polling station.

(4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after

following the same procedure as laid down in Rule 15 for recording the vote in accordance with his wishes.

18. Presiding Officer's entry in the voting compartment during poll:— (1) The Presiding Officer may whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(2) If the Presiding Officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

19. Closing of Poll:— (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under Sec. 57 of the Hyderabad Municipal Corporations Act, 1955 and shall not thereafter admit any elector into the polling station :

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the Presiding Officer and his decision shall be final.

20. Account of votes recorded:— (1) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Form-III and enclose it in a separate cover with the words "Account of Votes Recorded" superscribed thereon.

(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form III after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

21. Sealing of voting machine after poll:— (1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from control unit.

(2) The control unit and the balloting unit shall thereafter be sealed, and secured separately in such manner as the State Election Commission may direct and the seal used for securing them shall be so affixed that it will not possible to open the units without breaking the seals.

(3) The polling agents present at the polling station, who desires to affix their seals, shall also be permitted to do so.

22. Sealing of other packets:— (1) The Presiding Officer shall then make into separate packets.

(a) The marked copy of the electoral roll;

(b) the register of voters in Form I;

(c) the cover containing the tendered ballot papers and the list in Form-II;

(d) the list of challenged votes; and

(e) any other papers directed by the Election Commission to be kept in a sealed packet.

(2) Each packet shall be sealed with the seal of the Presiding Officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

23. Transmission of voting machines, etc., to the Returning Officer:— (1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct:

(a) the voting machine ;

(b) the account of votes recorded in Form III;

(c) the sealed packets referred to in Rule 22; and

(d) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

24. Procedure on adjournment of poll:— (1) If the poll at any polling stations is adjourned under sub-section (1) of Section 58, the provision of Rules 20 to 23 shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under Section 57 of the Act.

(2) When an adjourned poll is recommended under sub-section (2) of Section 58, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held, with sealed packet containing the marked copy of the electoral roll, register of voters in Form-I and a new voting machine.

(4) The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for making the names of the electors who are allowed to vote at the adjourned poll.

(5) The provisions of Rules 2 to 23 shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

25. Closing of voting machines in case of booth capturing:— Where the Presiding Officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

27. Procedure and Forms:— The procedure and the forms prescribed in the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election petitions) Rules, 1987 which are not modified or revised in these rules shall be followed, wherever required.

FORM I

(See Rule 13)

Register of Voters

Election to the office of the Mayor, Municipal Corporation of...../ Member of Municipal Corporation..... from..... Ward.

No. & Name of the Polling Station.....

Sl.No.	Sl.No. of elector in the electoral roll	Signature/Thumb impression of elector	Remarks
1.			
2.			
3.			
4.			
etc.			

Signature of the Presiding Officer

FORM II

(See Rule 17)

List of Tendered Votes

Election to the office of the Mayor, Municipal Corporation of...../ Member of Municipal Corporation..... from..... Ward.

No. & Name of the Polling Station.....

Sl. No.	Name of Elector	Sl.No. of elector in electoral roll	Sl.No.Register of voters (Form) of the person who has already voted in place of elector	Signature/Thumb impression of elector
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Date: *Signature of the Presiding Officer*

FORM III

(See Rule 20)

Part-I Account of Votes recorded

Election to the office of the Mayor, Municipal Corporation of...../ Member of Municipal Corporation..... from..... Ward.

No. and Name of Polling Station.....

Identification No. of Voting Control Unit.....

Machine used at the polling station balloting unit.....

1. Total No. of electors assigned to the Polling Station.
2. Total No. of voters as entered in the Register of voters (Form-I).
3. No. of voters decided not to record votes under Rule 16.
4. No. of voters not allowed to vote under Rule 14.

5. Total No. of votes recorded as per voting machine.

6. Whether the total No. of votes as shown against item 5 tallies with the total No. of votes as shown against item 2 minus Nos. of voters deciding not to record votes as against item No. 3 minus No. of voters as against item 4(2-3 & 4) or any discrepancy noticed.

7. No. of voters to whom tendered ballot papers were issued under Rule 17.

8. No. of tendered ballot papers.

	Sl.No.	
	From	To
(a) received for use		
(b) issued to electors		
(c) not used and returned		

9. Account of papers seals

	Sl.Nos.	
1. Serial numbers of paper seals supplied	From	To
2. Total number supplied.		
3. Number of paper seals used.		
4. Number of unused paper seals returned to Returning Officer (Deduct item 3 from item 2)		
5. Serial number of damaged paper seal, if any		

Signature of Polling Agents.

1.
2.
3.
4.
5.
6.

Date:

Place:

Signature of Presiding Officer
Polling Station No.

———

Part II Result of Counting

S.No.	Name of the Candidate	No. of Votes recorded
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Total:

Whether the total Nos. of votes shown above tallies with the total No. of votes shown against item 5 of Part I or any discrepancy noticed between the two totals.

Place:
Date:

Signature of Counting Supervisor, Name of Candidate/ election agent/counting agent Full signature

1.
2.
3.
4.
5.
6.
7.
8.

Place :

Date :

Signature of Returning Officer.

12. THE ANDHRA PRADESH MUNICIPAL CORPORATIONS (DELIMITATION OF WARDS) RULES, 1996

[1][*G.O.Ms.No.570, Municipal Administration & Urban Development (Elec-2), (M.A.), dt. 6th November, 1996*]

In exercise of the powers conferred by sub-section (1) of Section 585 and Sections 5 and 8 of the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956) read with Section 18 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No.25 of 1994), the Governor of Andhra Pradesh hereby makes the following Rules for Delimitation of Wards in Municipal Corporations in the State.

1. Short title, extent and commencement:—

(i) These rules may be called the Andhra Pradesh Municipal Corporations (Delimitation of Wards) Rules, 1996.

(ii) They shall extend to all the Municipal Corporations in the State.

2. Definitions:— In these rules unless the context otherwise requires:

(i) *"Act"* means the Hyderabad Municipal Corporations Act, 1955 (Act II of 1956) and the Andhra Pradesh Municipal Corporations Act, 1994 (Act No.25 of 1994).

(ii) *'Commissioner'* means the Commissioner of a Municipal Corporation, appointed under Section 104 of the Hyderabad Municipal Corporations Act, 1955 or under sub-section (3) of Section 17 of the Andhra Pradesh Municipal Corporations Act, 1994 and includes Acting Commissioner appointed under Section 110 of the Hyderabad Municipal Corporations Act, 1955.

(iii) *'Corporation'* means the Municipal Corporation of a City.

(iv) *'Government'* means the Government of Andhra Pradesh.

(v) *'Ward'* means the Territorial Constituency for the conduct of Elections for the offices of members to the Corporation.

(vi) *"Population"* means the population as defined in the Act.

(vii) Words and expressions used in these rules but not defined herein shall carry the meaning assigned to them in the Hyderabad

1. Pub. in A.P. Gazette R.S. to Part I (Ext.), dated 26.11.1996.

Municipal Corporations Act, 1955 or the Andhra Pradesh Municipal Corporations Act, 1994, as the case may be.

3. The Corporation shall be divided into as many wards as notified by the Government under sub-section (1) of Section 8 of the Hyderabad Municipal Corporations Act, 1955.

4. The area of the Corporation shall be divided into Wards as notified by the Government under Rule 3, duly taking into account the natural-boundaries Geographical features and contiguity of the area. Wherever natural boundaries could not be adopted survey numbers, T.S. numbers, important junctions or lanes shall be considered as far as possible.

5. The variation in population in the wards shall not be more than 10% of the average population of the ward as far as possible.

6. Ward division shall commence from the North-East point of the Geographical boundary of the Corporation and the wards shall be numbered in seriatum in clock-wise direction starting from the North-East point.

7. Boundary description of each ward shall be prepared starting from the North-East point in clock-wise direction.

8. The Commissioner shall cause the publication of the preliminary notification regarding delimitation of wards in Form I in the Andhra Pradesh Gazette in Telugu, Urdu and English Newspapers besides displaying the notification on the notice board of all important Government Offices situated within the limits of the Corporation, duly calling for suggestions and objections from the public within seven days from the date of publication. Commissioner shall also place the said notification before the General Body of the Corporation for its suggestions and objections.

9. All the suggestions and objections received during the stipulated period shall be entered in the register prescribed in Form II.

10. Commissioner, after considering the objections and suggestions received in time, shall forward the ward division proposals to the Government for approval together with the following annexures namely:—

(i) Corporation map duly depicting the existing and proposed ward divisions in different colours.

(ii) Statement of suggestions and objections received in Form II.

(iii) Certificate that the boundary description of each ward has been verified and found correct in Form III.

(iv) Certificate that no part of the Corporation area has been left without being included in one or the other ward in Form IV, and

(v) Certificate that no area has been included in more than one ward in Form V.

11. After the approval of the ward Division proposals by the Government the Commissioner shall publish the same in Form VI in the Andhra Pradesh Gazette in a Telugu, Urdu and English newspaper each and display the said notification at important Government Offices situated within the Corporation limits.

FORM I

(Rule 8)

Delimitation of Wards in ..... Municipal Corporation.

Preliminary Notification

No. ..... Date .....

In pursuance of the provision of Rule 8 of the Andhra Pradesh Municipal Corporation (Delimitation of Wards) Rules, 1996 issued by the Government in G.O.Ms.No. 570, dated 06.11.1996 the residents of ..... city area informed that the area of the ..... Municipal Corporation has been divided into..... Wards as per the boundary description detailed hereunder.

The residents of ..... city area requested to file suggestions or objections, if any, to the Commissioner ..... Municipal Corporation within 7 days of the date of publication of this notification.

Ward No.	Boundary Description
(1)	(2)

Commissioner,

Municipal Corporation

.....

FORM II

(Rule 9)

Delimitation of Wards

Register of Suggestions and Objections

Sl. No.	Name of the Petitioner	Address	Date of Receipt	Brief details of Suggestion /Objections	Remarks	Considered or rejected
1	2	3	4	5	6	7

Commissioner,
Municipal Corporation
.....

FORM III

(Rule 10(iii))

Certificate

No. ..... Dated .....

Certified that boundary description of each ward ..... Municipal Corporation has been physically verified and found correct.

Commissioner,
Municipal Corporation
.....

FORM IV

(Rule 10(iv))

Certificate

No. ..... Dated .....

Certified that no part of the area of the ..... Municipal Corporation has been left without being included in one or the other ward.

Commissioner,
Municipal Corporation
.....

FORM V

(Rule 10(v))

Certificate

No. ..... Dated .....

Certified that no area of the ..... Municipal Corporation has been included in more than one ward.

Commissioner,
Municipal Corporation
.....

FORM VI

(Rule 11)

Delimitation of wards in ..... Municipal Corporation.

Notification

In pursuance of the provision of Rule 8 of the Andhra Pradesh Municipal Corporations (Delimitation of Wards) Rules, 1996 issued by the Government in G.O.Ms.No. 570, dated 06.11.1996 objections and suggestions were called for from residents of city in the Preliminary Notification date No. ..... date ..... .

In pursuance of the provisions of Rule 11 of the Hyderabad Municipal Corporation (Delimitation of Wards) Rules, 1996 residents of ..... City are hereby informed that Delimitation of the ..... Wards of ..... Municipal Corporation is conformed as detailed below:

Ward No.	Boundary description
(1)	(2)

Commissioner,
Municipal Corporation
.....

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13. MUNICIPAL ADMINISTRATION& URBAN DEVELOPMENT – DELIMITATION OF WARDS IN GREATER HYDERABAD MUNICIPAL CORPORATION – APPROVAL – ORDERS – ISSUED.

[G.O.Ms.No.349, Municipal Administration& Urban Development (Elec.II) Department, dated: 23.05.2009]

Read the following:—

1. G.O.Ms.No.261 MA&UD (Elec.II) Dept., dated: 16.04.2007.
2. G.O.Ms.No.635 MA&UD (Elec.II) Dept., dated: 16.09.2008.
3. From the Commissioner & Special Officer, GHMC Lr.No.6960/GHMC/ Elecs/2008 dated: 20-05-2009.

—

ORDER:

In the reference 1st read above, Government have issued orders establishing Greater Hyderabad Municipal Corporation.

2. In the reference 2nd read above, Government have issued orders fixing the number of elected members of Greater Hyderabad Municipal Corporation as 150.

3. In the reference 3rd read above, the Commissioner & Special Officer, GHMC has submitted the proposals to the Government, wherein he has informed that a preliminary notification was issued on 24.02.2009 for delimitation of 150 wards in GHMC area. In response to the said notification, 210 objections and suggestions were received from various political parties and residents of Greater Hyderabad Municipal Corporation. Out of which, 33 suggestions and objections have been duly considered for change of names and boundaries etc., and the rest of 177 have not been agreed to. The proposal has been approved in the General Body of the Corporation vide Resolution No.21 Dated 20.05.2009. The Commissioner, Greater Hyderabad Municipal Corporation has also forwarded the Register of Disposal of Suggestions and Objections received from Political Parties/ General Public in the prescribed proforma and requested the Government to approve the Delimitation of 150 Wards in Greater Hyderabad Municipal Corporation area.

4. Government, after careful examination of the matter, hereby approve the delimitation of 150 Wards in Greater Hyderabad Corporation, Hyderabad

as appended to this order as per Rule 11 of the A.P. Municipal Corporations (Delimitation of Wards) Rules, 1996.

5. The Commissioner & Special Officer, GHMC is requested to publish the above delimitation of 150 Wards in GHMC area in Form-VI in the Andhra Pradesh Gazette and in one Telugu, Urdu & English news paper each and display the said notification at important Government offices situated within the Greater Hyderabad Municipal Corporation limit.

———

14. CRITERIA FOR FIXATION OF STRENGTH OF ELECTED MEMBERS IN MUNICIPAL CORPORATIONS IN THE STATE

[1][*G.O.Ms.No. 358, Municipal Administration & Urban Development (Ele.II), 27th April, 2005*]

In exercise of the powers conferred under Section 585 read with Section 5 of the Hyderabad Municipal Corporation Act, 1955, sub-section (1) of Section 11 read with Section 5 of the Visakhapatnam Municipal Corporation Act, 1979, sub-section (1) of Section 11 read with Section 5 of the Vijayawada Municipal Corporation Act, 1981 and sub-section (1) of Section 18 read with Section 5 of the Andhra Pradesh Municipal Corporations Act, 1994 and in supersession of all the rules, notifications and orders issued if any, on the subject, the Governor of Andhra Pradesh, hereby makes the following rules for fixation of strength of elected members of Municipal Corporations in the State :

RULES

1. Short Title and Applicability:

(a) These rules may be called the Andhra Pradesh Municipal Corporations (Fixation of Strength of Elected Members) Rules, 2005.

(b) These rules are applicable to all the Municipal Corporations in the State.

2. Definitions: In these rules unless the context otherwise requires:-

(1) "*Corporation*" means the Hyderabad Municipal Corporation constituted under the Hyderabad Municipal Corporation Act, 1955, the Visakhapatnam Municipal Corporation constituted under the Visakhapatnam Municipal Corporation Act, 1979, the Vijayawada Municipal Corporation constituted under the Vijayawada Municipal Corporation Act, 1981 and the other Municipal Corporations in the State constituted under the Andhra Pradesh Municipal Corporations Act, 1994.

(2) "*Government*" means the Government of Andhra Pradesh.

3. The Government by notification in Andhra Pradesh Gazette shall declare the number of elected members of the Municipal Corporations in the State in accordance with the principles indicated in the following table.

---

1. Published in A.P. Gazette, R.S. to Pt. I, Ext. No. 31, dt. 28-4-2005.

TABLE

Sl. No.	Population as per the latest census	Number of Elected Member
1.	Population not exceeding 4,00,000	50
2.	Population exceeding 4,00,000 but not exceeding 10,00,000	The minimum number of elected members shall be 50 and for every 50,000 of the population above 4,00,000, there shall be one additional elected member, for fraction of more than 25,000 population there shall be one additional elected member and the fraction below 25,000 shall be ignored. However, the maximum number of elected members shall not exceed 63.
3.	Population exceeding 10,00,000 but not exceeding 20,00,000	The minimum number of elected members shall be 63 and for every 50,000 of the population above 10,00,000, there shall be one additional elected member, for fraction of more than 25,000 population there shall be one additional elected member and the fraction below 25,000 shall be ignored. However, the maximum number of elected members shall not exceed 83.
4.	Population exceeding 20,00,000	The minimum number of elected members shall be 83 and for every 75,000 of the population above 20,00,000, there shall be one additional elected member, for fraction of more than 37,500 population there shall be one additional elected member and the fraction below 37,500 shall be ignored. However, the total number of elected members shall not exceed 120.

15. THE GREATER HYDERABAD MUNICIPAL CORPORATION (MOTION OF NO CONFIDENCE IN MAYOR/DEPUTY MAYOR) RULES, 2008.

[1][*G.O.MS.No.836, Municipal Administration & Urban Development (Elec.II), dated: 3rd December,2008*]

In exercise of the powers conferred by sub-section (1) of Section 585 read with Section 91-A. of the Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act No. 2 of 1956), the Government of Andhra Pradesh hereby makes the following rules for moving of the motion of no-confidence against the Mayor/ Deputy Mayor of the Corporation:

RULES

1. Short title and commencement:—

(a) These Rules may be called the Greater Hyderabad Municipal Corporation (Motion of No confidence in Mayor/ Deputy Mayor) Rules, 2008.

(b) They shall come into force from the date of publication in Andhra Pradesh Gazette.

2. Definitions:- In these Rules, unless the context otherwise requires—

(a) "*Act*" means the Greater Hyderabad Municipal Corporation Act, 1955;

(b) "*Corporation*" means a municipal corporation constituted under the Act;

(c) "*Form*" means the form appended to these rules;

(d) "*Government*" means the Government of Andhra Pradesh;

(e) "*Member*" means a member of the Municipal Corporation;

(f) Words used but not defined in the rules shall have the meaning assigned to them in the Act.

3. A motion expressing want of confidence in the Mayor or Deputy Mayor may be made by giving a written notice of intention to move the motion in Form -1 duly signed by not less than one-half of the total number of members of the municipal corporation having right to vote, together with a copy of the proposed motion to the District Collector concerned.

---

1. Published in A.P. Gazette, R.S. to Pt. I, Ext. No. 114, dt. 5-12-2008.

4. The District Collector shall verify the signatures of the members who have signed form -I with reference to the signatures of the members available in municipal records.

5. (1) After proper verification of the signatures of the members in Form - I, the District Collector shall convene a meeting for the consideration of the motion at the office of the Municipal Corporation on a date appointed by him which shall not be later than thirty days from the date on which notice was delivered to him. He shall give to the members who are having right to vote, notice of not less than fifteen clear days as provided in sub-section (2) of section 91 -A of the Act in Form - II.

(2) The meeting shall not be convened on a public holiday.

6. The notice referred to in Form -II shall be served on the members as provided in Section 630 of the Act.

7. The District Collector or any officer nominated by the District Collector shall preside at such meeting.

8. After issue of a notice under Rule 5 by the District Collector, every recognized political party may appoint a person on behalf of that political party as whip and intimation of such appointment shall be issued by the State President or a person authorized by him under his seal and such intimation shall be sent to the Presiding Officer to reach him on or before 11.00 a.m. on the day preceding the day appointed for consideration of the no confidence motion against Mayor or Deputy Mayor.

9. Whenever a whip is issued by a whip to his party members, it shall be served on them in the following manner:—

(a) by giving or tendering the said whip to the member duly obtaining his acknowledgement with date on the duplicate copy of the whip;

(b) if such member is not found at his permanent residence, by giving or tendering the same to some adult member of his family duly obtaining his/her acknowledgement with date on the duplicate copy of the whip. In this case, the name of the family member and his/her relationship to the member shall be noted in the acknowledgement by the adult member of the family;

(c) if the above methods are not-available, by sending the said whip by registered post acknowledgement due;

(d) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business after following the procedure of due panchanama.

10. (1) A meeting convened for the purpose of considering motion under these rules shall not be adjourned for any reason.

(2) The quorum for such meeting shall be two thirds of the total number of members.

(3) If within half an hour after the time appointed for the meeting, there is no quorum, the presiding officer shall adjourn the meeting to some other time on the same day and notify the same in the notice board of the Corporation. If there is no quorum at the adjourned time also, the meeting shall stand dissolved and notice given under rule 3 shall lapse.

(4) As soon as a meeting convened under the said rule commences the presiding officer shall read to the members present in the meeting, the motion for the consideration of which the meeting has been convened and shall put it to vote without any debate.

11. When the motion of no confidence is put to vote, the Presiding Officer shall first ask the members to raise their hands who vote for the motion and record their names with party affiliation in the minutes book. Similarly, the Presiding Officer shall ask the remaining members to raise their hands who vote against the motion and record their names with party affiliation in the minutes book. The names of members who abstain from voting with their party affiliation shall also be recorded in the minutes book. The result of the voting shall be recorded in the minutes book.

12. Immediately after conclusion of the meeting, the Presiding Officer shall prepare a record of the proceedings of the meeting and sign it attesting with his initials every correction made-therein and shall also have the said record of proceedings attested by a majority of the members who participated in the meeting.

13. The Presiding Officer shall forward a copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon immediately on the termination of the meeting to the District Collector concerned.

14. Where a member belonging to any recognized political party votes or abstains from voting in a meeting convened to consider a motion of no confidence in Mayor / Deputy Mayor in disobedience of the whip issued by

such political party, the President of the political party or the functionary authorized by the political party to issue a whip may file a petition within three days from the date of the meeting before the Presiding Officer for disqualifying the member to hold office.

15. Every petition filed under rule 14:—

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

(b) shall be accompanied by copies of the documentary evidence showing the service of the whip on the member concerned.

16. On receipt of a petition under rule 14, the Presiding Officer shall consider whether the petition complies with the requirements of rule 15. If the petition does not comply with the requirements of rule 15, he shall dismiss the petition and intimate the petitioner accordingly.

17. If the petition complies with the requirements of rule 15, the Presiding Officer shall cause copies of the petition and of the annexures thereto be forwarded to the member concerned to submit his representation in this matter within seven days from the date of receipt of the said material.

18. The Presiding Officer shall consider the petition filed under rule 14 and the representation received from the member under rule 17 and pass a speaking order in the matter of cessation of membership for disobedience of the whip. If no representation is received from the member, the Presiding Officer shall pass an order on the basis of material available. A copy of the order shall be forwarded to the petitioner, member concerned, Commissioner of the Municipal Corporation concerned and the District Collector. Where a member is disqualified, he shall cease to hold office and the resultant vacancy shall be filled as a casual vacancy.

19. Where a member is disqualified to hold office for disobedience of the party whip, he may apply to the District Judge having jurisdiction over the area in which the office of Municipal Corporation is situated for a decision.

———

FORM - I

(See Rule 3)

To,
The Collector & District Magistrate,

_____

Sir / Madam,

We, the undersigned members of _____ Municipal Corporation, _____ District, hereby give notice of our intention as required by Section 91-A of the GHMC Act, 1955, to make a motion expressing want of confidence in Sri/Smt./Kum. _____ _____, Mayor / Deputy Mayor of the said Municipal Corporation at a meeting to be specially convened for the purpose. The sanctioned strength of the Municipal Corporation is _____ and the number of Ex-Officio Members is _____.

A copy of the motion proposed to be made is enclosed.

Signed at _____ on the day of _____ 200__

Sl. No.	Name of the Member with Ward number	Signature of the Member
1.		
2.		
3.		
4.		
5.		

(To be signed by not less than one-half of the sanctioned strength of the Municipal Corporation and ex-officio members having right to vote)

Delivered in person by

1. Sri/Smt./Kum. _____

   Signature.

2. Sri/Smt./Kum. _____

   Signature.

FORM - II

(See Rule 5)

To,

Sri /Smt./Kum. _____

Member of _____ Municipal Corporation

Sir / Madam,

Whereas, a notice of intention to make a motion expressing want of confidence in Sri./Smt./ Kum. _____ _____ Municipal Corporation has been delivered to me as required under Section 91-A of GHMC Act, 1955.

Now, therefore, under the said Act, I hereby give notice that a meeting of the Municipal Corporation shall be held at the office of the Municipal Corporation on _____ (date) at _____(time) for consideration of the said motion of no confidence against the Mayor / Deputy Mayor.

A copy of the proposed motion of no confidence signed by _____ members is enclosed. I have personally verified the signatures of the members of the Municipal Corporation with the help of the records maintained in the office of the Municipal Corporation and found them to be correct.

End : (_____)
Place :
Date :

Signature
District Collector
_____ District.

16. MA&UD DEPARTMENT - GREATER HYDERABAD MUNICIPAL CORPORATION, HYDERABAD - FIXATION OF STRENGTH OF ELECTED MEMBERS - ORDERS – ISSUED.

[G.O.Ms.No.635, Municipal Administration & Urban Development (Elec.II) Department, dated: 16.09.2008]

Read:

From the Commissioner & Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad, Lr.No.6960/Elecs/GHMC/2008/1032, dated 12.08.2008

——

ORDER:

The Commissioner & Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad in the letter read above has reported that as the population of Greater Hyderabad Municipal Corporation, Hyderabad is 54,04,853 as per the census 2001, the strength of the elected members for Greater Hyderabad Municipal Corporation may be fixed as one hundred and fifty (150) as per the "Andhra Pradesh Municipal Corporations (Fixation of strength of elected members) Rules, 2005 issued in G.O.Ms.No.328, MA&UD (Elec.II) Department, dated 20.04.2005 as amended in G.O.Ms.No.320, MA&UD Dept., dated 28.04.2008.

2. According to rule 3 of the "Andhra Pradesh Municipal Corporations (Fixation of strength of elected members) Rules, 2005, the number of elected members for the corporation having population 54,04,853 comes to one hundred and fifty (150). Further, Government by notification in the A.P. Gazette shall declare the number of elected members of Greater Hyderabad Municipal Corporation, Hyderabad.

NOTIFICATION

In exercise of the powers conferred under section 5 of the Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act 2 0f 1956), read with rule 3 of the "Andhra Pradesh Municipal Corporations (Fixation of strength of elected members) Rules, 2005 issued in G.O.Ms.No.328, MA&UD (Elec.II) Department, dated 20.04.2005 as amended in G.O.Ms.No.320, MA&UD Dept., dated 28.04.2008, the

Government hereby declare and notify the number of elected members of Greater Hyderabad Municipal Corporation, Hyderabad as indicated in the table below:-

Table

Name of the Municipal Corporation	Population as per 2001 census	Number of elected members
Greater Hyderabad Municipal Corporation, Hyderabad	54,04,853	150

17. THE GREATER HYDERABAD MUNICIPAL CORPORATION (CONSTITUTION, CONDUCT OF MEETINGS, POWERS AND FUNCTIONS OF WARD COMMITTEES AND AREA SABHAS) RULES, 2010

[G.O.Ms.No. 57, MA & UD (UBS) Dept., dt. 10-02-2010]

In exercise of the powers conferred by sub-section (1) of section 585 read with sections 8-A and 8-B of the Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act No. II of 1956), the Governor of Andhra Pradesh makes the following Rules for constitution, conduct of meetings, powers and functions of Ward Committees and Area Sabhas in Greater Hyderabad Municipal Corporation:

Rules

CHAPTER–I
Preliminary

1. Short title and commencement:— (1) These rules may be called the Greater Hyderabad Municipal Corporation (Constitution, Conduct of Meetings, Powers and Functions of Ward Committees and Area Sabhas) Rules, 2010.

(2) They shall come into force from the date of publication in the Andhra Pradesh Gazette.

2. Definitions:— In these Rules, unless the context otherwise requires:—

(1) "Act" means the Greater Hyderabad Municipal Corporation Act, 1955;

(2) "Area Sabha" means the Area Sabha constituted under Section 8-B of the Act;

(3) "Government" means the Government of Andhra Pradesh;

(4) "Ward Committee" means the Ward Committee constituted under Section 8-A of the Act;

(5) Words used but not defined in the rules shall have the meaning assigned to them in the Act.

CHAPTER–II
Ward Committee

3. Constitution of Ward Committee:— (1) A Ward Committee shall be constituted for each ward of the Corporation within three months from the date as may be notified by the Government in the Andhra Pradesh Gazette under section 8-A of the Act.

(2) Each Ward Committee shall consist of the following members:—

(i) the member of the Corporation representing the ward, who shall be Chairperson of the Ward Committee;

(ii) not more than ten electors representing the civil society from the ward nominated by the Corporation as provided hereinafter;

(iii) the Area Sabha representatives if there are Areas in the ward.

(3) The number of nominated members shall be four if the population of the ward is not more than ten thousand.

(4) If the population of the ward is more than ten thousand, there shall be one additional member for every four thousand population or part thereof, subject to the condition that any part with population of less than two thousand shall be ignored.

4. Persons eligible for nomination:— The following persons representing the civil society who are registered as a voter in the electoral roll of the ward concerned are eligible for nomination as a member of the Ward Committee subject to sub-rule (1) of Rule 5 and Rule 6

(a) A president/secretary representing registered Residents Welfare Association in the ward;

(b) A member of registered Tax Payers Association/Rate Payers Association in the ward;

(c) A president/secretary of slum level federation (i.e. NHC) of a slum. In case of non-availability of a slum level federation in a ward, a representative of senior most self help group in the ward;

(d) A member of a registered association/institution/institute/body or organization or Non-Governmental Organization (NGO) or Mahila Mandali or Trade Union/Chamber of Commerce/Medical Council in the ward

(e) Any other prominent citizen from the ward.

Note:— Persons representing the associations, organizations, institutions etc. mentioned in this rule except slum level federation are eligible for nomination as member of Ward Committee, provided the said bodies are registered one year prior to the date of nomination.

5. Nomination of members to the Ward Committee:— (1) Fifty percent of the members to be nominated to the Ward Committee shall be women.

(2) The following persons shall be the minimum number to be nominated to the Ward Committee from the categories of persons eligible for nomination under Rule 4 as shown in the table subject to sub-rule (1) and Rule 6:—

Sl. No.	Category	Strength of ward committee		
		4 to 5 members	6 to 7 members	8 to 10 members
		3(a)	3(b)	3(c)
		No. of persons to be nominated		
1	2	3(a)	3(b)	3(c)
1.	President/Secretary representing registered Residents Welfare Association in the ward. In the event of non-availability of President/ Secretary from Residents Welfare Association, a member of registered Tax Payers/Rate Payers Association in the ward.	1	1	2
2.	President/secretary of the slum level federation (i.e. NHC). In case of non-availability of a slum level federation in a ward, a representative of senior most self-help group in the ward.	1	1	2
3.	A member of a registered association/institution/body or organization or NGO or Mahila Mandali or Trade Union/Chamber of Commerce/ Medical Council in the ward.	1	1	1
4.	A member of a registered voluntary organization/NGO in the ward working for the welfare of the community.	—	1	1
5.	Any prominent citizen of the ward	—	1	1

Note:— In case of non-availability of persons from the categories mentioned in column 2 of the table, the persons eligible for nomination under Rule 4 can be nominated to the extent of shortage.

6. Qualifications and Disqualifications:— The qualifications and disqualifications prescribed to the elected members of the Corporation shall apply *mutatis mutandis* to the members of the Ward Committee.

7. Term of Ward Committee:— The term of office of the members of the Ward Committee shall be co-terminus with the term of office of the Corporation.

8. Procedure for nomination as a member of the Ward Committee:— (1) The Commissioner or an officer authorized by the Commissioner shall, within thirty days from the date as may be notified

by the Government in the Andhra Pradesh Gazette under section 8-A of the Act, issue a notice calling for applications from the eligible persons duly furnishing the eligibility criteria, qualifications, disqualifications and method of nomination etc. for nomination as members of the Ward Committee by giving wide publicity in the news papers giving fifteen days time for submission of applications;

(2) After receipt of applications, they shall be scrutinized by the Commissioner or an officer authorized by the Commissioner within seven days from the last date of receipt of applications and prepare a list of eligible applicants;

(3) The list of eligible applicants for nomination shall be placed before the Corporation at its special meeting to be convened by the Mayor within a month from the last date fixed for receipt of applications by giving a notice of not less than seven clear days to the elected members including ex-officio members;

(4) No business shall be transacted at the special meeting unless there be present atleast one-half of the members of the sanctioned strength of the Corporation including ex-officio members;

(5) In cases where members could not be nominated in the first two special meetings for want of quorum, the members shall be nominated in the third meeting even without quorum.

9. Method of Nomination:— (1) In case there are more number of eligible applicants than the number of persons to be nominated, the Corporation shall nominate the required number of persons by a voice vote.

(2) If the number of eligible applicants is less than the number of persons to be nominated or if no applications are received, fresh applications shall be invited by following the procedure prescribed in Rule 8.

(3) Casual vacancy in the office of nominated member shall be filled by following the procedure prescribed in Rule 8 as soon as may be, after the occurrence of the vacancy.

Provided that no casual vacancy occurred within three months before the date on which the term of office of the members expires shall be filled.

Provided further that a member nominated by the Corporation to a casual vacancy shall hold office during the residuary period of the tenure of the Ward Committee.

10. Resignation of nominated member:— The provisions relating to the resignation applicable to the elected members of the Corporation shall apply *mutatis mutandis* to the members of Ward Committee.

11. Issue of proceedings by the Commissioner:— The Commissioner or an officer authorized by the Commissioner shall issue proceedings indicating the names of persons nominated by the Corporation to the Ward Committees and send an attested copy of the proceedings to the Commissioner and Director of Municipal Administration. Further, the Commissioner shall issue proceedings constituting all the Ward Committees for the entire Corporation. He shall also affix a copy of the two proceedings on the notice board of the Municipal Corporation office.

12. Secretary of the Ward Committee:— After constitution of the Ward Committees under section 8 A of the Act, the Commissioner shall specify within seven days of such constitution, an officer of the Corporation to be the Secretary of each Ward Committee.

13. Meetings of the Ward Committee:— (1) The date and time of the first meeting of the Ward Committee shall be fixed by the Commissioner or an officer authorized by the Commissioner. The date and time for the subsequent meetings shall be fixed by the Chairperson of the Ward Committee.

(2) The member of the Municipal Corporation representing the ward shall preside over the meetings of the Ward Committee. [1] [If the Chairperson of the Ward Committee is absent, one of the members present as may be chosen by the members present by majority, to be the Chairperson for the occasion.]

(3) A Ward Committee or a group of Ward Committees shall be provided with an office and the Ward Committee shall meet therein for the transaction of business atleast once in two months upon such day and such time as it may fix and also at other times as often as a meeting is called by the Chairperson.

(4) No meeting of the Ward Committee shall be held on a public holiday and on the day on which a meeting of the Corporation is scheduled to be held.

(5) No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given atleast three clear days before the day of the meeting.

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1. **Added by G.O.Ms.No. 48, MA&UD (ELC-II) Dept., dt. 31-1-2011.**

(6) In cases of urgency, the Chairperson may convene a meeting on giving shorter notice than that specified in sub-rule (5).

14. Agenda for the meeting:— The agenda for the meeting shall be prepared by the Secretary in consultation with the Chairperson. The Secretary may include in the agenda any subject which, in his opinion, should be considered by the Ward Committee and shall include therein any subject specified by the Chairperson. On any subject included in the agenda, the Chairperson as well as the Secretary shall have the right of recording his views in a note and such note shall be circulated to the members or placed before the Ward Committee before or at the time of the consideration of such subject by the Ward Committee.

15. Requisition for convening the meeting:— (1) The Chairperson shall, on the requisition in writing of not less than onehalf of the members then on the Ward Committee, convene a meeting of the Ward Committee provided the requisition specifies the day, other than a public holiday, the time and the purpose for which the meeting is to be held. The requisition shall be delivered at the office of the Ward Committee during office hours, to the Chairperson, Secretary or any other person who may then be incharge of that office atleast seven clear days before the day of the meeting.

(2) The Chairperson shall within forty-eight hours from the delivery of such requisition call a meeting on the day specified therein.

(3) Where the Chairperson fails within forty-eight hours from the delivery of such requisition to call a meeting on the day specified therein, such meeting may be called by the members who signed the requisition on giving the notice of three clear days to the other members.

16. Meetings open to the Public:— All meetings of the Ward Committee shall be open to the public. Provided that the Chairperson may, and at the request of the Ward Committee shall, in any particular case, for reasons to be recorded in minutes book kept under Rule 22 direct that the public in general, or any person in particular shall withdraw from the meeting.

17. Attendance by the Secretary:— The Secretary of the Ward Committee shall attend meetings of the Ward Committee. The ward level officers of the Corporation shall also attend the meetings of the Ward Committee.

18. Decision by majority members:— All questions which may come before the Ward Committee at any meeting shall be decided by a

majority of votes of the members present at the meeting and in every case of equality of votes, the Chairperson shall have a casting vote.

19. Dissent Note:— When a member gives a dissent note, the Chairperson shall incorporate the same in the minutes book. If the Chairperson fails to record the dissent note given by any member in the minutes book, the Secretary shall record the same and intimate the member who gave the dissent note. If 20% of the members give dissent note, Secretary of the Ward Committee shall submit a report to the Commissioner who shall examine the report and communicate his decision to the Secretary of the Ward Committee. The decision of the Commissioner shall be final in this matter.

20. Quorum:— (1) No business shall be transacted at a meeting unless there be present atleast one-half of the total members then on the Ward Committee.

(2) If within half an hour after the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned, unless all the members present agree to wait longer.

21. Modification of Resolution:— No resolution of Ward Committee shall be modified or cancelled within three months after the passing thereof except at a meeting specially convened in that behalf and by a resolution of the Ward Committee supported by not less than one-half of the members then on the Ward Committee.

22. Minutes of the Meeting:— The minutes of the proceedings at the meeting of the Ward Committee shall be drawn up and entered in a book kept for that purpose; and shall be signed by the Chairperson; and the said minutes shall, at all reasonable times and without charge, be open at the Ward Committee office for the inspection of any person who pays any tax under this Act in the area of the Ward Committee.

23. Forwarding the proceedings:— Within three (3) days of the date of the meeting, copy of the minutes of the proceedings at such meeting in the main language of the district, shall be forwarded by the Secretary of the Ward Committee to the Commissioner and members of the Ward Committee. An authenticated copy of the said minutes shall also be affixed to the Notice Board of the Ward Committee office.

24. Custody of Records:— The Secretary shall have the custody of the proceedings and records of the Ward Committee and may grant copies of any such proceedings and records on payment of such fees as

the Corporation may, by general or special order determine. Copies shall be certified by the Secretary as provided in Section 76 of the Indian Evidence Act, 1872 (Act I of 1872) and copies so certified may be used to prove the records of the Ward Committee in the same manner as they may, under sub-section (5) of Section 71 of the said Act, be used to prove the proceedings of that body.

25. Functions of Ward Committee:— (1) The Ward Committee shall perform the following functions as specified in sub-section (6) of section 8-A of the Act, namely:—

(i) Supervision over

(a) Sanitation work and drainage maintenance

(b) Distribution of water supply

(c) Working of street lights

(d) Minor repair of roads

(e) Maintenance of markets

(f) Maintenance of parks and playgrounds

(g) Implementation of poverty alleviation programmes

(ii) Monitoring the functioning of schools, maternity centers, dispensaries and health centers wherever they are under control of the Municipal Corporation.

(iii) Facilitation in the collection of taxes and non-taxes.

(iv) Preparation of list of beneficiaries for beneficiary oriented schemes, pensions and subsidies.

(v) Prepare annual ward development plan.

(vi) Map the ward infrastructure index.

(vii) Preparation of inventory of municipal assets.

(viii) Assistance in the implementation of all government schemes.

(ix) Motivate and encourage the residents in the ward for construction of individual toilets under Integrated Low Cost Sanitation (ILCS).

(2) The Ward Committee is competent to undertake inspection in respect of the functions entrusted to it and forward the observations made during the inspection to the ward level officers for necessary action. The

ward level officers shall furnish action taken reports on such observations to the Ward Committee within seven to fifteen days of the receipt of such observations.

26. (1) The Ward Committee may involve slum level federation in the maintenance of sanitation and water supply in the ward. The Ward Committee shall prepare a list of beneficiaries for beneficiary oriented schemes, all categories of pensions and subsidies entrusted to the Corporation as per the guidelines of the Government and forward the list to the Corporation/Commissioner for necessary action.

(2) The Ward Committee may associate itself with the activities of Education, Medical & Health, Welfare Departments and render possible assistance in improving service delivery of the said Departments.

27. Rights of Ward Committee:— (1) The Ward Committee shall have the following rights as per subsection (7) of Section 8-A of the Act namely:—

(i) To seek information from the Commissioner regarding any matter relating to the ward except any matter which is classified by the Commissioner as confidential or any matter relating to municipal elections;

(ii) To obtain information about the master plan and zonal development plan of the Municipal Corporation;

(iii) To obtain full Municipal Corporation budget;

(iv) To be consulted in the development of land use and zoning regulations within the ward;

(v) To obtain full details of all revenue items relating to the ward.

(2) The Commissioner, officers and staff of the Corporation shall co-operate with the Ward Committee in exercise of the rights conferred on it.

28. Powers of Ward Committee:— (1) The Corporation shall allocate twenty percent of the amount earmarked in the annual budget for maintenance works of urban services namely, sanitation, drainage, water supply, roads, street lighting, parks and markets etc. to all Ward Committees. The Corporation shall allocate funds to the Ward Committees for every quarter to enable them to take up maintenance works in respect of the functions entrusted to them.

(2) The Ward Committee will identify the works to be taken up with the funds sanctioned under sub-rule (1) and forward the list of works to

the Commissioner for according administrative sanction. The Commissioner shall give due regard to the list of works submitted by the Ward Committee while sanctioning the works in the ward. The budget allocation made by the Corporation to the ward shall not be exceeded while sanctioning the works by the Commissioner.

(3) The maintenance works sanctioned on the recommendations of the Ward Committee shall be executed by the Commissioner as per the existing rules in force. In case of any complaint by the Ward Committee regarding any substandard work, the concerned official shall inspect the work within a week and take up rectification and submit action taken report in the next meeting of the Ward Committee.

(4) The Ward Committee is competent to inspect the maintenance works sanctioned to it by the Commissioner from time to time, and review the progress in the execution of the said works.

29. Preparation of Ward Development Plan:— After approval of the budget by the Corporation, the Commissioner or an officer authorized by the Commissioner shall send an intimation to the Ward Committees about the allocation of funds to them for the succeeding financial year. Based on the intimation received from the Commissioner, the Ward Committee shall prepare a Ward Development Plan giving priority for water supply and drainage/sewerage and solid waste management. The Development Plan shall be placed before the Ward Committee for its approval. After approval of the Ward Committee, the Secretary of the Ward Committee shall forward the Development Plan to the Commissioner for incorporation in the Annual Development Plan of the Corporation.

30. Preparation of Annual Report:— The Ward Committee shall prepare an annual report on the functions, powers and activities performed by it by the end of June of the succeeding year.

CHAPTER–III
Area Sabha

31. Constitution of Area Sabha:— (1) Each ward in a Corporation shall be divided into areas based on the population of the ward. Natural boundaries and geographical contiguity of the area as far as possible shall be observed in the division of a ward into areas. The existing polling booths in the ward shall be kept in view while dividing the ward into areas.

(2) The Corporation shall divide the ward into areas as per sub-rules (1), (3) and (4).

(3) The following population criteria is fixed for division of the ward into areas:

Population of the Corporation	Population of the Area (with a variation of ten percent more or less)
(i) Upto 5 lakhs	One area for every 2,000
(ii) Above 5 lakhs and upto10 lakhs	One area for every 3,000
(iii) Above 10 lakhs	One area for every 5,000

(4) After division of every ward into areas based on the sub-rule (3), if the remainder population is less than half of the criteria fixed for each area, it shall be ignored and if the population is one-half or more of the criteria fixed one more area shall be constituted in the ward.

(5) An Area Sabha shall be constituted for each area in a ward consisting of all the electors in the jurisdiction of that area within three months from the date of constituting a ward committee.

32. Area Sabha Representative:— **(1)** An Area Sabha representative shall be nominated by the Corporation for each area from the representatives of the civil society as herein after provided.

(2) Qualifications and Disqualifications:— The qualifications and disqualifications prescribed to elected members of the Corporation shall apply *mutatis mutandis* to the Area Sabha representatives.

(3) The term of the Area Sabha representative shall be co-terminus with that of the Corporation.

(4) Persons eligible for nomination as Area Sabha representative:— The following persons representing the civil society who are registered as voters in the electoral roll of the ward and the Area concerned are eligible for nomination as Area Sabha Representative subject to sub-rule (2).

(a) A President/Secretary representing registered Residents Welfare Association in the Area;

(b) A member of registered Tax Payers Association/Rate Payers Association in the Area;

(c) A President/Secretary of slum level federation (i.e., NHC) of a slum in the Area. In case of non-availability of a slum level federation in the Area, a representative of senior most self-help group in the Area;

(d) A member of a registered association/institution/institute/body or organization or Non-Governmental Organization (NGO) or Mahila Mandali or Trade Union/Chamber of Commerce/Medical Council in the area

Note:— Persons representing the associations, organizations, institutions etc., mentioned in this rule except slum level federation are eligible for nomination as Area Sabha Representative provided the said bodies are registered one year prior to the date of nomination.

33. Procedure for nomination of Area Sabha Representative:— **(1)** The Secretary of the Ward Committee or an officer authorized by the Commissioner shall, within thirty days from the date of constituting the Ward Committee, issue a notice, calling for applications from the eligible persons duly furnishing the eligibility criteria, qualifications, disqualifications and method of nomination etc. for nomination as Area Sabha Representatives by giving wide publicity in the news papers giving fifteen days time for submission of applications.

(2) The applications received under sub-rule (1) shall be scrutinized by the Secretary of the Ward Committee or an officer authorized by the Commissioner within seven days from the last date of receipt of applications and he shall prepare a list of eligible applicants.

(3) The list of eligible applicants for nomination shall be placed before the Corporation at its special meeting to be convened by the Mayor within a month from the last date fixed for receipt of applications by giving not less than seven clear days notice to the elected members including ex-officio members.

(4) No business shall be transacted at the special meeting unless there be present atleast one-half of the members of the sanctioned strength of the Corporation including ex-officio members.

(5) In cases where Area Sabha Representatives could not be nominated in the first two special meetings for want of quorum, the Area Sabha Representatives shall be nominated in the third meeting even without quorum.

34. Method of nomination:— (1) In case there are more number of eligible applicants than the number of persons to be nominated, the Corporation shall nominate the required number of persons by a voice vote.

(2) If the number of eligible applicants is less than the number of persons to be nominated or if no applications are received, fresh applications shall be invited again by following the procedure prescribed in Rule 33.

(3) Casual vacancy in the office of nominated Area Sabha Representative shall be filled by following the procedure prescribed in Rule 33 as soon as may be, after the occurrence of the vacancy.

Provided that no casual vacancy occurred within three months before the date on which the term of office of the Area Sabha Representative expires shall be filled.

Provided further that an Area Sabha Representative nominated by the Corporation to a casual vacancy shall hold office during the residuary period of the tenure of that Area Sabha.

35. Issue of proceedings:— The Commissioner or an officer authorized by the Commissioner shall issue proceedings indicating the names of persons nominated by the Corporation as Area Sabha Representatives, and send an attested copy of the proceedings to the Commissioner and Director of Municipal Administration and also affix a copy of the proceedings on the notice board of the Corporation office.

36. Functions of Area Sabha:— Area Sabha is entrusted with the following functions:—

(i) To generate proposals and determine the priority of developmental programmes to be implemented in the area and forward the same to the Ward Committee;

(ii) To identify the most eligible persons for beneficiary oriented schemes as per guidelines of the Government and prepare a list of beneficiaries in the order of priority and forward the same to the Ward Committee;

(iii) To verify the eligibility of persons getting various kinds of welfare assistance from the Government such as pensions and subsidies and submit a report to the Ward Committee;

(iv) To identify the deficiencies in water supply, sanitation and street lighting and to suggest remedial measures to the Ward Committee; and

(v) To suggest the location of street lights, public taps, public wells and public toilets to the Ward Committee.

37. Rights of Area Sabha:— An Area Sabha shall exercise the following rights as provided in sub-section (6) of section 8-B of the Act.

(i) The concerned officials in the Corporation shall furnish information regarding services they render and the list of works proposed to be

executed in the area in the succeeding period of three months after the meeting of the Ward Committee.

(ii) The Secretary of the Ward Committee shall communicate the minutes of the meeting of the Ward Committee and every decision taken relating to the jurisdiction of the area to the Area Sabha Representative.

(iii) The Secretary of the Ward Committee shall inform the follow-up action taken on the decisions concerning the jurisdiction of the area to the Area Sabha Representative.

(iv) The Area Sabha Representative shall cooperate with Ward Committee in the provision of sanitation arrangements in the area.

(v) The Area Sabha Representative shall arrange conducting of awareness campaign in the area on the importance of cleanliness, improvement of the environment and prevention of pollution.

38. Meetings of Area Sabha:— (1) The Area Sabha representative shall preside over the meetings of the Area Sabha.

(2) The Area Sabha shall meet once in three months and also at other times as often as a meeting is called by the Area Sabha Representative in a premises identified by the Commissioner or an officer authorized by the Commissioner. No meeting of the Area Sabha shall be held on the day on which a meeting of the Corporation or Ward Committee is scheduled to be held. The Area Sabha Representative shall fix the date and time of meeting and inform it to all the electors in the area through the Secretary of the Ward Committee. Atleast fifty voters shall be present at the meeting of Area Sabha

(3) The agenda for the meeting of Area Sabha shall be prepared by the Secretary of the Ward Committee concerned in consultation with Area Sabha Representative. The discussions in the Area Sabha shall be confined to the functions entrusted to it. After necessary discussions, the Area Sabha shall pass resolutions in respect of the items placed in the agenda. The Secretary of the Ward Committee shall attend the meetings of Area Sabha and render all possible assistance to the Area Sabha Representative in conducting the meetings of Area Sabha.

(4) The minutes of the proceedings at the meeting of Area Sabha shall be drawn up in the main language of the District and entered in a book to be kept for the purpose and shall be signed by the Area Sabha Representative. The Secretary of the Ward Committee shall have the custody of the proceedings and records of Area Sabha.

(5) The Area Sabha Representative shall forward a copy of the minutes of the meeting of Area Sabha to the Ward Committee for taking further action in the matter.

39. These Rules shall extend to and apply also to the Greater Vishakhapatnam Municipal Corporation and Vijayawada Municipal Corporation; and to all Municipal Corporations constituted under the provision of Andhra Pradesh Municipal Corporations Act, 1994.

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18. THE GREATER HYDERABAD MUNICIPAL CORPORATION (CONSTITUTION AND CHOOSING OF MEMBERS TO THE STANDING COMMITTEE) RULES, 2010

[G.O.Ms.No. 59, MA & UD (UBS) Dept., dt. 10-02-2010]

In exercise of the powers conferred by sub-section (1) of section 585 read with subsection (1) of section 93 of the Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act No. II of 1956), and in supersession of Bye-laws issued for appointment of members to the Standing Committee in Municipal Corporation of Hyderabad in G.O. Ms. No. 197 MA dated 24-5-1973, the Governor of Andhra Pradesh makes the following Rules for constitution, and choosing of members to the Standing Committee in Greater Hyderabad Municipal Corporation:

Rules

CHAPTER–I
Preliminary

1. Short title and commencement:— (1) These rules may be called the Greater Hyderabad Municipal Corporation (Constitution and choosing of members to the Standing Committee) Rules, 2010.

(2) They shall come into force from the date of publication in the Andhra Pradesh Gazette.

2. Definitions:— In these Rules, unless the context otherwise requires:—

(1) "Act" means the Greater Hyderabad Municipal Corporation Act, 1955;

(2) "Government" means the Government of Andhra Pradesh;

(3) "Commissioner" means Commissioner appointed by the Government under Section 104 of the Act;

(4) "Corporation" means Municipal Corporation established under Section 3 of the Act.

(5) "Form" means form appended to the Rules;

(6) "Member" means elected member of the Corporation;

(7) "Standing Committee" means Standing Committee constituted under subsection (1) of section 93 of the Act;

(8) Words used but not defined in the rules shall have the meaning assigned to them in the Act.

Chapter–II
Standing Committee

3. Constitution of Standing Committee:— (1) The Standing Committee for the Corporation shall be constituted by the Government, by an order, within three months from the date appointed for the first meeting of the Corporation under clause (b) of section 88 of the Act subject to the condition that in respect of a Standing Committee functioning at the time of commencement of Andhra Pradesh Municipal Laws (Second Amendment) Act, 2008 (Andhra Pradesh Act No. 7 of 2008), a new Standing Committee shall be constituted after expiry of the term of the members of the Standing Committee holding office at that time.

(2) The Standing Committee shall consist of not less than five and not more than fifteen members at the rate of one member for ten wards.

(3) After working out the number of members of Standing Committee based on sub-rule (2) if the remainder of wards is less than five wards it shall be ignored and if the remainder of wards is five or more, one additional member shall be allowed to the Standing Committee.

(4) The members of the Standing Committee shall be chosen by the elected members of the Corporation from among themselves, by election as prescribed in these Rules within three months from the date of orders issued by the Government constituting the Standing Committee.

(5) The members of the Standing Committee shall hold office for a period of one year from the date of election subject to first proviso under clause (b) subsection (1) of Section 93 of the Act.

4. Preparation of voters list:— The Commissioner shall prepare a voters list which shall consist of the names of all elected members of the Municipal Corporation in Form – I and publish it on the notice board of the Municipal Corporation office.

5. Entitlement to multiple votes:— Every person whose name is included in the voters list is entitled to vote at the election of the members of the Standing Committee and he / she shall have as many votes as there are members to be elected to the Standing Committee.

6. Publication of election notice:— The Commissioner shall publish a election notice in Form – II on the notice board of Municipal Corporation calling upon voters i.e., elected members of the Corporation to elect the members of the Standing Committee. The Commissioner shall serve the

election notice on elected members of the Corporation duly obtaining proper acknowledgement.

7. Contents of election notice:— The election notice shall state:—

(a) the number of members to be elected to the Standing Committee;

(b) the place, time and the last date, which shall not be less than seven days from the date of publication of the notice for filing nominations;

(c) the date of scrutiny of nominations and publication of the list of valid nominations, whether it is a working day or public holiday;

(d) last day for withdrawal of nominations and the date for publication of the list of contesting candidates, which shall be the third day after the date of scrutiny of nominations, whether it is a working day or public holiday.

(e) The date, which shall not be less than three clear days from the date of publication of the list of contesting candidates, on which and the hours during which, poll shall, if necessary, be taken and the date and time for counting of votes and declaration of result of the poll.

8. Filing of nomination:— (1) On or before the date and time fixed under clause (b) of rule 7, each candidate shall, either in person or by his proposer, deliver to the Commissioner or an officer authorized by the Commissioner a nomination paper completed in Form-III and signed by the candidate and by the proposer, who shall be a voter i.e. elected member of the Corporation.

(2) The same voter may propose as many candidates as there are seats to be filled up in the Standing Committee, but each candidate shall be nominated by a separate nomination paper.

(3) If any voter has proposed larger number of candidates than the seats to be filled, only such of the nominations, which have been first received upto the number of seats to be filled in shall be deemed to have been accepted.

(4) The Commissioner or an officer authorized by the Commissioner shall, on receiving a nomination paper, enter its serial number, the date on which and the hour at which it has been received by him and shall verify the name and number of the candidate and his proposer in the voters list.

(5) Receipt for nomination paper and notice of scrutiny shall be given in Form-IV.

(6) No nominations shall be received after the date and time fixed for the purpose under clause (b) of rule 7.

9. Publication of list of nominations:— As soon as may be after the time fixed for filing of nominations, the Commissioner or an officer authorized by the Commissioner shall publish in Form-V a list of nominations received with a notice that the nomination papers will be scrutinized on the date fixed at the place and hour specified in the notice under clause (c) of Rule 7.

10. Scrutiny of nominations:— (1) On the date fixed for the scrutiny of nominations, the candidates may attend at such time and place as the Commissioner may appoint and the Commissioner shall give them all reasonable facilities for examining the nomination papers of all candidates.

(2) The Commissioner shall then examine the nomination papers and shall decide all the objections which may be made at the time of scrutiny of any nomination and may, either on such objection or on his own motion after such summary enquiry, if any, as he deems necessary reject any nomination duly recording the reasons for such rejection, which shall be supplied free of cost to the candidate whose nomination is rejected.

(3) On the same day immediately after the scrutiny of the nomination papers, the Commissioner shall prepare a list of valid nominations in Form-VI and publish it on the notice board of the Corporation.

11. Withdrawal of Nomination:— Any candidate may withdraw his nomination by notice in writing in Form-VII signed by him and delivered by him in person or by his proposer to the Commissioner or an officer authorized by the Commissioner before the date fixed under clause (d) of Rule 7 and on receipt of such notice the Commissioner or an officer authorized by the Commissioner shall note thereon the date and the time at which, it was delivered to him and by whom it was delivered.

12. Publication of list of contesting candidates:— Immediately after the expiry of the period for withdrawal of the candidatures under Rule 11, the Commissioner shall prepare a list of contesting candidates in Telugu alphabetical order i.e., candidates whose nominations are found to be valid and who have not withdrawn their candidature and publish it in Form-VIII on the notice board of the Corporation.

13. Election:— (1) If the number of contesting candidates is equal to or less than the number of seats to be filled, the Commissioner shall declare all such candidates to be duly elected.

(2) If the number of contesting candidates exceeds the number of seats to be filled, poll shall be taken by secret ballot.

14. Form of the Ballot Paper:— (1) Every ballot paper to be used at an election shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in Form-IX.

(2) The ballot paper shall contain the names of the candidates in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4) The ballot paper shall be serially numbered and the counterfoil thereof shall have on their faces the same serial numbers as those contained on the faces of the ballot paper

15. Ballot Box:— Every ballot box shall be of such design as may be decided by the Commissioner.

16. Appointment of Presiding Officer and Polling Officer:— (1) The Commissioner shall provide a polling station for conduct of election to the members of the Standing Committee. The Commissioner shall appoint a Presiding Officer for the polling station and as many Polling Officers as may be necessary for the purpose of conducting election.

(2) Subject to the control and supervision of Commissioner, the Presiding Officer and the Polling Officers shall perform such functions and shall discharge such duties as are laid down herein after in these rules.

17. Arrangements at polling station:— (1) There shall be displayed prominently outside the polling station:—

(a) the number of members to be elected;

(b) list of voters i.e. elected members of the Corporation; and

(c) a copy of the list of contesting candidates

(2) The Commissioner shall provide for each polling station:—

(a) as many ballot boxes as may be necessary;

(b) one or more voting compartments;

(c) sufficient number of ballot papers; and a list of voters; and

(d) other accessories and equipment as may be necessary for conducting a poll.

18. Preservation of order at polling station:— (1) The Presiding Officer shall not allow any unauthorized person to enter into the polling station; besides the voters, public servants on duty in connection with election shall also be admitted to the polling station at any time.

(2) The Presiding Officer shall also regulate movement of voters for peaceful conduct of poll.

(3) The Presiding Officer shall, immediately before the poll, demonstrate to all persons present at the polling station that the ballot box is empty and then close, seal and secure the ballot box and keep it in view of all persons present in the polling station.

19. Issue of ballot papers to voters:— (1) Every ballot paper before it is issued to a voter and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Commissioner may direct, and every ballot paper, before it is issued shall be signed in full on its back by the Presiding Officer.

(2) At the time of issuing a ballot paper to a voter, the Presiding Officer shall–

(a) record on its counterfoil the electoral roll number of the voter as entered in the voters list;

(b) obtain the signature or thumb impression of the voter on the said counterfoil; and

(c) mark the name of the voter in the voters list to indicate that a ballot paper has been issued to him, without however, recording therein serial number of the ballot paper issued to the voter:

Provided that no ballot paper shall be delivered to a voter unless he has put his signature or thumb impression on the counterfoil of that ballot paper

20. Voting procedure:— (1) The voter, on receiving the ballot paper shall forthwith–

(a) proceed to one of the voting compartments;

(b) there make a mark on the ballot paper with the instrument supplied for the purpose on or near the names of the candidates for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) insert the folded ballot paper into the ballot box; and

(e) quit the polling station.

(2) If owing to blindness or other physical infirmity, a voter is unable to read the names of the candidates on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than 18 years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box.

21. Spoilt and returned ballot papers:— The voter who has inadvertently dealt with a ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence be given another ballot paper, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked "spoilt: cancelled" by the Presiding Officer. If a voter after obtaining a ballot paper decides not to use it, he shall return the same to the Presiding Officer and the same shall be marked as "Returned: cancelled" by the Presiding Officer.

22. Closing of poll:— The Presiding Officer shall close a polling station at the hour fixed in that behalf and shall not thereafter admit any voter into the polling station.

23. Ballot paper account:— (1) As soon as may be after the close of poll, the Presiding Officer shall prepare a ballot paper account in Form-X.

(2) A copy of ballot paper account may be supplied to the candidates on request.

24. Counting of votes:— (1) After completion of the poll, the Commissioner, in the presence of the candidates present shall open the ballot box and count the number of ballot papers taken out there from.

(2) The Commissioner shall reject a ballot paper:—

(a) if it bears any mark or writing by which the voter can be identified; or

(b) if no vote is recorded thereon; or

(c) If votes are given in favour of candidates more than the seats to be filled in;

(d) If the mark indicating the vote thereon is placed in such a manner as to make it doubtful to which candidate the vote has been given; or

(e) If it is spurious ballot paper; or

(f) if it does not bear the signature of the Presiding Officer.

Provided that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2) the Commissioner shall allow each contesting candidate present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper

(4) The Commissioner shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement

25. Announcement of the result of counting:— After completion of the counting, the Commissioner shall record the total number of votes polled by each candidate in descending order in Form-XI and announce the same.

26. Re-count of Votes: (1) After such announcement has been made, as mentioned in rule 25, the contesting candidate may apply in writing to the Commissioner to recount the votes either wholly or in part stating the grounds on which the demand for recount is made. On such an application being made, the Commissioner shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.

(2) When a recount of votes is made under sub-rule (1), the Commissioner shall amend the statement referred to in Rule 25 to the extent necessary after such recount and announce the amendment so made by him.

27. Declaration of results:— (1) After completion of the counting or recounting of votes, as the case may be, under Rules 25 and 26 the Commissioner shall prepare list of candidate with votes polled by them in descending order. The candidates who have secured highest number of votes in descending order to the extent of number of seats shall be declared

to have been elected as members of Standing Committee in Form-XII and it shall be signed by the Commissioner.

(2) The Commissioner shall affix a copy of Form-XII on the notice board of the Corporation apart from handing over a signed copy thereof to each of the member declared elected, the receipt of which shall be acknowledged by such member.

28. Procedure at election when equality of votes exists:— In the election, when an equality of votes is found between any two or more candidates and the addition of one vote will entitle any of the candidates to be declared elected, the Commissioner shall, after intimation to the candidates, forthwith decide between those candidates, by lot, in such manner as he may determine and proceed as if the candidate on whom the lot falls had received an additional vote.

29. Casual Vacancies:— The provisions for the election of members of Standing Committee shall *mutatis mutandis* be applicable for the purpose of filling up of casual vacancies in the office of members of the Standing Committee.

Provided that a member elected in a casual vacancy shall hold office during the residuary period of tenure of Standing Committee.

Provided further that no casual vacancy occurred within three months before the date on which the term of Standing Committee expires shall be filled in.

30. Custody and Destruction of Voting Papers:— (1) The Commissioner shall keep in safe custody and seal all papers relating to the elections.

(2) On the expiry of three months from the date of publication of the names of the elected members of the Standing Committee all the papers relating to the election shall be destroyed.

31. These rules shall extend to and apply also to Greater Visakhapatnam Municipal Corporation, Vijayawada Municipal Corporation and all Corporations constituted under the provisions of Andhra Pradesh Municipal Corporations Act, 1994.

Annexures to G.O.Ms.No.____ dated_____ (Pages 10 to 22)

FORM – I

(See rule: 4)

VOTERS LIST

Election to Standing Committee, _____ Municipal Corporation

Sl. No.	Name of the voter i.e., elected member	Ward No.
1	2	3

Place: Signature of the Commissioner

Date: Name

FORM- II

(See rule: 6)

ELECTION NOTICE

Election to Standing Committee, _____ Municipal Corporation

Roc.No. Dated:

Whereas the Government of Andhra Pradesh by G.O.Ms. No_____ dated_____ have issued orders constituting a Standing Committee for_____ Municipal Corporation with_____ members.

Now, therefore, I, the Commissioner_____ Municipal Corporation hereby call upon the voters whose names appear in the voters list published under rule 4 of the rules issued in G.O.Ms. No._____ dated_____ to elect the members of the Standing Committee of the_____ Municipal Corporation according to the programme appended and as per the rules issued in the aforesaid G.O.

Place:

Dated: Signature of the Commissioner

Note:—

(1) The total number of members to be elected to the Standing Committee is_____

(2) Every voter shall have as many votes as there are members to be elected to the Standing Committee.

PROGARMME OF ELECTION:

1)	Date of Publication of Election notice:	
2)	Dates on which nominations can be filed before the Commissioner or officer authorized by the Commissioner:	From ____ ____ 20__ To _____ _____ 20__ (Both days inclusive from 11.00 a.m. to 3.00 p.m.)
3)	Place at which nominations can be filed:	Office of the _____ Municipal Corporation
4)	Date of publication of the list of nominations received:	
5)	Date and the time during which the nominations will be taken up for scrutiny by the Commissioner.	
6)	Date of publication of the list of valid nominations:	
7)	Date and time upto which nominations can be withdrawn:	
8)	Date of publication of the list of contesting candidates:	
9)	Date and time of poll	
10)	Place of poll	Office of the _____ Municipal Corporation
11)	Counting of votes	
12)	Declaration of result of poll	

Signature of Commissioner

F O R M–III
(See rule: 8)

NOMINATION PAPER

Election to Standing Committee, _____ Municipal Corporation

1. Full Name of the candidate.
2. Ward No.
3. Father's / Husband's Name
4. Age
5. Sex
6. Occupation and address

7. Full Name of proposer
8. Number of proposer in the voters list
9. Signature of the proposer.

CANDIDATE's DECLARATION

I declare that I am willing to stand for the election.

Dated____ ____ 20___

Signature of Candidate

Certificate of delivery of nomination by Commissioner or an officer authorized by the Commissioner

Serial No_____

This nomination paper was delivered to me by Sri_____ candidate/proposer* at _____(time) _____Date.

Signature of the Commissioner

Instruction: Nomination papers which are presented to the Commissioner after the expiry of the appointed date and time shall not be received.

*Strike off whichever is inapplicable

Form – IV
(See rule: 8)

Receipt for nomination paper and notice of scrutiny
(To be handed over to the person presenting the nomination paper)

Serial number of nomination paper _____

The nomination paper of Sri/Smt/Kum _____ a candidate for the election to the office of the member of the Standing Committee, _____ Municipal Corporation was delivered to me at my office at _____ (hour) on _____ (date) by the *candidate/ proposer.

All nomination papers will be taken up for scrutiny at _____(hour) on _____(date) at _____(Place).

Commissioner

* Strike off whichever is inapplicable

FORM –V
(See rule: 9)

Election to Standing Committee, _____ Municipal Corporation

List of Nominations received for Standing Committee _____ Municipal Corporation

Sl. No	Name of Candidate	Name of Father / Husband	Sex	Serial Number in the Voters List	Name of proposer
1	2	3	4	5	6

The nomination papers will be taken up for scrutiny at _____A.M./P.M the _____ of _____ 20___(year) at _____(place)

Signature of the Commissioner

FORM –VI
(See rule: 10)

LIST OF VALIDILY NOMINATED CANDIDATES

Sl.No	Name of Candidate	Sex	Address
1	2	3	4

Dated _____ 20___ Signature of the Commissioner

FORM –VII

(See rule 11)

NOTICE OF WITHDRAWAL OF CANDIDATURE

Election to Standing Committee, _____ Municipal Corporation

To,
The Commissioner,
_____ Municipal Corporation.

I, _____ a candidate validly nominated at the above election do hereby give notice that I withdraw my candidature.

Place_____

Date_____

Signature of validly nominated candidate

This notice was delivered to me at my office at _____(hour) the _____(date) by _____(name) the *candidate/proposer.

Date_____ Commissioner

Receipt for Notice of Withdrawal

(To be handed over to the person delivering the notice)

The notice of withdrawal of candidature by Sri/Smt./Kum._____ _____ a validly nominated candidate at the election to the Standing Committee was delivered to me by Sri/Smt./Kum._____ the *candidate/the candidates proposer who has been authorized in writing by the candidate to deliver it at my office at _____(hour) on _____(date).

Commissioner

*Strike off whichever is inapplicable

FORM –VIII
(See rule 12)

LIST OF CONTESTING CANDIDATES

Sl.No	Name of Candidate	Sex	Address
1	2	3	4

NOTE: The poll shall be taken, if necessary, on _____20__(year) between _____ and _____(hours) at the polling station already notified.

Dated _____ 20___ Signature of the Commissioner

Form IX
(See rule 14)

BALLOT PAPER

Election to Standing Committee, _____ Municipal Corporation

Counter foil Ballot paper No.	Serial Number in Voters list	Voters signature or thumb impression

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Form IX
(See rule 14)

BALLOT PAPER

Election to Standing Committee, _____ Municipal Corporation

Foil Ballot paper No.		
Sl.No.	**Candidate's Name**	**Voter's mark**
1	2	3
1		
2		
3		
4		

Note:— Please read this carefully before recording your vote (s).

1. The number of seats to be filled up is _____
2. You have as many votes as there are seats to be filled up.
3. Each vote is to be shown by cross mark "X"

Form – X
(See rule 23)

Ballot Paper Account

Election to the Standing Committee, _____ Municipal Corporation

	Serial Nos. From To	Total No.
1. Ballot papers received		
2. Ballot papers unused (i.e., not issued to voters)		_____
*3. Ballot papers used at polling station (1-2)		_____
*4. Ballot papers used at the polling station but not inserted into the ballot box, on being cancelled		_____
*5. Ballot papers to be found in the ballot box (3-4)		_____

*(serial numbers need not be given)

Signature of the Presiding Officer

Place:

Date:

FORM – XI
(See rule 25)

Final Result Sheet

Election to Standing Committee, _____ Municipal Corporation

Number of valid votes polled by the contesting candidates to the Standing Committee _____ Municipal Corporation at the election held on _____20___(year).

(to be arranged in the descending order)

Sl.No.	Candidate's Name	No. of valid votes polled
1	2	3

Place: Signature of the Commissioner

Dated : Seal

Note:— Total number of voters

Total number of voters who cast their votes at the election

Form- XII

(See rule 27)

DECLARATION OF RESULTS

Election to Standing Committee, _____ Municipal Corporation

I, the Commissioner, _____ Municipal Corporation hereby declare that the persons whose names are shown in the table below are elected as members of the Standing Committee, _____ Municipal Corporation

TABLE

Sl.No.	Candidate's Name	No. of valid votes polled
1	2	3

Place: Signature of the Commissioner

Dated : Seal

NOTIFICATION

Fixation of the Number of Members to Constitute the Standing Committee in Greater Hyderabad Municipal Corporation, Hyderabad

[G.O.Ms.No. 119, MA & UD (Elec.II), dt. 10-3-2010]

In exercise of the powers conferred under clause (a) of sub-section (1) of Section 93 of the Greater Hyderabad Municipal Corporation Act, 1955 and Rules 3(2) of the Greater Hyderabad Municipal Corporation (Constitution and Choosing of members to the Standing Committee) Rules, 2010, issued in G.O.Ms.No. 59, MA & UD (UBS) Department, dated 10-02-2010, the Governor of Andhra Pradesh hereby fix number of members of the Standing Committee of Greater Hyderabad Municipal Corporation as fifteen (15).

19. THE ANDHRA PRADESH MUNICIPAL CORPORATIONS (RESERVATION OF OFFICES OF MAYOR) RULES, 1995

[G.O.Ms.No. 46, MA & UD (Elecs.II) Dept., dated 6-2-1995]

In exercise of the powers conferred by Section 585 of the Hyderabad Municipal Corporation Act, 1955 read with Section 14 of the Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25/94), the Governor of Andhra Pradesh hereby makes the following rules for the reservation of offices of Mayor in the Municipal Corporations of the State.

RULES

1. Short title and extent:— (i) These rules may be called the Andhra Pradesh Municipal Corporations (Reservation of Offices of Mayor) Rules, 1995.

(ii) They shall extend to all the Municipal Corporations in the State.

2. Definitions:— In these rules unless the context otherwise requires:

(i) *'Act'* means the Hyderabad Municipal Corporation Act, 1955 (Act II of 1956) or Andhra Pradesh Municipal Corporations Act, 1994 (Act No. 25/94) as the case may be.

(ii) *'Government'* means the State Government of Andhra Pradesh.

(iii) Words and expressions not defined in these rules shall carry the meaning assigned to them in the Act.

3. Notification of number of offices of Mayor to be reserved:— On the eve of ordinary elections to the offices of Mayor in Municipal Corporations in the State, the Government, by notification in the Andhra Pradesh Gazette, shall declare the number of offices of Mayor of Municipal Corporations to be reserved for Scheduled Tribes, Scheduled Castes, Backward Classes and Women and determine the Municipal Corporations in which the reserved offices shall be set apart.

4. Determination of reservation:— While determining the number of offices of Mayor in the State to be reserved in favour of Scheduled Tribes, Scheduled Castes, Backward Classes or Women as the case may be, in accordance with the provisions of the Act, any fraction of less than one-half shall be ignored and any fraction equal to or more than one-half shall be counted as one.

Provided that where there is difficult in reserving offices of Mayor for one or more categories due to equality in fraction, the Government shall determine the category to which the offices of Mayor shall be reserved.

5. Order of Reservation:— The reservation of offices of Mayor for various categories shall be made in the order of Scheduled Tribes, Scheduled Castes, Backward Classes and Women.

6. Rotation:— The offices of Mayor reserved for Scheduled Tribes, Scheduled Castes, Backward Classes and Women shall be allotted by rotation to different Municipal Corporations in the State. The Government shall maintain a Register for this purpose in the Form annexed to these Rules.

7. Manner of reservation of offices of Mayor:— The reservation of offices of Mayor for members belonging to Scheduled Tribes, Scheduled Castes, Backward Classes and Women in the Municipal Corporations of the State shall be made with reference to largest percentage of population of the said category to the total population of the Municipal Corporations in the descending order.

[1][Provided that, where the offices of Mayor were already reserved before the conduct of ordinary elections to Municipal Corporations and where even one office of Mayor could not be reserved for Scheduled Tribes or as the case may be, Scheduled Castes, such short fall shall be made good by reserving the office of Mayor of Municipal Corporations constituted after conduct of ordinary elections for such categories.]

8. Basis for determination of population for reservation:— For the purpose of reserving the offices of Mayor to the members belonging to Backward Classes, the population figures of the Backward Classes, gathered in the Socio-economic survey conducted by the Andhra Pradesh Backward Classes Co-operative Finance Corporation Limited, duly projected to 1-3-1991 shall be taken as basis.

9. Reservation in favour of Women:— (1) Not less than one third of the total number of offices of Mayor reserved for Scheduled Tribes, Scheduled Castes or Backward Classes as the case may be under the Act shall be reserved for women belonging to each of these categories.

Provided that where only one office of Mayor is reserved for Scheduled Tribes, Scheduled Castes or Backward Classes in the Municipal Corporations in the State as the case may be, then no office of Mayor be reserved for women belonging to that category and where only two offices of Mayor are reserved for Scheduled Tribes, Scheduled Castes or Backward Classes, one of the two offices of Mayor shall be reserved for women belonging to that category.

Provided further that the reservation of offices of Mayor for women belonging to Scheduled Tribes, Scheduled Castes or Backward Classes as

1. Added by G.O.Ms. No. 129, MA & UD (Elec.II) Dept., dated 7-2-2008.

the case may be, shall be made from among the Municipal Corporations reserved for these categories in which the percentage of population of women in the largest in descending order.

(2) Reservation of remaining offices of Mayors reserved for women shall be made from among the Municipal Corporations in which the percentage of population of women is the largest in descending order.

FORM

(See Rule 6)

Form showing the Roaster for Reservation of Offices of Mayor in Municipal Corporations

Sl. No.	Name of the Municipal Corporation	Year of reservation	Category to which reserved	G.O. No. and date in which orders were issued
1	2	3	4	5

APPENDICES

1. THE MUNICIPAL CORPORATION OF HYDERABAD (LAYOUT) RULES, 1965

[1][*G.O. Ms. No. 1095, M.A., dated 24th August, 1965*]

In exercise of the powers conferred by sub-section (1) of Section 585, of the Hyderabad Municipal Corporations Act, 1955 (Hyderabad Act II of 1956), the Governor of Andhra Pradesh hereby makes the following rules, the same having been previously published as required by sub-section (3) of Section 585 of the said Act.

RULES

1. These rules may be called the Municipal Corporation of Hyderabad (Layout) Rules, 1965.

2. They shall come into force from the date of publication in the Official Gazette. (i.e., from 20-1-1966.)

3. Every application for sub-division of land into plots or layout of private streets shall be made in the form specified in Appendix 'A' to the rules.

4. The application shall bear the signature of the owner of the land and licensed surveyor or architect together with his qualifications and licence number.

5. Each application shall be affixed with a Court fee stamp of the value of rupee one.

6. The applicant shall deposit in advance layout fee, which may be specified by the Corporation, from time to time, in the municipal treasury and attach the receipt of payment to the application.

7. The application shall be accompanied by a site plan drawn to scale of 1:500 on tracing cloth in triplicate and a blue prints in duplicate signed by a licensed surveyor and the owner of the land furnishing the following particulars;

(1) Boundaries of the land based on survey records, indicating S.Nos., within and around and contour levels at 15 metres intervals.

(2) Topographical details of the land upto 90 metres around the boundary of the site indicating, existing buildings, huts, roads, open spaces, natural water-courses, big trees and other permanent features, which cannot be disturbed normally, the layouts already approved and developments which have taken place.

1. Pub. in A.P. Gazette, R.S. to Pt. 1, dt. 20-1-1966 and amended by notifications published in A.P. Gazette, R.S. to Pt. 1, dt. 23.5.1968 and 6.2.1969.

(3) High tension electric lines, water mains, main sewers, alignment of National Highways passing through the lands are certified by the concerned authorities.

(4) The direction and means of access from existing public or private street, intended level and width of proposed street and sections, the street alignments, the building lines, as per standard specification specified in Appendix 'B' to the rules.

(5) The position, number and size of individual buildings, plots, open spaces for parks, playgrounds and other communal purposes, such as schools, shops, bus stops and parking places.

[1][(6) In case the applicant is a Co-operative Housing Society, a true copy of the resolution recorded by its Managing Committee to the effect that all the roads and open spaces such as parks and, play grounds earmarked as per the lay out rules are free from all encumbrances", and duly attested by the President or Secretary of such Society shall be enclosed. In case the applicant is an, individual person, a declaration on similar lines signed by him shall be enclosed.]

8. The applicant shall also furnish a statement of arrangements made for providing approaches from the existing public or private streets, for levelling, metalling and asphalting the proposed roads conservancy, storm water and underground drainage, street lighting and plantation of avenue trees, indicating the works which he undertakes to carry out and the remaining which he wants to be carried out at his expense by the Corporation.

9. A non-encumbrance certificate from Registration Departments for the lands covered by layout, together with a true copy of the title deed attested by a Gazetted Officer or by a Corporation Officer authorised by the Commissioner in this behalf shall be enclosed.

10. The layout plan shall satisfy the following requirements;

(1) The proposed roads shall have the following widths with reference to their length subject to the provisions of the Development plan approved under the Act.

Length of the road:

(a) 0' to 500'-40' or 13 metres.

(b) 501' to 1000'-50' or 16 metres.

(c) 1001' to 1500'-60' or 19 metres.

(d) 1501' to 2000'-80' or 25 metres.

1. Added by G.O. Ms. No. 229, M.C. & U.D., dt. 16-4-1994.

(2) The area reserved for roads, parks and playgrounds shall not be less than 40% of the gross area of the land covered by the layout subject to the condition that the land covered by roads shall not in any case be less than 20% of the gross area.

(3) Building lines shall be indicated in the site plan according to the following standards:

Width of the road.	Minimum depth of Setback from the nearest edge of the road.
(a) 40 feet	10'or 3.05 metres.
(b) 50 feet	15' or 4.58 metres.
(c) 60 feet	20' or 6.1 metres.
(d) 80 feet	20' or 6.1 metres.
(e) 100 feet	25' or 7.6 metres.

(4) A plot intended for residential building shall not be less than 300 sq. Yards, or 270 sq. metres, having a minimum width of 35 feet or 10.7 metres.

(5) Sites intended for non-residential purposes, such as shops or godowns etc., shall not be less than 300 sq.feet or 28 sq. metres, with a minimum width of 12 feet or 4.2 metres.

(6) Corner plots at the junction of roads shall be splayed with 10 feet or 3.05 metres off-set or rounded off.

[1][**10-A.** All the roads and open spaces such as parks and play grounds earmarked in accordance with these rules in a lay out, which is approved by the Corporation shall automatically stand transferred to free of cost; and vest with the Corporation free from all encumbrances. After such vesting, the Corporation shall maintain all such open spaces or the purposes for which they have been earmarked.]

11. Having regard to the needs of the area and its neighbourhood, the Commissioner may earmark sufficient area in the layout for shops or shop-cum-residential plots with a minimum set-back of 20 feet or 6.1 metres from the nearest edge of the road to allow adequate space for pedestrians and parking of cars and buses in addition to an arcaded verandah 10 feet or 3.05 metres deep in front of such shops or buildings. The Commissioner shall, while approving the layout, indicate in the sanctioned plan the plots approved for residential or non-residential purposes.

12. No residential plot or part thereof shall be utilised or permitted to be utilised for construction of buildings for non-residential or commercial purposes.

1. Added by G.O. Ms. No. 229, M.C. & U.D., dt. 16-4-1994.

13. The Commissioner shall within 60 days of the receipt of the application with all the above particulars communicate to the applicant the conditions and modifications subject to which the layout will be considered for approval and also inform him of the estimated cost of development and provision of public amenities.

14. The applicant shall within seven days after the receipt of letter under Rule 13 communicate to the Commissioner his agreement in the form prescribed in Appendix 'D' to raise the level of the site suitably, metal and asphalt the roads as per specifications prescribed by the Commissioner and plant avenue trees at such intervals as are indicated in the plan, or request the Commissioner to carry out the said works on his behalf and deposit the cost thereof as per estimates furnished by the Commissioner.

15. If no reply is received from the applicant within 15 days of receipt of the communication from the Commissioner referred to in Rule 13 the Commissioner may treat the application as having lapsed.

16. Where an applicant is permitted to carry out any work, he shall complete the works according to specifications within twelve months from the date of receipt of sanctioned layout [1][x x x].

17. Notwithstanding anything contained in Rule 16, the applicant shall deposit the estimated cost of laying sewers and underground storm water, drains, which shall be carried out by the Corporation.

18. The applicant shall deposit the entire cost of works or furnish Bank guarantee in the form prescribed in Appendix 'E' or execute a registered mortgaged deed in the form prescribed in Appendix 'C' to cover the entire estimated cost of such works.

19. Unless and until the provisions of Rules 14, 16, 17 and 18 are complied with the Commissioner shall not accord final approval for the layout.

20. When the owner fails to complete the works to the satisfaction of the Commissioner within the prescribed period, the Commissioner will be at liberty to auction the plots so mortgaged and with the amount so realised execute such works and recover the excess amount, if any, incurred by the Corporation as arrears of property tax.

21. The owner shall undertake not to utilise, sell, lease or otherwise dispose of the land as sites for construction of buildings for residential or non-residential or industrial purposes until all the provisions of Rules 13 to 20 (both inclusive) are complied with to the satisfaction of the Commissioner.

1. Omitted by G.O. Ms.No. 229, MC & UD, dt. 16.04.1994.

22. No layout shall be approved on the basis of individual payment of charges towards the cost of works as laid down above.

23. The Government may, either *suo motu* or on an application made to them exempt any layout or class of layouts from the operation of all or any of the provisions of these rules.

[1][**24.** In respect of up-gradation and improvement of slum areas in the Corporation, the following norms shall be ensured

1. The width of main road shall be a minimum of 9 mts.
2. Other roads/Lanes inside shall be a minimum of 6 mts.
3. Where the length of road is not more than 30 mts (dead end roads) the road width shall be minimum of 4 mts.
4. All the Master Plan roads passing through the slum areas shall be implemented.
5. Preferably 167 sq. mts of open space shall be provided for slums up to 50 dwelling units and 334 sq. mts shall be provided having above 50 dwelling units.
6. Minimum width of dwelling unit plot shall be 3.6 metres.
7. Slums falling in the tank bed/water course and layout open spaces should be rehabilitated elsewhere.]

APPENDIX A

(See Rule 3)

Layout Application

To
The Commissioner,
Municipal Corporation of Hyderabad,
Hyderabad-Andhra Pradesh.

Sir,

I/We hereby give you notice that I/We intend to utilise, sell, lease or otherwise dispose of my/our lands or portion or portions of the same bearing S.No. ....., and having an extent of ..... Acres in ..... Street ..... division or ward, of the Municipal Corporation of Hyderabad as sites for the construction of buildings for residential or non-residential or industrial purposes as indicated (in appendix) hereunder.

1. **Inserted by G.O. Ms.No. 37, MA & UD (M1) Dept., dt. 22.01.2011.**

I/We forward herewith site plans to scale 1:500, three on tracing cloth and the other two blue-prints, indicating the following particulars in seriatim.

1.(a) The correct boundaries of the land for which the layout is prepared based on survey records indicating Survey Nos. within and around.

(b) Contour levels at 50 feet (15 metres) intervals.

2. Topographical details in the land and within a radius of 300 feet or 98.44 metres indicating the existing buildings, roads, open spaces with reference to layouts if any approved and the developments taken place.

3. A plan showing the existing thermal lines, telephone lines, water mains and drainage sewers as certified by the concerned authorities.

Note:- Where there are no thermal lines, water mains and sewers within reach, the alternative arrangements made to secure the three essential services are indicated clearly in the plan and explained in Schedule I below.

4. The direction and means of street access from the existing public or private street, intended level and width or proposed street with section.

The street alignment and the building line, the arrangements to be made for raising and levelling, paying, metalling, flagging, channelling, sewering, drainage, conserving and lighting the street.

5. The position, No. and size of the individual building plots, open spaces for public purposes, such as parks, playgrounds, schools, shopping centres, parking places, etc., with their extents supplemented by a statement of the same particulars in the Schedule II below.

I also enclose a non-encumbrance certificate from the Registration Department as to the free title on the land together with a true copy of the sale deed certified by a Gazetted Officer or got verified by a Corporation Officer, authorised by the Commissioner, in this behalf.

I am crediting in cash/by cheque Rs..... as fee for sanction of layout at 1% of the value of land proposed to be sub-divided, subject to the minimum of Rs. 50.

I/We (jointly and severally) agree to develop the roads to the required standard as per the specification prescribed by the Corporation and to provide underground storm water drains through proper culverts and to sewer and light the area and to carry out all the arrangements to the satisfaction of the Commissioner, as per the agreement that will be executed by me on intimation.

I/We hereby undertake not to utilise, sell, lease or otherwise dispose of the land as sites for the construction of residential or non-residential buildings until all the amenities are provided as indicated in the conditions

of the layout either by the Corporation or by me, as agreed upon through a registered agreement on stamped paper worth Rs. 1.50.

[1][x x x]

The drainage works (both sewers as well as storm water) and lighting will be carried out by the Corporation and the estimated cost of the same works will be deposited with the Corporation before sanction of the layout.

The remaining works, such as construction of roads and plantation of avenue trees may be carried out by the applicant as per standard specifications affixed subject to 50% of the cost of the said works (refundable) as estimated by the Corporation towards security deposit is credited in the Municipal Treasury, and 5% towards supervision charges (non-refundable). To cover the remaining 50% of the cost of works (to be executed by the applicant), plots of equivalent value will have to be mortgaged (in prescribed form) in favour of the Corporation as additional security within 7 days from the date of receipt of the provisionally approved layout and those amounts are refundable to me after the works are completed to the satisfaction of Commissioner, and the layout shall not be sanctioned unless these conditions are fulfilled.

Signature of the Owner of a land
Address(es) of owner(s).

Signature of licensed Surveyor/
Architect/Engineer.

SCHEDULE I

[Not Printed]

SCHEDULE II

[Not Printed]

APPENDIX B

[Rule 7(4)]

Specification for Asphalt or Bitumen Road

The water bound, Macadam Road, shall be formed in the following manner before it is treated with asphalt surface.

After shaping the road bed to required camber, if the sub-grade is hard of gravel soil then the metal is spread in two layers of 4 1/2" thick to get a consolidated depth of 6". A power roller of 8 to 10 tonnes weight is generally to be used. The dry rolling should not be excessive so as to cause the crushing of metal. The rolled surface is then watered moderately, and thoroughly rolled until hard and compacts so that a highly loaded vehicle makes no impression

1. Omitted by G.O. Ms. No. 229, M.C. & U.D., dt.16-4-1994.

while travelling on it. The screenings the metal, gravel, fine lime stone or kankar then spread in small quantities uniformly on the surface about 1/2" in thickness in total and watered and rolled properly. Finally a top dressing 1/4" thickness of sand is spread on the surface only and finished off with a final rolling. The surface is then kept moist for about two weeks after opening to traffic.

Surface dressing with Asphalt.

1. The water bound macadam surface shall be cleaned thoroughly free from cow dung, dust or other impurities by means of wire brushes and brass brooms and dusted with gunny bags to obtain a clean dry surface with about 1/2" depth of interstices exposed between individual metal.

2. Over the surface thus prepared, a tack coat of bitumen shall be uniformly spread at 20 lbs. per 100 sq. feet or 9.29 metres by means of pressure sprayer, any fat spot formed during spraying shall be squeezed properly, squeezer to be used to ensure uniform application.

3. Granite chippings 1/2" standard size(i.e., passing through 3/4" sq.mesh (20mm), and retained on 3/8 sq.mesh (10mm.) shall be premixed with a cutback bitumen at 2 1/2 lbs. per Cft. per 100 sq.ft. or 9.29 metres (2.4 m. 2 per 100 m) mixing can be carried out either in a power driven mixer or hand operated drums mixer. Suitable rakes shall be used to ensure uniform spreading.

4. The surface shall be then rolled with power roller of 6 to 8 tonnes (in eight tonnes to full consolidation). The wheels of the roller shall be moistened with wet gunnies to prevent the percolated chips from adhering to them.

5. Coar dry river sand at 1/2 Cft, per 100 sq.ft. or 9.29 sq.metres shall then be spread over the compacted surface.

6. The road can be opened to traffic after the lapse of 12 hours after completion.

Schedule Carriage way widths:— The width of carriage way for one lane of traffic should not be less than 12 feet and for two lanes of traffic not less than 24 feet. Accordingly, the carriage way widths are indicated below for different types of roads.

Sl. No.	Width of road	Carriage way width including surface drains.	Width of footpaths
1.	40 feet or 12.192 metres	22 + 24	8' on either side.
2.	60 feet or 18.288 metres	38 + 35	12' on either side.
3.	80' feet or 24.384 metres	45 + 64 feet central verge.	12' on either side.

Raised Foot-Paths on either side of carriage way

It is necessary that the foot-path shall be 6" above than the road edge level to provide a measure of protection to the pedestrians from vehicles. These are usually of available earth and gravelled and paved with shabad stones or C.C. considering the nature of traffic.

Kerb stones are structurally necessary to prevent lateral spread of road surface materials and preserve the bearing value of the sub-soil by preventing ingress of sewage water. Granite or cement concrete are the usual material used for. Granite kerbs three feet long by 12" X 6" or 8" are usually adopted and laid flat on a 4" concrete bed on roads carrying light traffic in residential areas, where its effect will only be to give appearance to the street lines. To be effective and to give lateral support, the depth of concrete should be more. The top surface which are exposed should evenly be dressed and tooled. The ends of granite kerbs should be dressed square. The top surface is tooled down to the slop of the foot-path generally. This aids drainage.

APPENDIX C

(Rule 18)

Deed of Mortgage by Conditional Sale

This mortgage deed made this day ..... of 19 .....between Sri/Smt. ..... S/o. ..... residing at ..... (hereinafter called the mortgagor) and Municipal Corporation of Hyderabad through its Commissioner (hereinafter called the mortgagee) do hereby agree and declare as follows :

1. That the mortgagor hereby admits that he had submitted a layout plan to sub-divide land situated at-as building plots for residential/non-residential/industrial purpose, and for the projection of new roads to the mortgagee in pursuance of Sections 388 to 392 of Hyderabad Municipal Corporations Act, 1955 (Act II of 1956).

2. That the mortgagor hereby offers to execute the following works in the layout area, and the mortgagee having accepted the same has agreed to accord sanction for the layout plan in file No. ..... on condition that the following works as per specifications appended will be completed by the mortgagor within six months from the date of release of the approved layout;

(i) Asphalt roads estimated to cost Rs. .....

(ii) Planting of avenue trees at 50 feet intervals estimated to cost Rs. .....

3. The mortgagor has separately credited Rs. ..... in the treasury of Municipal Corporation of Hyderabad through Challan No. ..... and dated ..... towards the following works to be executed by the Corporation within six months of the date of release of the approved layout.

(i) Laying of underground sewers along the roads in the layout estimated to cost Rs.....

(ii) Laying of underground storm water drains estimated to cost Rs. .....

(iii) Providing street lights on either side of the streets at 50 ft. intervals estimated to cost Rs. .....

4. The Mortgagor, having deposited 50% of the estimated cost of works mentioned in, and to provide and complete the works as stated in, para 2 with in a period of six months from the date of release of the approved layout hereby transfers by way of conditional sale to the mortgagee the plots bearing No. ..... of the layout land as per the plan annexed with the following boundaries towards the balance of 50% of the estimated cost completion of works mentioned in para 2.

Bounded by North:—

Bounded by South:—

Bounded by East:—

Bounded by West:—

5. With possession in favour of the mortgagee, subject to the condition expressly declared herein viz., that if the mortgagor completes the work as stated in para 2 to the satisfaction of the Commissioner, within the agreed period of six months from the date of release of the approved layout, the mortgagee shall at the cost of mortgagor retransfer the said plots to the mortgagor without any further liability on the same towards execution of works contemplated in para 2.

6. If the mortgagor makes default in completing the said work within the agreed period of six months, the conditional sale hereby made of the said plots shall automatically become absolute and the mortgagee shall be deemed to have assured the title of full ownership over the said plots and the mortgagor shall forfeit the right of redemption as against the mortgagee.

7. The mortgagee, thus becoming the absolute owner of the said plots after expiry of six months from the date of release of layout, shall be free to sell the plots in an open public auction without any approach to any Court and complete the said work, with the amount so realised and

the mortgagor or his successors shall not be entitled to question this in any Court of law.

8. If the Mortgagor has to spend additional amount for execution of the said works over and above sale proceeds referred to in the above para, it shall be realised from the mortgagor or his successors or the purchasers of individual plots in the said layout area in the manner prescribed and the other plots not covered by the mortgage will be under first charge towards the said excess amount spent by the Corporation.

9. The mortgagor shall separately convey the said roads with the amenities mentioned in paras 2 and 3 and the sites reserved for parks and playgrounds in the layout area, to the Corporation free of cost through a gift deed at his cost within a fortnight of the expiry of the six months period allowed for the completion of the works either by the mortgagor or mortgagee as the case may be.

10. The mortgagor also undertakes that the plots so hypothecated to the Corporation will not be sold, leased out or utilised for building purposes of any kind till they are retransferred by the mortgagee through a deed as mentioned in para 5.

11. The mortgagor also undertakes that he will not use or sell or lease out or otherwise dispose off other plots for building purposes unless and until the roads and open spaces for parks and playgrounds are conveyed to the Corporation for treating them as public as indicated in para 9.

12. That the mortgagor shall be in actual possession of the plots and continue to retain the same till the completion of the said works and the mortgagor shall not interfere with the possession, interest, rights and title of mortgagee over the said plots in any way detrimental to the interests, rights accrued in security and change over the said plots to the mortgagee till the scale works are completed as agreed upon.

13. The mortgagor does also hereby agree to pay the Government revenue, municipal taxes over the said property if any. Till the redemption of the property, the property vests automatically in favour of the Corporation.

14. The terms and conditions of this deed are binding and shall continue to be binding on the mortgagor, his heirs, successors in interest, right as well as title and ownership and none of them shall be entitled to question the correctness and genuineness of the terms and conditions of this deed anywhere at any time in any Court.

In witness whereof the said ..... has hereto signed as the mortgagor, the day and the year indicated above.

Witnesses:

1.

2.

3.

Mortgagor.

APPENDIX-D

(Rule 14)

Agreement Deed

Agreement entered into this ..... between the ..... now being Sri/Smt. ..... hereinafter called as the first part which term includes the ..... and the individual members and the Municipal Corporation of Hyderabad (hereinafter called the Corporation) as the second part, whereby it is agreed to as follows:—

1. That the ..... has submitted a layout for plotting of the land situated at ..... under Survey No. .....

2. Whereupon the Corporation agreed to grant permission for making building plots on the aforesaid land with the condition that the entire Drainage charges and 25% of the cost of the other amenities (asphalt roads, table drains, street light brackets, avenue plantations), should be remitted before sanction of layout and in respect of balance of amount, plots of equivalent value should be mortgaged at the rate of Rs. ..... per sq.yard or 0.8361 sq.metre and the following amenities i.e., asphalt roads, table drains, street brackets, avenue plantations should be completed by the ..... within six months from the date of sanction of layout as per the specifications given by the Corporation vide letter No. ..... dated .....

3. That the ..... agreeing to the above condition has deposited drainage charges amounting to Rs. ..... and 25% comprising Rs. ..... under cheque Nos. ..... date .....

4. That the ..... has mortgaged plots bearing Nos. ..... and measuring ..... costing Rs. ..... in favour of the Corporation in lieu of the balance of betterment charges for providing asphalt roads, table drains, street light brackets and avenue plantation under a registered mortgage deed No.

5. That the first part only on behalf of the ..... undertakes to provide the amenities, asphalt roads, table drains, street light brackets and

avenue plantations within six months from the date of sanction of the layout as per the specification given by the Commissioner.

6. The first party do hereby bind themselves to fulfil the said conditions imposed by the Corporation within a period of six months from the date of sanction of layout; If the party does not fulfil the said condition, the Corporation will be entitled to withhold the completion certificate permitting the party to occupy or use the houses under Section 455 of the Hyderabad Municipal Corporation Act, 1955. In case they fail to comply with the conditions within the stipulated period, the Corporation is empowered to take action as per rules and will be authorised to auction as per rules and will be authorised to auction the mortgaged plots and get the works completed departmentally and recover from.....the excess amount if any that is incurred and required for completing the works in the layout. This first party and his..... shall raise no objection for such recovery.

In witness thereof.....party, I affix his signature on the day already mentioned in the agreement before the following:—

1. Witness:

2. Witness:

APPENDIX E

(See Rule 18)

Whereas ..... is/are required to furnish a Bank guarantee to the Commissioner, Municipal Corporation of Hyderabad for a sum of Rs. ..... (Rupees .....) as per the orders of the Commissioner sanctioning layout No. ..... date ..... in respect of the ..... situated at .....

I/We hereby undertake to pay to the Commissioner the said sum of Rs. ..... (Rupees .....) on demand. I/We undertake not to revoke the guarantee without a written authority from the Commissioner, Municipal Corporation of Hyderabad.

Witnesses:

1.

2.

LAYOUT CONDITIONS

D. Dis.No. Date.

Sub:— Layout for S.No.....sanction under Section ..... of H.M.C. Act-Accorded.

Ref:— 1. Application from ..... dated .....

2. Letter from the D.P.T. No. ..... dated .....

The sub-division of land and laying out of roads in the vacant land bearing No. ..... Ward No. ..... Circle No. ..... of Hyderabad/ Secunderabad Division, for residential/non-residential/industrial purpose, is provisionally approved by the Municipal Commissioner of M.C.H. subject to the following conditions. One copy of the provisional layout plan un-numbered and unsigned is enclosed for reference and it will be confirmed after conditions 14, 15 and 16 are complied with and till then this cannot be considered as a valid document.

1. The sites and streets shall be durably demarcated with stones in accordance with the said layout plan and all streets formed and made including asphalting, sewering, drainage, conserving and lighting and providing culverts as may be necessary to approved levels and widths as indicated in the specification appended, to the satisfaction of the Commissioner, in compliance with the provisions of H.M.C. Act.

2. The corners of sites at the junction of the streets should be splayed with 10 ft. offset as shown in the approved plans.

3. Every building site shown in the approved plan, except as otherwise indicated, shall be utilized for the construction of only dwelling house and no shop, godown, or other building which is not ordinarily used or intended to be used in connection with dwelling shall be constructed in the site.

4.Only detached dwelling houses designed for the occupation of a single family shall be built on in a site and no site shall be altered or subdivided or otherwise utilised for the occupation of more than one family at any further date.

5. The building lines shall be kept at least 10ft. of the road and in accordance with the standard fixed as shown in the approved plan from the edge of the street. No building other than a boundary wall of 4 ft., (inclusive of railing if any) above the adjoining street level shall be built in the space between line and the street alignment.

6. Between every dwelling house and the side boundaries of the site there shall be an open space of not less than 5 ft.

7.There shall be a space not less than 15 ft. and in accordance with the standard fixed left open at the rear of the building in which well, latrine, garage, cow shed or other building not intended for human habitation may be erected provided that the height of any structure shall not exceed 12 ft. above the site or ground level and exceed 1/4 of the area of the rear

open space and shall not exceed 1/8 of the width of the rear boundary of the site.

8. Open space in accordance with the standard fixed and in any case not less than 1/2 of the extent of the site shall be left as vacant open space around the building. The space left unbuilt in a site shall be maintained as a garden, yard, or open space and left in such a state as not to be a source of nuisance or annoyance to the neighbours or person using the adjoining streets.

9. Every dwelling house shall be provided with adequate means for the effective drainage of storm water, sullage, and sewage for the premises in the manner prescribed by the Drainage Department.

10. The boundaries or dimension of sites shall not be altered except with the previous approval of the Commissioner.

11. Except to the extent necessary for the excavation of foundation, levelling or sloping of ground earth shall not be removed from a site for building or for any other purpose, so as to create hollows or borrow pits therein.

12. Shops and business premises shall not be built anywhere in the area except in the sites shown in plan for shops.

13. The owner shall give a written agreement on stamped paper worth Rs. 1.50 to abide by the above conditions and the sale or lease of sites shall be also subject to the compliance of the above condition. The owner or the purchaser of the site shall be bound by the above condition which shall be incorporated in the above sale deed.

14. The lighting of the streets and provision of storm water drains, under ground drainage, shall be executed by the Corporation only and the owner of the land shall deposit in advance the estimated cost appended herewith towards the said amenities within 60 days of the receipt of this communication.

15. The road work including footpaths as per specification enclosed and the plantation of avenue trees at 50ft. intervals may be undertaken by the owner of the land or his nominee under the supervision of the Corporation. In such a case he shall deposit with the Corporation, 5% of the estimated cost towards supervision charges which is not refundable, while tendering a security deposit equivalent to 50% of the estimated cost of the work either in cash or through a Bank Authorisation, and mortgage through a registered deed in favour of Corporation the required number of plots to meet the balance of 50% of the cost, in the form prescribed

and appended herewith within 10 days of the receipt of this provisional order, so as to release the approved layout.

16. In case the road work and planting of avenue trees is agreed to be executed by the Corporation the entire cost as estimated shall be deposited with the Corporation within 10 days of the receipt of this provisional order, so as to communicate the approved layout.

17. The work to be executed by the Corporation or by the owner of the land as the case may be for the development of the area as indicated in conditions 16 and 17 shall be completed to the satisfaction of Municipal Corporation within a period of six months from the release of the approved layout. If the owner fails to comply with the same within the time limit stipulated the Corporation will execute all the works meeting the cost from the security deposit and the amount realised by the sale of the plots mortgaged without giving any further notice, and any excess spent over and above the said amount will be released from the owner or his successor or purchaser of individual plots in the layout.

18. The provisions of the development plan (Master Plan) for the area shall also be complied with in addition to the above conditions.

19. The roads so developed with amenities as per specifications and sites reserved for public purpose (viz.,) park, playground should be conveyed at his cost through a registered deed to the Corporation within a fortnight of the expiry of six months period prescribed for completion of works, and no compensation should be claimed towards the land covered by roads, parks and playgrounds while agreeing to construct shopping centre and bus stops as per the layout.

20. No site shall be sold, leased or otherwise disposed off and no building shall be permitted or constructed in any site unless and untill all the above conditions are complied with and the roads are developed and amenities provided to the satisfaction of the Commissioner, M.C.H., and handed over to the Corporation in the manner prescribed.

Forwarded, By Order

Town Planner, M.C.H.

Sd/-

Commissioner, M.C.H.

2. REGULATIONS FOR REGISTRATION OF LICENSED BUILDER/REAL ESTATE DEVELOPER/FIRM LICENCE OF GREATER HYDERABAD MUNICIPAL CORPORATION, 2007

1. Short Title, extent and applicability:—

1.1 Short Title: These regulations may be called Regulations for Builder/ Real Estate Developer/Firm Licence of Greater Hyderabad Municipal Corporation, 2007.

1.2 Extent: These regulations shall apply to the entire area of Greater Hyderabad Municipal Corporation.

1.3 Applicability: These regulations shall apply to the building activity in accordance with the provisions of Revised Common Building Rules – 2006 issued in G.O.Ms.No.86 MA dt.3.3.206 and as amended from time to time.

2. Definitions:— For the purpose of these regulations, the following definitions shall have the meaning indicated against each:

2.1 '*Act*' means, Hyderabad Municipal Corporation Act, 1955 (and as amended from time to time).

2.2 '*Approved*' means, approved by the authority having jurisdiction

2.3 '*Authority*' having jurisdiction means, the Commissioner, GHMC or an officer authorized by him to administer these regulations.

2.4 '*Commercial complex*' means, the commercial building proposed for a plot area having more than 300 sq.mtrs and above 10 mtrs height.

2.5 '*Licensed Builder/Real Estate Developer*' means, the Builder / Real Estate Developer / Firm who has been licensed by the Authority.

3. General Requirements for Licence:—

3.1 Person who applies for licence as a Builder shall be a graduate in Architecture or Civil Engineering or in Construction Management or equivalent educational qualifications or 5 years of experience as Class – I Civil Contractor or 10 years of experience as Class- II Civil Contractor, or

3.2 A Company which applies for a Licence as a Real Estate Developer/ Firm shall submit the application by an authorized qualified person on behalf of the Company and the company should employ a qualified person as prescribed in Rule 3.1 and submit the particulars of the person appointed and such company shall be registered, **or**

3.3 The Builder / Real Estate Developer who is in the profession of construction activity as on date of notification of revised building rules, is also eligible for licence provided that he shall submit the proof of Income Tax Assessment for the past five years that he is engaged in the profession of

Builder / Real Estate Developer. A copy of PAN Card shall be submitted along with the application.

4. The Licencing Authority and Procedure for obtaining Licence:—

4.1 The Commissioner, GHMC or an officer authorized by him is the authority for issuing the licence for practicing the profession of Builder / Real Estate Developer / Firm.

4.2 The fee for Licence shall be as per the Schedule of Rates as approved by the Greater Hyderabad Municipal Corporation from time to time.

4.3 The format of application for obtaining licence as Builder / Real Estate Developer/Firm is as at Annexure-I. The applicant shall apply in the prescribed form duly enclosing the required copies of certificates and duly paying the prescribed fee.

4.4 Form of Certificate of Licence for Builder/Real Estate Developer/ Firm is as given at Annexure-II

4.5 A register of licensed Builder / Real Estate Developer / Firm shall be maintained by the GHMC and up to date list of such licensed Builder/Real Estate Developer/Firm showing the addresses and the period for which the licences are valid shall be kept for inspection in the office of the GHMC during the office hours.

5. Conditions for issuing Licence:—

5.1 The Authority has the right to cancel the licence for contravention of any of the provisions of the Act, Rules or Bye-laws framed there under or for contravention of any of the conditions of the licence or for failure in discharging the duties and responsibilities as prescribed in these regulations.

5.2 In case the licence is cancelled, he is not eligible for obtaining a fresh licence and for practicing as a Builder / Developer / Firm for a period of three (3) years from the date of cancellation.

5.3 If for any reason the licence is cancelled, the licensed Builder / Real Estate Developer / Firm shall return the licence to the Authority within 24 hours of such cancellation.

5.4 Every application for the renewal of licence, shall be submitted to the GHMC together with a renewal fee as prescribed from time to time and shall be accompanied by the licence in respect of which the renewal is required.

6. Duties and Responsibilities of Builder / Real Estate Developer/ Firm:—

6.1 It shall be incumbent on the Builder / Real Estate Developer / Firm to cooperate with and assist GHMC in carrying out and enforcing strictly the provisions of Master Plan / Zonal Development Plan, Zoning Regulations and Development Control Rules of GHMC and other rules made under the provisions of relevant Acts from time to time.

6.2 Builder / Real Estate Developer / Firm is entitled to execute all types of projects and submit the Building applications to GHMC for obtaining building permissions.

6.3 A licenced Builder / Real Estate Developer / Firm shall not associate himself with any construction not authorized or licensed by the GHMC where such authorization or licence is required under the provisions of the Act or Rules or any Bye-laws framed there under.

6.4 The licensed Builder / Real Estate Developer / Firm shall not do anything prejudicial to public interest and the objectives for which he is licensed or be a party to any evasion or attempted evasion of the provisions of the relevant statute, and the Rules, Byelaws and Regulations made there under GHMC and for the time being in force.

. 6.5 Copy of the certificate of Licence shall be submitted along with Building application. The licence number and the period of validity of the licence shall be incorporated on the building plans.

6.6 Every licensed Builder / Real Estate Developer / Firm shall in submitting the plans show correct details and dimensions, levels and give correct information in respect of such plans or building or work for which he proposed execution.

6.7 It shall be incumbent on the licensed Builder / Real Estate Developer / Firm to counter sign on Notarized Affidavit of the Owner of the property/GPA holder and submit along with the Building Application for handing over the prescribed floor area of the proposed construction to the Sanctioning Authority as prescribed in the Rules from time to time.

6.8 The sale or disposal of such built up area under the said Notarised Affidavit, lease and registration of such buildings shall be allowed by the Registration Authority only after an Occupancy Certificate is obtained from the GHMC.

6.9 In case of any violation of building constructions, it shall be removed by the owner / Builder / Real Estate Developer / Firm within the stipulated time on receipt of the statutory Notice of GHMC.

6.10 Upon failure to comply with the direction of the GHMC to remove violations, violated portion of the building will be removed summarily and the handed over portion of the building will be disposed off in public auction by GHMC and further action on licensed Builder / Real Estate Developer / Firm shall be initiated, which includes cancellation of licence and debarring from the profession for a period of three (3) years.

6.11 It is a prerequisite that every Builder/Real Estate Developer/Firm is required to submit copy of the agreement executed with Consulting Architect/ Structural Engineer for execution of the project along with the building application wherein a condition of the agreement shall be incorporated that the consultants will offer their services to builder till completion of work and obtaining of Occupancy Certificate. In no case the construction should take place without the supervision of the Licenced Technical Personnel.

3. THE GREATER HYDERABAD MUNICIPAL CORPORATION (DISCLOSURE OF INFORMATION TO THE GENERAL PUBLIC) RULES, 2009

[1][*G.O.Ms.No. 726, MA & UD (UBS) Dept., dt. 21-12-2009*]

In exercise of powers conferred by sub-section (1) of Section 585 read with Section 686-A of the Greater Hyderabad Municipal Corporation Act, 1955 (Andhra Pradesh Act No. II of 1956), the Governor of Andhra Pradesh makes the following rules laying down the intervals at which and the manner in which the information relating to the Municipal Corporation are to be disclosed for information of the general public.

RULES

1. Short title and commencement:— (1) These rules may be called the Greater Hyderabad Municipal Corporation (Disclosure of information to the general public) Rules, 2009.

(2) They shall come into force from the date of publication in the Andhra Pradesh Gazette.

2. Definitions:— In these rules, unless the context otherwise requires:

(1) 'Act' means the Greater Hyderabad Municipal Corporation Act, 1955.

(2) "Commissioner' means Commissioner appointed by Government under Section 104 of the Act.

(3) 'Corporation' means Municipal Corporation established under Section 3 of the Act.

(4) 'Government' means the Government of Andhra Pradesh.

(5) 'Information' means the information specified in sub-section (3) of Section 686-A of the Act.

3. Responsibility for disclosure of information to the general public:— (1) The Commissioner is responsible for disclosure of information to the general public. Keeping in view the administrative convenience, he may delegate this function to Additional Commissioner / Deputy Commissioner of the Corporation.

(2) An officer of the Corporation designated as Public Information Officer and another officer designated as Assistant Public Information Officer under Section 5 of the Right to Information Act, 2005 (Act No. 22 of 2005) shall also assist the Commissioner in disclosure of information

1. Published in A.P. Gazette, R.S. to Part-I, Ext. No. 60, dt. 23-12-2009.

to the public under the Act in addition to the responsibilities bestowed on them under the Right to Information Act, 2005.

4. Manner of disclosure of information:— (1) The information for the general public shall be disclosed in English and/or in the local language of the district in which the Corporation is situated.

(2) The information shall be disclosed through the means of:—

(i) Publishing in one or two newspapers having circulation in the district, provided the information is important and affects the public at large, or

(ii) Placing on the website of the Corporation, or

(iii) Placing on the notice board of the Corporation office, or

(iv) Placing on the notice boards of zonal offices, circle offices and ward offices of the Corporation, if exist, or

(v) Placing on the notice board of the Ward Committee offices of the Corporation, if exist, or

(vi) Publishing of pamphlets and handbills, or

(vii) Announcing in public announcement system, or

(viii) Announcing in media broadcasts.

(3) The means of disclosure referred under sub-rule (2) above may be either one or a combination of one and more.

5. Disclosure of information:— The details/items of information to be disclosed for general public are laid down in Rule 6 of these Rules. The information under Rule 6 shall be disclosed within one hundred and twenty days from the date of issue of these Rules and also within the prescribed time in col. 4 of the table under Rule 6.

6. Each item of information to be disclosed should be specific and should be disclosed as stated hereunder:—

Sl. No.	Nature of information to be disclosed	Manner of disclosure	Periodicity of disclosure / review	Schedule no. prescribed for disclosure of information
1	2	3	4	5
1.	Basic particulars of the Corporation	Website and notice board of the Corporation	Revised once in a year if necessary	1
2.	Statement showing the composition of the Corporation	Website and notice board of the Corporation	Revised once in a year if necessary	2
3.	Mode of accessibility of the minutes of the meeting of the Corporation	Website and notice board of the Corporation	To be published as soon as the minutes are approved	3
4.	Directory containing the designations of officers and employees	Website and notice board of the Corporation head office, circle office / ward office	Revised once in a year if necessary	4
5.	Particulars of officers who are competent to grant concessions, permissions, permits and authorizations for each branch of activity relating to the Corporation	Website and notice board of the Corporation head office, circle office / ward office in respect of the officers working in these offices.	Revised once in a year if necessary	5
6.	Particulars of officers responsible for delivery of various services and their contact phone numbers	Website and notice board of the Corporation head office, circle office/ ward office in respect of the officers working in these offices.	Revised once in a year if necessary	6

1	2	3	4	5
7.	Financial statements of balance sheet, income and expenditure and cash flow	Website and notice board of the Corporation	Once in a quarter within two months of the end of each quarter	7
8.	Statutorily audited financial statements of the financial year	Website and notice board of the Corporation	Once in every financial year within six months of the end of the financial year	8
9.	Service levels being provided for each of the services	Website and notice board of the Corporation	Once in a year within three months of the end of the financial year.	9
10.	Particulars of all plans, proposed expenditure and actual expenditure on major services provided and activities performed	Website and notice board of the Corporation	Once in a year within three months of the end of the financial year	10
11.	Details of subsidy programmes and the criteria and manner of identification of beneficiaries for such programmes	Website and notice board of the Corporation and on the notice board of zonal/circle/ward offices to the extent necessary, news pape having highest circulation in the district and pamphlets and hand bills.	Once in a every half-year within two months of the end of the half Year	11
12.	List of beneficiaries of all welfare and subsidy programmes	Website of the Corporation and notice board of the ward offices	Once in every half-year within two months of the end of the half-year	12

1	2	3	4	5
13.	Particulars of Master Plan, Development Plan or any other plan concerning the development of Corporation area	Website and notice board of the Corporation. Gist of the information shall be published in the news paper having highest circulation in the district.	Once in a year within three months of the end of the financial year	13
14.	Particulars of major works together with information on the value of works, time of completion and details of contracts	Website and notice board of the Corporation and zonal / circle offices to the extent necessary	Once in a year within three months of the end of the financial year	14
15.	Income generated in the previous year from various tax and non-tax resources	Website and notice board of the Corporation and zonal / circle offices to the extent necessary	Once in a year within three months of the end of the financial year	15
16.	Taxes and non-taxes remained uncollected during the previous year and the reasons therefor	Website and notice board of the Corporation and zonal/circle offices to the extent necessary	Once in a year within three months of the end of the financial year	16
17.	List of defaulters who have to pay arrears of property tax exceeding one lakh of rupees per annum	Website and notice board of the Corporation and zonal/circle offices to the extent necessary and gist of information to be published in a newspaper having highest circulation in the district concerned	Once in a year within three months of the end of the financial year	17
18.	Assigned revenues transferred from State Government	Website and notice board of the Corporation, zonal and circle offices.	Once in a year within three months of the end of the financial year	18

1	2	3	4	5
19.	Plan and non-plan grants released by the Government	Website and notice board of the Corporation, zonal and circle offices	Once in a year within three months of the end of the financial year	19
20.	Grants released by the Government for implementation of schemes, projects and programmes	Website and notice board of the Corporation, zonal and circle offices	Once in a year within three months of the end of the financial year	20
21.	Money raised through donations or contributions from the public	Website and notice board of the Corporation, zonal and circle offices	Once in a year within three months of the end of the financial year	21
22.	Annual budget	Website and notice board of the Corporation, zonal and circle offices. Gist of the budget to be published in the news paper having highest circulation in the district.	Once in a year within three months of the end of the financial year	22
23.	Budget allocations for the welfare of Scheduled Castes, Scheduled Tribes, Women and Children and their utilization	Website and notice board of the Corporation, zonal and circle offices	Once in a year within three months of the end of the financial year	23
24.	Budget allocation for slum areas with the extent of utilization in the previous year	Website and notice board of the Corporation, zonal and circle offices	Once in a year within three months of the end of the financial year	24

7. Adaptation of schedules:— Twenty Four (24) schedules are annexed to the Rules. The Commissioner may make minor changes to the schedules to suit the local requirements, without however altering the basic structure of the schedules.

8. Circulation of information:— The Commissioner shall circulate the information disclosed under Rule 6 to Mayor, Deputy Mayor and all members of the Corporation for favour of information.

9. These Rules shall extend to and apply also to the Greater Vishakhapatnam and Vijayawada Municipal Corporations and to all Municipal Corporations constituted under the Andhra Pradesh Municipal Corporations Act, 1994.

Annexures to the Rules Contained in G.O.Ms.No. 726, M.A. Dated: 21.12.2009

Schedule 1 – Basic particulars of the Corporation

_____ Municipal Corporation

1. General

1.	Name of the Corporation	
2.	Year of establishment	
3.	Extent (in sq. kms.)	
4.	Population as per 2001 census	
5.	Male population	
6.	Female population	
7.	Projected population as on date (year to be specified)	
8.	Total Income per annum during _____ (rupees in crores)	
9.	Total Expenditure per annum during _____ (rupees in crores)	

2. Elected representatives

1.	Name of Mayor	
2.	Name of Deputy Mayor	
3.	Names of ex-officio members	1. 2.
4.	Names of co-opted members	1. 2.

5.	No. of wards	
6.	Names of ward members	1. 2. 3.

3. Public services/amenities

1.	Total Quantity of drinking water supplied	
2.	Per capita water supply per day	
3.	No. of House Service Connections	
4.	No. of public taps	
5.	No. of public bore-wells	
6.	No. of sewer connections	
7.	Length of roads (in Kms) Category – wise	
8.	Length of drains (in Kms.) Category – wise	
9.	No. of street lights Category – wise	
10.	No. of public parks	
11.	No. of play grounds	
12.	No. of public markets	
13.	No. of slaughter houses	
14.	Total no. of shop rooms in all shopping complexes	
15.	No. of community halls	
16.	No. of secondary schools	
17.	No. of elementary schools	
18.	No. of dispensaries	
19.	No. of maternity and child health centers	
20.	No. of auditoriums	

4. Public servants

1.	No. of senior officers	
2.	No. of middle level/supervisory level officers	
3.	No. of ministerial employees	
4.	No. of field level employees	

5.	No. of PH workers	
6.	No. of non PH workers	
7.	No. of teachers	
8.	Others	
9.	Total	

5. Urban Poverty Alleviation

1.	No. of notified slums	
2.	No. of non-notified slums	
3.	Total slums	
4.	Slum population	
5.	Percentage of slum population	
6.	BPL population	
7.	Percentage of BPL population	

6. Socio-economic activities

1.	No. of SHGs	
2.	No. of SLFs	
3.	No. of TLFs	
4.	No. of women covered under SHGs	
5.	No. of SHGs linked with bank credit	
6.	No. of Old-age pensions	
7.	No. of Widow pensions	
8.	No. of Disabled pensions	

Commissioner,

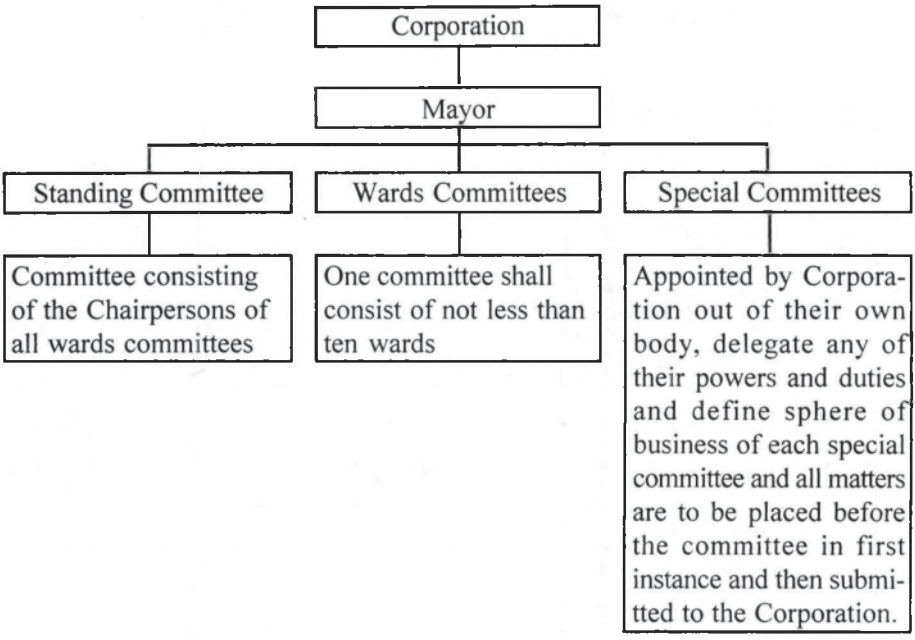
_____ Municipal Corporation

Schedule 2 - Composition of the Corporation

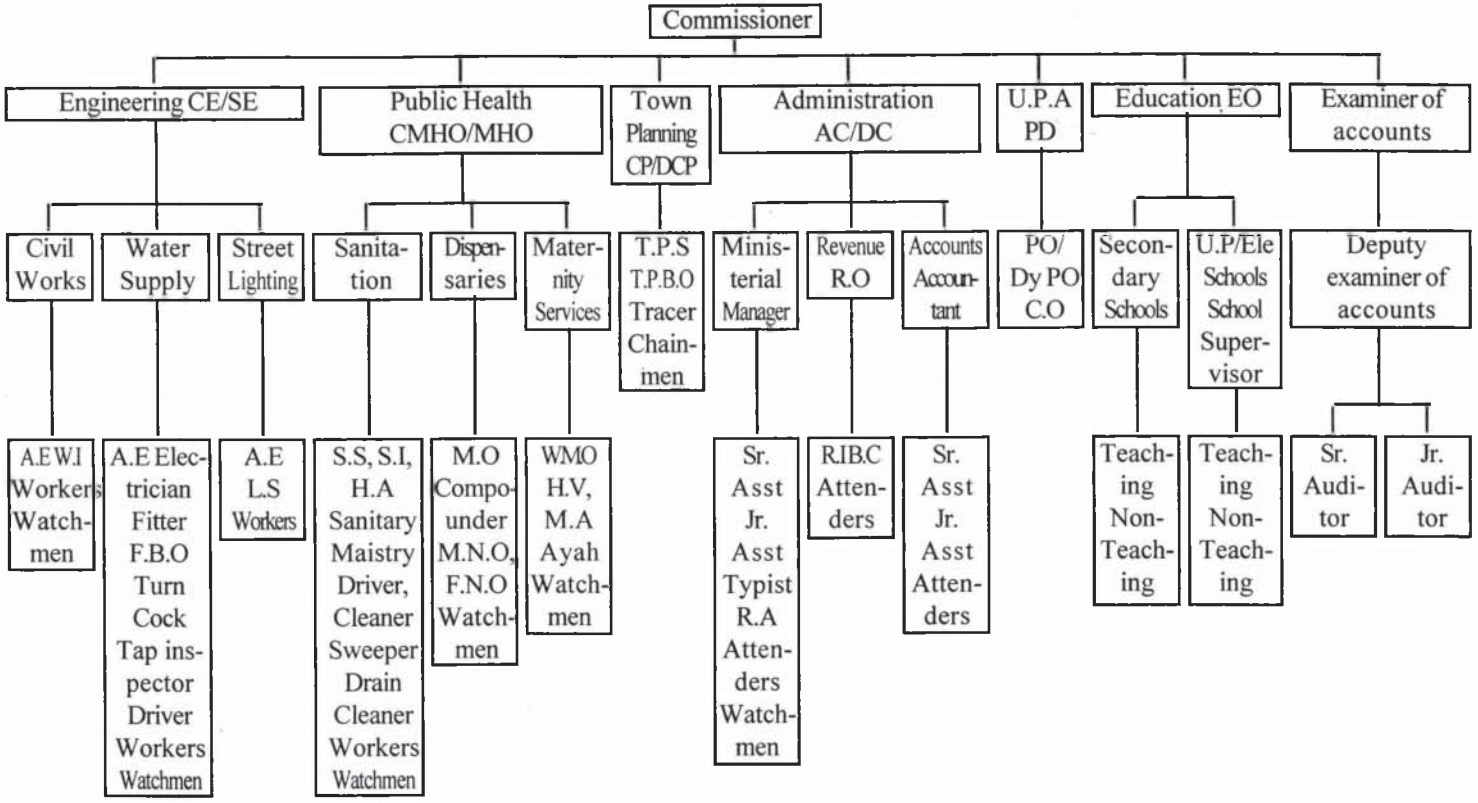
_____ Municipal Corporation

Two organizational charts of the Corporation, one for elected wing and second for executive wing to be prepared and published. (Model charts provided)

Typical Organisational Chart of Municipal Corporation – Elected Wing



Typical Organizational Chart of Municipal Corporation – Executive Wing



Commissioner,

_____ Municipal Corporation

Schedule 3 – Mode of accessibility of the minutes of the meetings of the Corporation

_____ Municipal Corporation

Minutes of the proceedings at every meeting of the Corporation shall be drawn up and fairly entered by the Municipal Secretary in a book called Minutes Book on the day following the meeting and shall be signed by the presiding authority, of the next ensuing meeting.

The Minutes Book at all reasonable times shall be open at the main office of the Corporation and any member of the Corporation can inspect the minutes book free of charge. If any other person desires to inspect the book, he can do so on payment of a fee prescribed by the Corporation.

Commissioner,

_____ Municipal Corporation

Schedule 4 – Directory containing the designations of officers and employees

_____ Municipal Corporation

1. General Administration Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Commissioner		
2.	Additional Commissioner		
3.	Deputy Commissioner		
4.	Municipal Secretary		
5.	Superintendents	1. 2.	
6.	Senior Assistants	1. 2.	
7.	Junior Assistants	1. 2.	

2. Engineering Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Chief Engineer		
2.	Deputy Chief Engineer		
3.	Superintending Engineer		
4.	Executive Engineer		

5.	Deputy Executive Engineers	1. 2.	
6.	Assistant Engineers	1. 2.	
7.	Draughtsman	1. 2.	

3. Town Planning Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Chief City Planner		
2.	Deputy Chief City Planner		
3.	City Planner		
4.	Deputy City Planner	1. 2.	
5.	Assistant City Planner	1. 2.	
6.	Town Planning Supervisors	1. 2.	
7.	Town Planning Building Overseer	1. 2.	

4. Health Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Chief Medical Officer of Health		
2.	Assistant Medical Officer of Health		
3.	Sanitary Supervisors		
4.	Sanitary Inspectors		
5.	Health Assistants		

5. Revenue Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Deputy Commissioner		
2.	Revenue Officer	1. 2.	
3.	Revenue/Tax Inspector	1. 2.	
4.	Bill Collector	1. 2.	

6. Audit Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Examiner of Accounts		
2.	Deputy Examiner of Accounts		
3.	Sr. Auditor		
4.	Jr. Auditor		

7. Accounts Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Financial Advisor and Chief Accounts officer		
2.	Accounts Officer		
3.	Senior Accountant		
4.	Junior Accountant		

8. Urban Community Development (UCD) Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4
1.	Project Director		
2.	Project Officer/Town Project Officer		
3.	Community Organiser	1. 2.	

9. Horticulture Section

Sl. No.	Designation of officers/employees	Name	Phone No.
1	2	3	4

Commissioner,

_____ Municipal Corporation

Schedule 5 - Particulars of officers who are competent to grant concessions, permissions, permits and authorizations for each branch of activity relating to the Corporation.

_____ Municipal Corporation

I. Town Planning Section

Sl. No.	Activity	Officer competent to issue permission	Name of the Officer	Phone No.
1	2	3	4	5
1.	Sanction of building permission			
2.	Issue of land use certificate			
3.	Issue of no objection certificate for construction of cinema theatre			
4.	Issue of no objection certificate for opening of wine shops/bars			
5.	Permit for advertisement hoardings			

II Health Section

Sl. No.	Activity	Officer competent to issue permission	Name of the Officer	Phone No.
1	2	3	4	5
1.	Sanction of trade license			
2.	Issue of health certificate to educational institutions			
3.	Issue of no objection certificate for construction of cinema theatre			
4.	Issue of no objection certificate for opening of wine shops/bars			
5.	Issue of birth certificate			
6.	Issue of death certificate			
7.	Issue of no registration (vital statistics) certificate			

III Engineering Section

Sl. No.	Activity	Officer competent to issue permission	Name of the Officer	Phone No.
1	2	3	4	5
1.	Sanction of HSC for domestic use			
2.	Sanction of HSC for non-domestic use			
3.	Registration of contractors			

IV Urban Community Development Section

Sl. No.	Activity	Officer competent to issue permission	Name of the Officer	Phone No.
1	2	3	4	5
1.	Issue of no house site certificate			
2.	Issue of no house certificate			

V Revenue Section

Sl. No.	Activity	Officer competent to issue permission	Name of the Officer	Phone No.
1	2	3	4	5
1.	Issue of House certificate			
2.	Issue of property valuation certificate			
3.	No due (taxes) certificate			
4.	Assessment of tax on newly constructed houses			
5.	Revision of tax on additional improvements of existing houses			
6.	Transfer of title of properties/ mutations			

Commissioner,

_____ Municipal Corporation

Schedule 6 – Particulars of officers responsible for delivery of various services and their contact phone numbers.

_____ Municipal Corporation

I Health related services

Sl. No.	Activity	Officer responsible for delivery of service	Name of the Officer	Phone No.
1	2	3	4	5
1	Cleaning of roads			
2	Cleaning of drains/overflow of drains			
3	Removal of rubbish/debris/rank vegetation on road margins			
4	Removal of dead animals on road margins			

5	Cleanliness of public markets			
6	Cleanliness of public toilets/ urinals			
7	Registration of births and deaths			
8	Maternity services			

II Engineering services

Sl. No.	Activity	Officer responsible for delivery of service	Name of the Officer	Phone No.
1	2	3	4	5
1.	Water supply			
2.	Leakage of water pipelines			
3.	Repairs to public taps			
4.	Maintenance of sewerage			
5.	Repairs of roads			
6.	Repairs to drains			
7.	Repairs to street lighting			

III Urban Community Development (UCD) services

Sl. No.	Activity	Officer responsible for delivery of service	Name of the Officer	Phone No.
1	2	3	4	5
1.	Old-age pension			
2.	Widow pension			
3.	Disabled pension			
4.	Livelihood programme/Loan linkages			
5.	Livelihood programme/skill development			

IV Horticulture services

Sl. No.	Activity	Officer responsible for delivery of service	Name of the Officer	Phone No.
1	2	3	4	5
1.	Supply of seedlings			
2.	Supply of tree guards			

Commissioner,

_____ Municipal Corporation

Schedule 7 – Financial statements of balance sheet, income and expenditure and cash flow

_____ Municipal Corporation

Balance Sheet for the quarter ending _____

Code No.	Description of items	Current Quarter Amount (Rs.)	Previous Quarter Amount (Rs.)
1	2	3	4
	LIABILITIES		
	Reserve & Surplus		
3-10	Municipal (General) Fund		
3-11	Earmarked Funds		
3-12	Reserves		
	Total Reserves & Surplus		
3-20	**Grants, Contributions for specific purposes**		
	Loans		
3-30	Secured Loans		
3-31	Unsecured Loans		
	Total Loans		
	Current Liabilities and Provisions		
3-40	Deposits Received		
3-41	Deposit works		
3-50	Other Liabilities (Sundry Creditors)		
3-60	Provisions		
	Total Current Liabilities and Provisions		
	TOTAL LIABILITIES		
	ASSETS		
4-10	**Fixed Assets**		
	Gross Block		
4-11	Less: Accumulated Depreciation		
	Net Block		
4-12	Capital Work-in-Progress		
	Total Fixed Assets		
	Investments		
4-20	Investment – General Fund		
4-21	Investments – Other Funds		
	Total Investments		
	Current Assets, Loans and Advances		
4-30	Stock in Hand (Inventories)		
4-31	Sundry Debtors (Receivables)		
4-32	Gross amount outstanding		

Code No.	Description of items	Current Quarter Amount (Rs.)	Previous Quarter Amount (Rs.)
1	2	3	4
	Less: Accumulated provision against Bad and doubtful Receivables		
	Net amount outstanding		
4-40	Prepaid Expenses		
4-50	Cash and Bank Balances		
4-60	Loans, advances and deposits		
4-61	Less: Accumulated provision against Loans		
	Net Amount outstanding		
	Total Current Assets, Loans & Advances		
4-70	Other Assets		
4-80	Miscellaneous Expenditure (to be written off)		
	TOTAL ASSETS		

Income and Expenditure Statement for the quarter ending _____

Code No.	Item/Head of Account	Current Quarter Amount (Rs.)	Previous Quarter Amount (Rs.)
1	2	3	4
	INCOME		
1-10	Tax Revenue		
1-20	Assigned Revenues & Compensations		
1-30	Rental Income from Municipal Properties		
1-40	Fees & User Charges		
1-50	Sale & Hire Charges		
1-60	Revenue Grants, Contributions & Subsidies		
1-70	Income from Investments		
1-71	Interest Earned		
1-80	Other Income		
A	**Total – INCOME**		
	EXPENDITURE		
2-10	Establishment Expenses		
2-20	Administrative Expenses		
2-30	Operations & Maintenance		
2-40	Interest & Finance Charges		
2-50	Programme Expenses		
2-60	Revenue Grants, Contributions & Subsidies		

Code No.	Item/Head of Account	Current Quarter Amount (Rs.)	Previous Quarter Amount (Rs.)
1	2	3	4
2-70 2-71 2-72	Provisions & Write off Miscellaneous Expenses Depreciation		
B	**Total – EXPENDITURE**		
A-B	*Gross surplus/(deficit) of income over expenditure before Prior Period Items*		
2-80	**Add**: Prior period Items (Net)		
	Gross surplus/ (deficit) of income over expenditure after Prior Period Items		
2-90	**Less:** Transfer to Reserve Funds		
	Net balance being surplus/ deficit carried over to Municipal Fund		

Cash flow statement for the quarter ending_____

Particulars	Previous quarter (Rs.)	Current quarter (Rs.)
A. Cash flows from Operating Activities **Gross surplus/ (deficit) over expenditure** **Adjustments for** **Add:** Depreciation Interest & finance expenses **Less:** Profit on disposal of assets Dividend Income Investment income Adjusted income over expenditure before effecting changes in current assets and current liabilities and extra-ordinary items.		
Changes in current assets and current liabilities (Increase) / decrease in Sundry debtors (Increase) / decrease in Stock in hand (Increase) / decrease in prepaid expenses (Increase) / decrease in other current assets (Decrease)/ increase in Deposits received (Decrease)/ increase in Deposits works (Decrease)/ increase in other current liabilities (Decrease)/ increase in provisions Extra-ordinary items (Specify)		

Particulars	Previous quarter (Rs.)	Current quarter (Rs.)
Net cash generated from/ (used in) operating activities (A)		
B. Cash flows from Investing Activities (Purchase) of fixed assets & CWIP (Increase) / Decrease in Special Funds/Grants (Increase) / Decrease in Earmarked Funds (Purchase) of Investments **Add:** Proceeds from disposal of assets Proceeds from disposal of investments Investment income received Interest income received		
Net cash generated from/ (used in) investing activities (B)		
C. Cash flows from Financing Activities **Add:** Loans from banks/others received **Less:** Loans repaid during the period Loans & advances to employees Loans to others Finance expenses		
Net cash generated from (used in) financing activities (C)		
Net increase/(decrease) in cash and cash equivalents (A + B + C)		
Cash and cash equivalents at beginning of period		
Cash and cash equivalents at end of period		
Cash and Cash equivalents at the end of the year comprises of the following account balances at the end of the year: i. Cash Balances ii. Bank Balances iii. Co-operative banks Balances iv. Balances with Post offices v. Balances with other banks		
Total		

Note: items in ( ) brackets denote as that they are to be deducted

Commissioner,

_____ Municipal Corporation

Schedule 8 - Statutorily audited financial statements of the financial year_____

_____ Municipal Corporation

Balance Sheet for the year _____

Code No.	Description of items	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
1	2	3	4
	LIABILITIES		
	Reserve & Surplus		
3-10	Municipal (General) Fund		
3-11	Earmarked Funds		
3-12	Reserves		
	Total Reserves & Surplus		
3-20	**Grants, Contributions for specific purposes**		
	Loans		
3-30	Secured Loans		
3-31	Unsecured Loans		
	Total Loans		
	Current Liabilities and Provisions		
3-40	Deposits Received		
3-41	Deposit works		
3-50	Other Liabilities (Sundry Creditors)		
3-60	Provisions		
	Total Current Liabilities and Provisions		
	TOTAL LIABILITIES		
	ASSETS		
4-10	**Fixed Assets**		
	Gross Block		
4-11	Less: Accumulated Depreciation		
	Net Block		
4-12	Capital Work-in-Progress		
	Total Fixed Assets		
	Investments		
4-20	Investment – General Fund		
4-21	Investments – Other Funds		
	Total Investments		
	Current Assets, Loans and Advances		
4-30	Stock in Hand (Inventories)		
4-31	Sundry Debtors (Receivables)		
4-32	Gross amount outstanding		
	Less: Accumulated provision against		

Code No.	Description of items	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
1	2	3	4
	Bad and doubtful Receivables **Net amount outstanding**		
4-40 4-50 4-60 4-61	Prepaid Expenses Cash and Bank Balances Loans, advances and deposits Less: Accumulated provision against Loans **Net Amount outstanding**		
	Total Current Assets, Loans & Advances		
4-70 4-80	Other Assets Miscellaneous Expenditure (to be written off)		
	TOTAL ASSETS		

Income and Expenditure Statement for the year _____

Code No.	Item/Head of Account	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
1	2	3	4
	INCOME		
1-10	Tax Revenue		
1-20	Assigned Revenues & Compensation		
1-30	Rental Income from Municipal Properties		
1-40	Fees & User Charges		
1-50	Sale & Hire Charges		
1-60	Revenue Grants, Contributions & Subsidies		
1-70	Income from Investments		
1-71	Interest Earned		
1-80	Other Income		
A	**Total – INCOME**		
	EXPENDITURE		
2-10	Establishment Expenses		
2-20	Administrative Expenses		
2-30	Operations & Maintenance		
2-40	Interest & Finance Charges		
2-50	Programme Expenses		
2-60	Revenue Grants, Contributions & Subsidies		
2-70	Provisions & Write off		
2-71	Miscellaneous Expenses		
2-72	Depreciation		

Code No.	Item/Head of Account	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
1	2	3	4
B	**Total – EXPENDITURE**		
A-B	*Gross surplus/ (deficit) of income over expenditure before Prior Period Items*		
2-80	**Add:** Prior period Items (Net)		
	Gross surplus/ (deficit) of income over expenditure after Prior Period Items		
2-90	**Less:** Transfer to Reserve Funds		
	Net balance being surplus/ deficit carried over to Municipal Fund		

Cash flow statement for the year _____

Particulars	Previous year (Rs.)	Current year (Rs.)
1	2	3
A. Cash flows from Operating Activities **Gross surplus/(deficit) over expenditure** **Adjustments for** **Add:** Depreciation Interest & finance expenses **Less:** Profit on disposal of assets Dividend Income Investment income Adjusted income over expenditure before effecting changes in current assets and current liabilities and extra-ordinary items.		
Changes in current assets and current liabilities (Increase)/decrease in Sundry debtors (Increase)/decrease in Stock in hand (Increase)/decrease in prepaid expenses (Increase)/decrease in other current assets		
(Decrease)/increase in Deposits received (Decrease)/increase in Deposits works (Decrease)/increase in other current liabilities (Decrease)/increase in provisions Extra-ordinary items (Specify)		
Net cash generated from/(used in) operating activities (A)		

Particulars	Previous year (Rs.)	Current year (Rs.)
1	2	3
B. Cash flows from Investing Activities (Purchase) of fixed assets & CWIP (Increase)/Decrease in Special Funds/Grants		
(Increase)/Decrease in Earmarked Funds (Purchase) of Investments **Add:** Proceeds from disposal of assets Proceeds from disposal of investments Investment income received Interest income received		
Net cash generated from/(used in) investing activities (B)		
C. Cash flows from Financing Activities **Add:** Loans from banks/others received **Less:** Loans repaid during the period Loans & advances to employees Loans to others Finance expenses		
Net cash generated from (used in) financing activities (C)		
Net increase/ (decrease) in cash and cash equivalents (A + B + C)		
Cash and cash equivalents at beginning of period		
Cash and cash equivalents at end of period		
Cash and Cash equivalents at the end of the year comprises of the following account balances at the end of the year: i) Cash Balances ii) Bank Balances iii) Co-operative banks Balances iv) Balances with Post offices v) Balances with other banks		
Total		

Note: items in ( ) brackets denote as that they are to be deducted.

The financial statements are audited by _____(Name of the Auditor) and audited statements are disclosed.

Commissioner,

_____ Municipal Corporation

Schedule 9 - Service levels being provided for various services in the Corporation for the year_____

_____ Municipal Corporation

A. Water Supply

Sl. No.	Service Level	Description	Unit
1	2	3	4
1	Household level coverage of direct water supply connections	Total number of House service connection, as percentage of total number of households in the ULB	%
2	Localities where:		
(A)	Water is supplied daily	Names of localities and neighbourhoods	Name of Locality/ Neighbourhood
(B)	Water supply is given on alternative days	Names of localities and neighbourhoods	Name of Locality/ Neighbourhood
(C)	Water supply is given once in 3 days or more	Names of localities and neighbourhoods	Name of Locality/ Neighbourhood
3	Per Capita quantum of water supplied	Total water supplied into the distribution system, divided by population served per day	Litres per capita per day (lpcd)
4	Extent of metering of water connections	Total number of functional metered water connections expressed as a percentage of total number of water supply connections	%
5	Extent of Non-Revenue Water	This is computed as - difference between total water produced and total water served expressed as a percentage of total water produced.	%
6	Continuity of water supply	Continuity of supply is measured as- Average number of hours of pressurized water supply per day. Water pressure should be equal to or more than a head of 7 meters at the ferrule point/meter point for the connection	Hours per day
7	Efficiency in redressal of customer complaints	Total number of water supply related complaints redressed within 24 hours of receipt of complaint, as a percentage of the total number of water supply related complaints received during the year	%
8	Quality of water supplied	Percentage of water samples that meet or exceed potable water standards during the year	%

Sl. No.	Service Level	Description	Unit
1	2	3	4
9	Cost recovery in water supply services	Total operating revenues expressed as percentage of total operating expenses incurred in the corresponding time period. Only income and expenditure of the revenue account must be considered, and income and expenditure from the capital account should be excluded	%
10	Efficiency in collection of water related charges	Efficiency in collection is defined as revenues collected, expressed as a percentage of the total water charges current demand during the year	%

B. Sewerage

Sl. No.	Service Level	Description	Unit
1	2	3	4
1a	Coverage of waste water Sewerage network services	Denotes extent to which the underground sewerage (or waste water collection) network has reached out to individual properties across the ULB. Properties include those in the category of residential, commercial, industrial and institutional	%
1b	Names of Localities covered by UGD	Names of Neighbourhoods covered by Underground Drainage	Names of localities
2	Efficiency in collection of waste water	Quantum of wastewater collected as a % of normative waste water generation in the ULB	%
3	Adequacy of capacity for treatment of waste water	Adequacy is expressed as- Secondary treatment (i.e. removing oxygen demand as well as solids) - capacity available as a percentage of normative wastewater generation	%
4	Quality of sewerage treatment	Quality of treatment is measured as- Percentage of wastewater samples that pass the specified secondary treatment standards.	%
5	Extent of recycling or reuse of waste water	Percentage of wastewater received at the treatment plant that is recycled or reused for various purposes.	%

Sl. No.	Service Level	Description	Unit
1	2	3	4
6	Extent of cost recovery in waste water management	Extent of cost recovery is expressed as - Wastewater revenues as a percentage of wastewater expenses, for the corresponding time period.	%
7	Efficiency in redressal of customer complaints	Total number of sewerage related complaints redressed within 24 hours of receipt of complaint, as a percentage of the total number of sewerage related complaints received in the given time period	%
8	Efficiency in sewerage collection	Efficiency in collection is defined as- current year revenues collected, expressed as a percentage of the total sewerage charges current demand during the year.	%

C. Storm Water Drains

Sl. No.	Service Level	Description	Unit
1	2	3	4
1	Coverage of storm water drainage network	Coverage is defined in terms of - % of road length covered by storm water drainage network	%
2	Aggregate number of incidents of water logging reported in a year	Number of times water logging is reported in a year, at flood prone points within the city	Nos. per year

D. Solid Waste Management

Sl. No.	Service Level	Description	Unit
1	2	3	4
1a	Household level coverage of SWM services through door-to-door collection of waste	Percentage of households and establishments covered by daily door-step collection system.	%
1b	Localities covered with daily garbage collection	Names of localities covered with daily garbage collection	Name of the locality
2	Collection Efficiency	Total waste collected by ULB and authorized service providers versus the total waste generated within the ULB excluding recycling or process-	%

Sl. No.	Service Level	Description	Unit
1	2	3	4
		ing at the generation point. (percentage of waste collected)	
3	Extent of Segregation of waste	% of households and establishments that segregate their waste. Segregation should be at least separation of wet and dry waste at the source, i.e., at household and/or establishment level. The separation should be in following categories: bio-degradable waste, waste that is non-biodegradable, and hazardous domestic waste such as batteries, etc.	%
4	Extent of recycling of waste collected	This is an indication of the quantum of waste collected, which is either recycled or processed. This is expressed in terms of % of waste collected.	%
5	Extent of scientific disposal of waste in landfill sites	Amount of waste disposed in landfills that have been designed, built, operated and maintained as per standards laid down by Central agencies. This extent of compliance should be expressed as percentage of total quantum of waste disposed at landfill sites, excluding open dump sites.	%
6	Extent of Cost Recovery for the ULB in SWM services	This indicator denotes the extent to which the ULB is able to recover all operating expenses relating to SWM services from operating revenues of sources related exclusively to SWM. This indicator is defined as Total annual operating revenues from solid waste management/Total annual operating expenses on solid waste management, expressed in % terms.	%
7	Efficiency in redressal of customer complaints	Total number of SWM related complaints redressed within 24 hours of receipt of complaint, as a percentage of the total number of SWM related complaints received in the given time period	%

E. Roads

Sl. No.	Service Level	Description	Unit
1	2	3	4
1	Maintenance of roads	Indicate the frequency in number of years for maintenance of roads	No. of years
2	Filling up of pot holes and road cuttings	Indicate the number of days for filling up of pot holes and road cuttings	No. of days
3	Efficiency in redressal of customer complaints	Total number of road repair related complaints redressed within seven days of receipt of complaint, as a percentage of the total number of road repair related complaints received in the given time period	%

F. Street lights

Sl. No.	Service Level	Description	Unit
1	2	3	4
1.	Replacement of street lights	Indicate the time in number of days for replacement of street lights	No. of days
2.	Efficiency in redressal of customer complaints	Total number of street lights related complaints redressed within 24 hours of receipt of complaint, as a percentage of the total number of street lights related complaints received in the given time period	%

G. Parks

Sl. No.	Service Level	Description	Unit
1	2	3	4
1	Cleaning of the parks	Indicate the frequency in number of days for cleaning of parks	No. of days
2.	Complete maintenance of parks	Indicate the frequency in number of years for complete maintenance of parks	No. of years

H. Play grounds

Sl. No.	Service Level	Description	Unit
1	2	3	4
1	Maintenance of play grounds	Indicate the frequency in number of years for complete maintenance of play grounds	No. of years

Commissioner,

_____ Municipal Corporation

Schedule 10 – Particulars of all plans, proposed expenditure and actual expenditure on major services provided or activities performed for the financial year_____

_____ Municipal Corporation

Sl. No.	Details of major service/activity	Total outlay/ proposed expenditure (Rs. In crores)	ULB share of the project (Rs. in crores)	Actual expenditure incurred upto the end of the previous year (Rs. In crores)	Actual expenditure incurred during the current year (Rs. In crores)	Cumulative expenditure (Rs. In crores)	When started and likely date of completion	Target date of comple-tion
1	2	3	4	5	6	7	8	9
1	Water Supply Improvement schemes (details to be given)							
2	Sewerage/underground drainage schemes (details to be given)							
3	Ring road development (details to be given)							
4	Major bridges, fly-overs, road over bridges (details to be given)							
5	Major drains (details to be given)							
6	Major street lighting projects (details to be given)							
7	Major parks/play grounds/ stadiums/town halls/buildings (details to be given)							

Sl. No.	Details of major service/activity	Total outlay/ proposed expenditure (Rs. In crores)	ULB share of the project (Rs. In crores)	Actual expenditure incurred upto the end of the previous year (Rs. In crores)	Actual expenditure incurred during the current year (Rs. In crores)	Cumulative expenditure (Rs. In crores)	When started and likely date of completion	Target date of comple-tion
1	2	3	4	5	6	7	8	9
8	Housing activity (details to be given)							
9	Major health activity (details to be given)							
10	Major literacy activity (details to be given)							
11	Major livelihood activity (details to be given)							

Commissioner,

_____ Municipal Corporation

Schedule 11 - Details of subsidy programmes and the criteria and manner of identification of beneficiaries for the programmes

_____ Municipal Corporation

Sl. No.	Name of the Subsidy programme	Criteria for identification of beneficiaries	Manner of identification of beneficiaries	Extent of loan from bank	State government subsidy	Central government subsidy
1	2	3	4	5	6	7
1	Old-age pension					
2	Widow pension					
3	Disabled pension					
4	USEP – establishment of micro enterprises					
5	USEP – establishment of women enterprises					
6	USEP – Skill development programmes					
7	Pavala vaddi					
8	Social security (insurance)					

Commissioner,

_____ Municipal Corporation

Schedule 12 - List of beneficiaries of all welfare and subsidy programmes for the half-year ending_____

_____ Municipal Corporation

Sl. No.	Name of the programme	List of beneficiaries
1	2	3
1	Old-age pension	
2	Widow pension	
3	Disabled pension	
4	USEP – establishment of micro enterprises	
5	USEP –establishment of women enterprises	
6	USEP – Skill development programmes	
7	Pavala vaddi	
8	Social security (insurance)	

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_____ Municipal Corporation

Schedule 13 - Particulars of Master Plan, Development Plan or any other plan concerning the development of Corporation area.

_____ Municipal Corporation

Sl. No.	Item	Details
1	2	3
1.	Area of General Town Planning Scheme (Master Plan)	Extent in Hectares/Acres
2.	Area of the Corporation	Extent in Hectares/Acres
3.	Villages covered in General Town Planning Scheme (Master Plan)	Names of Revenue villages
4.	Overall Land use allocation break up	Details of Survey Nos. with villages showing land use
5.	Locality-wise land use description	Names of localities with land use
6.	Proposed road widths	Name of the arterial/important road with width
7.	Heritage buildings and precincts	Names of the buildings with location
8.	Change of land use cases approved by the Government	Survey No. with name of villages
9.	Approved layouts	Name of village with survey No. and extent

Sl. No.	Item	Details
1	2	3
10.	Land use Zoning regulations	Activities permitted in different land use zones
11.	Villages and Survey Nos. likely to be affected by road proposals and other reservations for parks, play grounds and civic amenities	Details
12.	Layout and sub-division regulations	Details
13.	Control on building height/FSI/FAR/ ground coverage etc.	Details

Commissioner,

_____ Municipal Corporation

Schedule 14 - Particulars of major works together with information on the value of works, time of completion and details of contracts for the financial year_____

_____ Municipal Corporation

Sl. No.	Name of major work	Contracting agency	Value of work (Rs. in crores)	Amount utilized during the year_____ (Rs. In crores)	Likely time of completion	Target date of completion
1	2	3	4	5	6	7
	Water supply improvements					
1						
2						
	Sewerage improvements					
1						
2						
	Major Road works					
1						
2						
	Major drain works					
1						
2						

Sl. No.	Name of major work	Contracting agency	Value of work (Rs. in crores)	Amount utilized during the year_____ (Rs. In crores)	Likely time of completion	Target date of completion
1	2	3	4	5	6	7
	Major bridges and flyovers					
1						
2						
	Major building works					
1						
2						
	Major works (if any)					
1						
2						

Commissioner,

_____ Municipal Corporation

Schedule 15 - Income generated from various tax and non-tax resources for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Details	Income (Rs. in crores)
1	2	3
A	**Tax resources**	
1	Property tax	
2	Vacant land tax	
3	Advertisement tax	
	Total	
B	**Non-tax resources**	
1	Water charges	
2	Sewerage charges	
3	Rents from shops/buildings	
4	Fees from markets and slaughter houses	
5	Fees from various categories of licenses	
6	Building permit fee	
7	Betterment charges	
8	Development charges	
9	Other town planning receipts	
10	Encroachment fee	
11	Parking fee	
12	Others (mention details)	
	Total	
	Total tax and non-tax resources	

Commissioner,

_____ Municipal Corporation

Schedule 16 – Details of taxes and non-taxes remained uncollected for the financial year ending_____ and the reasons therefor

_____ Municipal Corporation

Sl. No.	Details	Total amount remained uncollected by the end of year Rs. In crores)	Brief reasons for non-collection
1	2	3	4
A	**Tax resources**		
1	Property tax		
2	Vacant land tax		
3	Advertisement tax		
	Total		
B	**Non-tax resources**		
1	Water charges		
2	Sewerage charges		
3	Rents from shops/buildings		
4	Fees from markets and slaughter houses		
5	Fees from various categories of licenses		
6	Building permit fee		
7	Betterment charges		
8	Development charges		
9	Other town planning receipts		
10	Encroachment fee		
11	Parking fee		
12	Others (mention details)		
	Total		
	Total tax and non-tax resources		

Commissioner,

_____ Municipal Corporation

Schedule 17 – List of defaulters who have to pay arrears of property tax exceeding rupees one lakh per annum for the financial year ending _____

_____ Municipal Corporation

Sl. No.	Name of the defaulter (ward-wise)	Address	Door no. of the building on which property tax is due	Amount of property tax assessed per year (Rs. In lakhs)	No. of years for which property tax is due	Total amount of tax in arrears (Rs. In lakhs)
1	2	3	4	5	6	7
	Ward No.1					
1						
2						
3						
	Ward No. 2					
1						
2						
3						
	Ward No.3					
1						
2						
3						
	Ward No. 4					
1						
2						
3						
	Ward No.5					
1						
2						
3						

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_____ Municipal Corporation

Schedule 18 - Details of assigned revenues from State Government for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Details of assigned revenue	Amount transferred from State Government (Rs. in crores)
1	2	3
1	Entertainment tax	
2	Surcharge on stamp duty	
3	Profession tax	
	Total	

Commissioner,

_____ Municipal Corporation

Schedule 19 – Details of plan and non-plan grants released by the Government for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Details of grants	Amounts released by the Government (Rs. in crores)
1	2	3
A	**Plan grants**	
1.	UI&G	
2.	BSUP	
3.	UIDSSMT	
4.	IHSDP	
5.	SJSRY	
6.	APURMSP	
7.	Internal Roads	
8.	Water supply schemes	
9.	XII Finance Commission grants	
10.	Indiramma	
11.	Parks and play grounds	
12.	EIUS	
13.	Others (specify)	
	Total	

Sl. No.	Details of grants	Amounts released by the Government (Rs. in crores)
1	2	3
B	**Non-Plan grants**	
1.	Profession tax compensation	
2.	Motor vehicle tax compensation	
3.	Octroi compensation	
4.	Per capita grant	
5.	Property tax compensation	
6.	Road grants	
7.	State Finance Commission grants	
8.	Others (specify)	
	Total	
	Total plan and non-plan grants	

Commissioner,

_____ Municipal Corporation

Schedule 20 - Details of grants released by the Government for implementation of schemes, projects and programmes and extent of utilization for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Name of the Scheme/project or programme	Amount of grant released (Rs. in crores)	Amount utilized (Rs. in crores)	Balance (Rs. in crores)	Progress/present stage of the scheme, project or programme
1	2	3	4	5	6

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_____ Municipal Corporation

Schedule 21 - Details of money raised through donations or contributions from the public for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Name of Donor/ Donor Agency	Amount of donation (Rs. in lakhs)	Purpose for which donated amount is to be utilized (Rs. in lakhs)	Amount utilized (Rs. in lakhs)	Progress/present stage of the utilization of the donation
1	2	3	4	5	6
1					
2					
3					
4					
5					
6					
7					
8					

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_____ Municipal Corporation

Schedule 22 - Abstract of Annual Budget for the financial year_____

_____ Municipal Corporation

Item	Budget Estimate for the ensuing year (Rs. in crores)	Revised Budget Estimate for the current year (Rs. in crores)	Actual Budget Estimate for the previous year (Rs. in crores)
1	2	3	4
Opening Balance			
Revenue – Ordinary			
Revenue – Capital			
Total Revenue			
Expenditure – Ordinary			
Expenditure – Capital			
Total expenditure			
Closing Balance			

Major items of Revenue

Item	Amount (Rs. In crores)		
	Ensuing year	Current Year	Previous Year
1	2	3	4

Major items of Expenditure

Item	Amount (Rs. In crores)		
	Ensuing year	Current Year	Previous Year
1	2	3	4

Commissioner,
_____ Municipal Corporation

Schedule 23 - Budget allocations made for the welfare of Scheduled Castes, Scheduled Tribes, Women and Children together with the extent of utilization for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Details	Net municipal funds available for development works (Rs. In crores)	Budget allocation during the year (Rs. in crores)	Amount utilized during the year (Rs. in crores)	Balance at the end of the year (Rs. in crores)
1	2	3	4	5	6
1	Welfare of Scheduled Castes				
2	Welfare of Scheduled Tribes				
3	Welfare of Women				
4	Welfare of Children				

Commissioner,
_____ Municipal Corporation

Schedule 24 - Budget allocation made for the slum areas together with the extent of utilization for the financial year ending_____

_____ Municipal Corporation

Sl. No.	Net Municipal Funds during the year (Rs. in crores)	Amount earmarked for slum areas (40% of the the net funds)	Amounts utilized in slum areas during the year (Rs. in crores)	Percentage of funds utilized	Balance funds at the end of the year (Rs. in crores)
1	2	3	4	5	6
1					

Commissioner,

_____ Municipal Corporation

4. GREATER HYDERABAD MUNICIPAL CORPORATION ANIMAL BIRTH (CONTROL) (DOGS) BYE LAWS, 2009

[G.O.Ms.No. 423, MA & UD (F2) Dept., dated 06-07-2009]

Read the following:—

1. From the High Court of A.P., Hyderabad Order dated 03.04.2007 in taken up W.P.No.6708 of 2007.
2. G.O.Rt.No.661, Municipal Administration and Urban Development (F2) Department, dated 29.05.2007.
3. Government Memo. No. 6647/F2/2007-1, dated 02.08.2007
4. From the Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad letter No. 477/VET/GHMC/2009, dated 30.08.2007
5. From the Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad letter No. 42/VET/GHMC/2009, dated 05.03.2009.

* * *

ORDER:

In the reference first read above, the Hon'ble High Court in its interim orders in taken up W.P.No. 6708/07, dated 05.04.2007 observed that the Court appreciated the steps initiated by the Government and the officers of Greater Hyderabad Municipal Corporation to check the dog menace. The High Court in its subsequent order dated 20.04.2007 directed the State Government and the Municipal Corporation of Hyderabad to take immediate steps for framing the bye-laws to deal with the menace of stray cattles of all categories.

2. In the G.O. 2nd read above, Government have constituted a Committee to frame Bye-Laws and submit to the Government.

3. In the reference 4th read above, the Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad has furnished draft Bye-Laws for approval of the Government.

4. In the reference 5th read above, the Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad has informed that the Greater Hyderabad Municipal Corporation has prepared the draft Bye-Laws on Animal Birth Control (Dogs) Rules of Greater Hyderabad Municipal Corporation, 2007 and the same was published in the Andhra Pradesh Gazette No. 51, dated 20.12.2007 besides publishing the public notice, dated 15.02.2008 in Deccan Chronicle, Eenadu, Siyasath daily news papers inviting the objections and suggestions from the general public within (30) days from the date of its publication.

5. The Greater Hyderabad Municipal Corporation has received following suggestions and objections from the canine breeders :

Objection:

1) Prescribed tax of Rs. 1,000/- per annum per breeding dog after the dog attains the age of (6) months raised by Sri M. Mansoor Ali Khan, Banjara Hills.

2) Prescribed tax of Rs. 1,000/- per annum per breeding dog, raised by Canine Breeders Welfare Association.

Suggestions:

1) Consider at least two persons from their associations in Greater Hyderabad Municipal Corporation Animal Welfare Committee.

6. The Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad has stated that the Committee constituted for preparation of Bye Laws has rejected the above objections and suggestions.

7. The Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad has, therefore, furnished the draft Bye-Laws on Animal Birth Control (Dogs) Rules of Greater Hyderabad Municipal Corporation, 2009 for approval.

8. Government after careful examination of the matter have accepted the "Bye-Laws on Animal Birth Control (Dogs) Rules of Greater Hyderabad Municipal Corporation, 2009". Accordingly in exercise of the powers conferred under Section 589 of the Greater Hyderabad Municipal Corporation Act, 1955, Government hereby accord sanction for the "Bye-Laws on Animal Birth (Control) (Dogs) of Greater Hyderabad Municipal Corporation, 2009" as appended in the Annexure to this order and the same shall be published in the next issue of Andhra Pradesh Gazette.

9. The Commissioner and Special Officer, Greater Hyderabad Municipal Corporation, Hyderabad shall take necessary action in the matter accordingly.

ANNEXURE

Animal Birth (Control) (Dogs) Bye Laws Of Greater Hyderabad Municipal Corporation, 2009

(Under the Prevention of Cruelty to Animals Act, 1960)

1. Short title, extent and commencement:— (1) These bye-laws may be called the Greater Hyderabad Municipal Corporation Animal Birth (Control) (Dogs) Bye Laws, 2009.

(2) They shall apply to the entire area within the limits of Greater Hyderabad Municipal Corporation and shall come into force from the date of their publication in the Andhra Pradesh Gazette.

(3) These bye laws shall be supplement to Sections 248,249,250,251 and 252 of Greater Hyderabad Municipal Corporation Act, 1955.

2. Definition:— In these bye-laws, unless the context requires—

(a) *"Act"* means the Prevention of Cruelty to Animals Act, 1960.

(b) *"Animal Welfare Organization"* means and includes the Society for Prevention of Cruelty to Animals and other welfare organization like, Blue Cross of Hyderabad and Peoples for Animals Hyderabad (NGO) which are registered under the Andhra Pradesh Societies Registration Act, 2001 or any other Corresponding law for the time being in force.

(c) *"Board"* means Animals Welfare Board functioning in the limits of Greater Hyderabad Municipal Corporation if any.

(d) *"Committee"* means a Committee appointed by Government of Andhra Pradesh in Greater Hyderabad Municipal Corporation.

(e) *"Local Authority"* means Greater Hyderabad Municipal Corporation headed by its Commissioner and Municipal Committees under control with in a specified local area of Greater Hyderabad Municipal Corporation.

(f) *"Owner"* means the owner of an animal and includes any other person in possession or custody of such animals with or without the consent of the owner.

(g) *"Veterinary Doctor"* means a person who holds a degree of recognized Veterinary College and is registered with the Andhra Pradesh State Veterinary Council.

3. Classification of dogs and their Sterilization:—

(a) All dogs shall be classified in one of the following three categories (i) Pet dogs (ii) Street dogs (iii) Breeders

(b) The Owners of pet dogs shall be responsible for the controlled breeding, immunization sterilization and licensing in accordance with these bye laws and any other law for the time being in force within the specified local area falling in the jurisdiction of Greater Hyderabad Municipal Corporation.

(c) The street dogs shall be sterilised and immunized by methods currently approved by Animal Welfare Board of India by participation of Animal Welfare Organisation, recognized by Animal Welfare Board of India, by Veterinarians and Veterinary Officers attached to Greater Hyderabad

Municipal Corporation certified by the Committee. The Greater Hyderabad Municipal Corporation may also seek the cooperation of Animal Husbandry Department to render assistance by deputing at least two (2) Veterinary Assistant Surgeons for a reasonable period as and when their services are needed by the Greater Hyderabad Municipal Corporation.

(i) Pet dogs are dogs/ bitches kept within owners premises with a responsible caretaker.

(ii) Street dogs are those dogs/ bitches homeless on the street or supported by communities.

(iii) Breeding dogs are those dogs/ bitches belonging to breeders for the specific purpose of breeding, which are not sterilized within one year of age.

4. Formation of Committee:— Government shall appoint a Committee with the following:—

(a) Additional Commissioner (Health & Sanitation), Greater Hyderabad Municipal Corporation who shall be ex-officio Chairman of the Committee.

(b) Chief Veterinary Officer of Greater Hyderabad Municipal Corporation (Member Secretary).

(c) A representative from Public Health Department from Greater Hyderabad Municipal Corporation.

(d) A representative Veterinary of from Non Government Organisation of Hyderabad (Blue Cross & People for Animals)

(e) A Veterinary Doctor of dog squad of Greater Hyderabad Municipal Corporation.

(f) A Veterinary Assistant Surgeon nominated by Animal Husbandry Department.

5. General functions of the Committee:— The Committee may in its bi-monthly meeting as and when called by Greater Hyderabad Municipal Corporation to review and issue instructions.

(a) On catching, transportation, sheltering, sterilisation, vaccination, treatment and release of sterlised, vaccinated or treated dogs.

(b) Create public awareness solicit cooperation and funding.

(c) Provide guidelines to pet dogs owners and commercial breeders.

(d) To take such steps for monitoring the dog bite cases, ascertain the reasons of dog bite in areas where it took place falling in the jurisdiction of Greater

Hyderabad Municipal Corporation and whether it was from a stray or pet dog.

(e) Authorize Veterinary Doctor to decide on case-to-case basis the need to put to sleep critically ill or fatally injured or Rabid dogs in a painless method by using Sodium Pentathol. But any other method is strictly prohibited. In such cases the Chief Veterinary Officer and the Veterinarian of Non Government Organisation should be consulted. This needs to be done as a last remedy and not by haste.

(f) Setting up of Animal Birth Control program centers in the various municipalities of Greater Hyderabad Municipal Corporation with the help of the Veterinarians from Non Government Organisation's the Animal Husbandry Department.

(g) To recruit and appoint sterilization and immunization teams.

(h) To appoint monitoring team to report the progress.

(i) To issue timely certification and de-recognition to teams performing stray animal control.

(j) Setting up of Veterinary Public Health laboratory for screening of vaccinated dog blood samples for health and titers against ARV to check for effectiveness of vaccination programs.

6. Obligation of the Local Authority i.e., Greater Hyderabad Municipal Corporation:— (1) The local authorities here it means of Greater Hyderabad Municipal Corporation and Municipalities falling in its jurisdiction. The Greater Hyderabad Municipal Corporation shall provide.

(a) Establishment of a sufficient number, i.e., at least one per zone, of Veterinary Hospitals, dog pounds for impounded dogs, camp sites for sterilization and immunization which may be managed by Animal Welfare Organisation/Non Government Organisation recognized by the Animal Welfare Board of India having qualified Veterinarians to conduct the project.

(b) Requisite number of dog vans with ramps for the capture and transportation of street dogs.

(c) One driver and two to three dogcatchers to be provided for each dog van keeping in view the number of Municipalities merged in Greater Hyderabad Municipal Corporation.

(d) One Ambulance cum Clinical Van to serve as mobile centre for sterilisation and immunization.

(e) Incinerators to be installed by Greater Hyderabad Municipal Corporation for disposal of carcasses.

(f) Periodic repair of shelter or pound.

(2) To control street dog population, it shall be incumbent on Greater Hyderabad Municipal Corporation to sterilize and immunize street dog population with the participation of Animal Welfare Organization/Non Government Organisation and private individuals. As far as possible needed help and assistance should be taken from Animal Husbandry Department.

7. Capturing/Sterilization/immunization/release:— (1) Capturing of dogs within the limits of Greater Hyderabad Municipal Corporation shall be based on strategic and planned, methods in all localities.

(2) Sterilization and immunization should be conducted through Catching Neutering Vaccine Releasing or Animal Birth Control/Anti Rabies or other approved techniques in all localities in camps.

(3) The dog capturing squad shall consist of

(i) The driver of the dog van.

(ii) Two or more trained employees of Greater Hyderabad Municipal Corporation.

(iii) One representative of Non Government Organisation or Animal Welfare Organisation.

(iv) The Veterinary Officer of dog squad shall supervise the work.

(v) Over all supervision by the Chief Veterinary Officer, Greater Hyderabad Municipal Corporation.

(4) The squad shall visit planned areas to capture the dogs. All the dogs caught will be tagged for identification purpose and released in the same area after sterilisation and vaccination. Such record of dog capture shall be maintained in a Register with due mention of area locality, date and time of capture, names of persons in the dog squad on that particular day and details about dogs captured such as number of males, female dogs, number of puppies etc.

(5) The dogs shall be captured by using humane methods such as net loop and stick method under supervision or any method approved by Animal Welfare Board of India.

(6) Where the dogs are being captured in any locality the dog squad from Greater Hyderabad Municipal Corporation or Non Government organisation accompanying the dog squad will make announcement on a public address that dogs captured from the area for the purpose of sterilization and immunization will be released in the same area for community safety.

(7) The captured dogs shall be brought to the Veterinary Hospital, camp site/dog pounds managed by Greater Hyderabad Municipal Corporation or by any Animal Welfare Organisation recognized by the Animal Welfare Board of India, which shall be examined by the Veterinarian and healthy and sick dogs shall be segregated. Sick dogs to be rendered proper treatment in the hospitals run by Animal Husbandry Department in the area. Only after they are treated will they be sterlised & vaccinated under the supervision of Veterinarian of the hospital. After necessary follow up the dogs shall be released in the same area or locality from where they were caught making entries of such release.

(8) At a time one lot of dogs shall be brought for sterilisation, immunization to Veterinary Hospital, camp site or dog pound and these dogs shall be from one locality. Two lots from different areas or localities shall not be mixed at the same dog pound or camp.

(9) The dog kennel must have sufficient space for proper housing and movement of dogs with proper ventilation and natural lighting.

(10) Female dogs found to be pregnant shall not undergo abortion and sterilization and should be released till they have litter.

(11) All healthy animals above 3 months of age and 5 kgs of weight must be sterilized unless licensed to breed.

(12) Revaccination of stray dogs using Vaccine/oral vaccine through baits in the various municipal limits of Greater Hyderabad Municipal Corporation.

8. Identification and Recording:— Sterilized dogs shall be vaccinated before release and the ears of these dogs should either be clipped and/or notched for being identified as sterilized or immunized dogs. In addition the dogs may be given token or nylon collars for identification and details and records of such dogs shall be maintained.

9. Dog bite complaint Cell:—

(a) Specific complaints about dog bites to Dog Complaint Cell/Chief Veterinary Officer, Greater Hyderabad Municipal Corporation who will receive and register complaints about dog aggression, dog bites and information about Rabid dogs.

(b) On receipt of complaints the details such as name of the complainant, his complete address, date and time of complaint, nature of complaint shall be recorded in a register to be maintained in Veterinary Section of Greater Hyderabad Municipal Corporation. It shall contain details of Action taken on each case.

(c) On receipt of specific complaint or for capturing dogs in normal course the squad shall visit concerned area, capture the dogs identified by the complainant. In case of general capturing all the dogs caught will be tagged for identification purpose and to see all the dogs are released in the same area after sterilisation and vaccination. Such record of dog capture shall be maintained in a Register with due mention of area/locality, date and time of capture, names of persons in the dog squad on that particular day and details about dogs captured such a number of males, female dogs, No. of puppies etc.

(d) The dogs shall be captured by using humane methods such as the case need be.

(e) Sick dogs: The captured dogs shall be brought to the dog pounds managed by Greater Hyderabad Municipal Corporation or by any Animal Welfare Organisation, which shall be examined by the Veterinarian and examined for suspected Rabies and other diseases. Dogs suffering with other diseases will be sent to animal shelters for treatment and Animal Birth Control/Anti Rabies.

10. Suspected rabid dogs:—

(a) The suspected rabid dog would then be taken to the pound where it would be isolated in a Rabies isolation ward.

(b) The suspected dogs would then be subjected to inspection by two persons.

(i) A Veterinary Officer from dog Squad.

(ii) Registered Veterinarian of Any Non Government Organisation from of Hyderabad.

(iii) If the dog is found to have a high probability of having Rabies it would be isolated till it dies a natural death. Death normally occurs within (10) days of contracting Rabies.

(iv) If the dog is found not to have Rabies but some other disease it would be handed over to Non Government Organisation to rehabilitate the dogs.

(v) Dead dogs will be examined to confirm Rabies and if so the proper mapping should be followed. Mapping is the complete case history and findings of the Rabies Cell regarding the particular animal.

(vi) On confirmation of the Rabies Cell formatted information form will be circulated to all concerned authorities.

11. Euthanasia of street dogs:— Incurably ill, ferocious and mortally wounded dogs as diagnosed by a qualified Veterinarian from Veterinary Section of Greater Hyderabad Municipal Corporation, recommended by the Committee shall be authorized during specified hours in a humane manner by administering Sodium Pentathol for adult dogs and Thiopental introperitioneal for puppies by a qualified Veterinarian. But no dog shall be enthanised in the presence of another dog.

12. Disposal of Carcasses:— The Carcasses of such euthanised dogs shall be disposed off in an incinerator to be arranged by Greater Hyderabad Municipal Corporation.

13. Guidelines for Dog owners:— (1) Pet dogs:- Compulsory registration of all pet dogs. A registration fee of Rs. 50/- per dog to be charged annually per dog for non-breeder dogs.

(2) Breeding dogs:- A breeder must be registered with Greater Hyderabad Municipal Corporation by paying the prescribed Tax of Rs. 1000/- per annum per dog after the dog attains the age of (6) months.

(a) Breeder must maintain full record of number of pups born /died from individual bitches.

(b) Breeder must maintain record of the person buying the pups.

(c) Vaccination and health records of individual animals.

14. Application of Rules where local bye-laws/Acts exist:— The provision contained in Sections 248, 249, 250, 251 and 252 of the Greater Hyderabad Municipal Corporation Act, 1955 *suo moto* will apply as a part of these bye-laws unless any provision of Act is amended or omitted.

15. Other Provision:— The Greater Hyderabad Municipal Corporation shall take utmost care to avoid recurrance of dog bite in the limits of the Corporation to the extent possible taking all preventive measures with the cooperation of Animal Welfare Organisation, public and Animal Husbandry Dept. The dog bite cases shall be referred to the Institute of Preventive Medicines and other Government Hospitals for treatment.

16. Government power to cancel Bye Laws etc.:— Government reserves the right to cancel, modify or add any provision in the bye-laws at any point of time.

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5. THE ANDHRA PRADESH INFRASTRUCTURE DEVELOPMENT ENABLING ACT, 2001[1]

[As Amended by Act No. 9 of 2006]

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 9th October, 2001 and the said assent is hereby first published on the 10th October, 2001 in the Andhra Pradesh Gazette for general information:—

[Act No. 36 of 2001]

An Act to provide for the rapid development of physical and social infrastructure in the State and attract private sector participation in the designing, financing, construction, operation and maintenance of infrastructure projects in the State and provide a comprehensive legislation for reducing administrative and procedural delays, identifying generic project risks, detailing various incentives, detailing the project delivery process, procedures for reconciliation of disputes and also to provide for other ancillary and incidental matters thereto with a view to presenting bankable projects to the private sector and improving level of infrastructure in the State of Andhra Pradesh and for matters connected therein or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the fifty second year of the Republic of India as follows:—

Statement of Objects And Reasons

[Amendment Act No. 18 of 2002][2]

According to sub-sec. (2) of Sec. 4 of the Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act 36 of 2001), the Chief Secretary to Government shall be the Chairperson of the Infrastructure Authority constituted under the Act. It has been felt that for effective and efficient implementation of various mega infrastructure projects, it is essential to have the Infrastructure Authority meetings at regular intervals in a time bound and transparent manner. There is also the need to go in depth various issues involved in a project and its coordination with various departments and Government of India in order to provide expertise and professionalism to the working of Infrastructure Authority, it is felt to enlarge the scope of selection of Chairperson of the Authority by amending the sub-sec. (2) of Sec. 4 so as to include apart from the Chief Secretary to Government or any other person of equivalent experience shall be the Chairperson of the authority so that the Government would have a wider choice to select an appropriate person as the Chairperson of the Authority.

2. To achieve the object in view, it has been decided to amend sub-section (2) of Section 4 of the said Act suitably. As the Legislative Assembly of the State

1. Pub. in A.P. Gaz., Part IV-B - Ext. No. 43, dt. 10.10.2001.
2. Appended to L.A. Bill No. 10 of 2002.

of Andhra Pradesh was not then in session having been prorogued and as it has been decided to amend the Act immediately, the Andhra Pradesh Infrastructure Development Enabling (Amendment) Ordinance, 2002 (Andhra Pradesh Ordinance No. 4 of 2002) was promulgated by the Governor on the 7th June, 2002.

CHAPTER—1
Preliminary

1. Short title, extent, application and commencement:— (1) This Act may be called the Andhra Pradesh Infrastructure Development Enabling Act, 2001.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall apply to all Infrastructure Projects implemented through Public-Private Partnership in the sectors enumerated in Schedule III of the Act and to such other sectors as may be notified by the government under the Act from time to time. The Act will not apply to any Infrastructure Project which is undertaken by any joint venture between the State or Central Government Departments or between the State or Central Government and any Statutory Body or between any Statutory Bodies or between the State or Central Government or Statutory Body and any Government Company or any Infrastructure Project which may be taken over by any private party or private sector undertaking upon privatisation or dis-investment by the State or Central Government or Government Agency or by any Statutory Corporation or any Government Company or any Infrastructure Project which does not involve fresh, new, additional investment being made by a private sector participant or any Infrastructure Project which is expressly notified to be excluded from the provisions of the Act by the Government.

(4) It shall be deemed to have come into force with effect on and from the 20th August, 2001.

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

(a) "*Act*" means the Andhra Pradesh Infrastructure Development Enabling Act, 2001;

(b) "*Best Effort*" means best efforts made in the circumstances;

(c) "*Bidder*" means any entity including any Bidding Consortium, who has submitted a proposal to undertake an Infrastructure Project under Public-Private Partnership;

(d) "*Bidding Consortium*" means if the proposal for the Project is made jointly by more than one entity, then such group of entities shall be referred to as a Bidding Consortium;

(e) "*Categories of Projects*" means categories specified in Schedule II of the Act and such other categories as may be notified by the Government from time to time;

(f) "*Charges for Abuse or Abuser Charges*" means the levy of charges by the Infrastructure Authority on any Developer, if any Developer abuses any right

accorded under the Concession Agreement, in the course of development, implementation, operation, maintenance, management and transfer of any Infrastructure Project, to the extent as may be specified in the Concession Agreement or such other agreement as may be prescribed by the Government;

(g) "*Company*" means any entity incorporated by memorandum of association under the Companies Act, 1956 (Central Act 1 of 1956) or incorporated under any other statute or deemed to be incorporated under the laws of India or the laws of any other country of the World;

(h) "*Concession Agreement*" means a contract of the nature specified in Schedule-I between the Developer and the State Government or Government Agency or the Local Authority relating to any Infrastructure Project or such other contract as may be prescribed from time to time by the Government;

(i) "*Conciliation Board*" means the Conciliation Board established under Section 32 of the Act;

(j) "*Construction*" means any construction, reconstruction, rehabilitation, improvement, expansion, addition, alteration and related works and activities including supply of any equipment, materials, labour and services related to build or rehabilitate any Infrastructure Project comprising of physical structures or systems or commodities or for utilization of resources of provision of services;

(k) "*Developer*" means any Private Sector participant who has entered into a contract for the Infrastructure Project with the Government or Government Agency or Local Authority under the Act;

(l) "*Generic Risks*" means circumstances that have the potential to adversely affect the development of a Project of interest of the participants to the Project or interest of the Government or Government Agency or Local Authority and in the nature of construction period risk, operation period risk, market and revenue risk, finance risk, legal risk and miscellaneous risks as enumerated in Schedule IV of the Act;

(m) "*Government*" means the State Government of Andhra Pradesh;

(n) "*Government Agency*" means any department of the Government or any corporation or body owned or controlled by the Government by reason of the Government holding not less than fifty one percent of paid-up share capital in such corporation or body;

(o) "*Government Company*" means any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary of a Government company as defined;

(p) "*Fund*" means the Infrastructure Projects Fund established under Section 54 of the Act;

(q) "*Infrastructure Authority*" means the Authority constituted under Section 3 of the Act;

(r) "*Infrastructure*" means public works relating to infrastructure for utilising the natural resources and providing services by either public works of physical structure or systems for facilities or commodities or utilisation of resources or provision of services;

(s) "*Infrastructure Project or Project*" means a Project in the sectors as notified under the Act by the Government;

(t) "*Investment*" means preliminary and pre-operative expenses, capital expenditure, lease on land and equipment, interest during construction, administrative expenses, all operating and maintenance expenses including expenses incurred on recovery of User Levies;

(u) "*Lead Consortium Member*" means in case of a Bidding Consortium, that consortium member vested with the prime responsibility of developing a Project, holding not less than 26% equity stake in the Bidding Consortium and also holding the highest equity stake amongst all other consortium members. In the event of two or more consortium members holding the highest equal equity stake, the Bidding Consortium shall clearly indicate in the Bid which consortium member is to be considered the Lead Consortium Member and the consortium member so indicated or named shall be the Lead Consortium Member;

(v) "*Lender*" means any financial institution or bank or any entity providing financial assistance with or without security or giving any advances to any Developer for completing or implementing any Project under the Act;

(w) "*Linkage Infrastructure Project*" means from any Project under the Act any road link to the nearest State highway, National highways or rail link or water transmission link to the nearest practical water source including an existing pipeline or canal or water body or sewerage link to the nearest practical sewerage transmission line or sewerage treatment facility or such other facility;

(x) "*Mega Infrastructure Project*" means any Project implemented or undertaken through Public-Private Partnership under the Act requiring an investment as may be prescribed by the Infrastructure Authority;

(y) "*Local Authority*" means any municipal corporation or municipal council or any panchayat or any other statutory body formed, elected or appointed for local self-Government;

(z) "*Local Laws*" means laws other than central laws and applicable to the State;

(aa) "*Member*" means a member of the Infrastructure Authority which includes the Chairperson, the Vice Chairperson and any other member of the Infrastructure Authority;

(bb) "*Non Profit Organisation*" means any organisation formed for promoting commerce, art, science, religion, charity or any other useful object and applies

its income in promoting its objects and prohibits the payment of any dividend to its members and does not allow its corpus or income to be lent or advanced or diverted or utilised or exploited by its members or office bearers or any other company in which they or any of them may be interested or connected;

(cc) "*Notification*" means a notification published in the Andhra Pradesh Gazette and the word `notified' shall be construed accordingly;

(dd) "*Person*" shall include any company or association or body of individuals, whether incorporated or not;

(ee) "*Polluter Charges*" means levy of prescribed charges by the Infrastructure Authority on any Developer, if any Developer pollutes the environment or does not adhere to the specifications and measures for environment preservation and conservation agreed under the contract with the Government or the Government Agency or the Local Authority or fails to stop polluting the environment within 30 days of receipt of notice in writing from the Infrastructure Authority or the Government Agency or the Local Authority;

(ff) "*Prioritised Project*" means any Project, which is notified by the Infrastructure Authority as a prioritised project under the Act;

(gg) "*Private Sector Participant*" means any person other than Central Government or State Government or Government Agency or any joint venture between Central Government or State Government Departments or any Statutory Body or Authority or Local Authority or any Corporation or Company in which Central Government or State Government or Government Agency, Statutory Body or Authority or Local Body is holding not less than fifty one per cent paid-up share capital;

(hh) "*Prescribed*" means prescribed by rules or regulations made under this Act;

(ii) "*Prospective Lenders*" means financial institutions, banks or any other entities of such project financing track record as may be prescribed, who in principle or agreeable to provide guarantees or finance to the Bidder under any of the financing documents;

(jj) "*Public-Private Partnership*" means investment by Private Sector Participant in an Infrastructure Project of the Government Agency or the Local Authority in the State;

(kk) "*Regulations*" means regulations made under Section 78 of the Act;

(ll) "*Responsive Bid*" means a bid from an eligible Bidder which complies with all the requirements prescribed by the tender documents or other documents as the case may be;

(mm) "*Rules*" means rules made under Section 79 of the Act;

(nn) "*Sectors*" means sectors as notified under Schedule III of the Act and as may be notified from time to time by the Government;

(oo) "*Sector Regulator*" means the regulatory authority for a Sector or Sectors as may be notified by the Government from time to time;

(pp) "*Sole Bid*" means when incompetitive bidding process there is only one Responsive Bid received by the Government Agency or the Local Authority;

(qq) "*State*" means the State Government of Andhra Pradesh;

(rr) "*State Support*" means grant by the State of any administrative support, asset-based support, foregoing revenue benefits support, undertaking contingent liabilities by providing guarantees or financial support to the Developer as enumerated in Schedule V of the Act;

(ss) "*Swiss Challenge Approach*" means when a private sector participant (Original Project Proponent) submits an Unsolicited or *suo-motu* proposal and draft contract principles for undertaking a Category II Project, not already initiated by the Government Agency or the Local Authority and the Government Agency or the Local Authority then invites competitive counter proposals in such manner as may be prescribed by the Government. The proposal and contract principles of the Original Project Proponent would be made available to any interested applicants, however, proprietary information contained in the original proposal shall remain confidential and will not be disclosed. The applicants then will have an opportunity to better the Original Project Proponent's proposal. If the Government finds one of the competing counter proposals more attractive, then the Original Project Proponent will be given the opportunity to match the competing counter proposal and win the Project. In case the Original Project Proponent is not able to match the more attractive and competing counter proposal, the Project is awarded to the Private Sector Participant, submitting the more attractive competing counter proposal;

(tt) "*Unsolicited or suo-motu Proposal*" means a proposal in respect of a Project not already initiated by the Government or Government Agency or Local Authority and which proposal is submitted by any Private Sector Participant to the Government Agency or Local Authority in respect of any infrastructure in the State supported by project specifications, technical, commercial and financial viability and *prima facie* evidence of the financial and technical ability of such Private Sector Participant to undertake such Project with full details of composition of the Private Sector Participant and his financial and business background; and

(uu) "*User Levies*" means the right or authority granted to the Developer by the Government Agency or the Local Authority to recover investment and fair return on investment and includes toll, fee, charge or benefit by any name.

CHAPTER — II

Establishment, Conduct of business and Employees of the Infrastructure Authority

3. Constitution of Infrastructure Authority:— (1) The Government may, by notification and with effect on and from such date as may be specified therein constitute an authority to be called, "the Infrastructure Authority".

(2) The Authority constituted under sub-Section (1) shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable to do all things incidental to and necessary for the purposes of this Act and to contract and may by the said name sue and be sued.

(3) The headquarters of the authority shall be at Hyderabad or at such other place as may be notified.

4. Composition of the Authority:— (1) The Authority shall consist of a Chairperson [1][Vice-Chairperson] and such other members not exceeding fifteen in the aggregate including Ex-officio members.

[2][(2) The Chief Secretary to the Government or any other person with equivalent experience shall be the Chairperson of the Authority.]

[3][(2-A) The Principal Secretary to Government, Infrastructure and Investment Department shall be the Vice-Chairperson of the Authority.]

(3) The Ex-officio members of the Authority shall be the following:—

(i) Secretary to the Government, Finance and Planning (Finance Wing) Department;

(ii) Secretary to the Government, Transport, Roads and Buildings Department;

(iii) Secretary to the Government, Municipal Administration and Urban Development Department;

(iv) Secretary to the Government, Information Technology Department;

[4][(v) Managing Director, Infrastructure Corporation of Andhra Pradesh;]

(vi) [5][x x x]

(4) The Members other than those specified in sub-Section (3) shall be appointed by the Government in the manner prescribed.

5. Term of office of the Members:—Every member other than the Ex-officio member shall hold office during the pleasure of the Government.

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1. Inserted by Act No. 9 of 2006.
2. Subs. for sub-section (2) by Act 18 of 2002, w.r.e.f. 7-6-2002.
3. Inserted by Act No. 9 of 2006.
4. Subs. for Clause (v) by *Ibid.*
5. Clause (vi) omitted by *Ibid.*

6. Terms and conditions of service:—The terms and conditions of service of the members of the Authority including the honoraria and the allowances to be paid to them shall be such as may be prescribed.

7. Meetings of the Authority:—The Authority shall meet at such times and places and observe such procedure in regard to transaction of business at the meetings including the quorum as may be provided by the regulations.

8. Appointment of officers and staff of the Authority:— The Authority may appoint such officers and members of staff as it may require in carrying out its functions and discharging its duties under this Act in such manner as may be prescribed.

9. Constitution of Committees:— (1) The Authority may, from time to time constitute such committee or committees consisting of such members for performing such of its functions as may be provided by the regulations.

(2) The Authority shall invite such persons from the fields of banking, commerce, industry, environment, law, technology and the like as may be nominated by the Government from time to time to assist the Authority in carrying out its functions under this Act on such terms and conditions as may be prescribed.

10. Functions of the Infrastructure Authority:— The functions of the Infrastructure Authority shall be as follows:—

(a) to conceptualise and identify projects and ensure their conformance to the objectives of the State;

(b) to receive and consider projects under the Act from the Government or Government Agency or Local Authority and process the same;

(c) to advise the Government or Government Agency or Local Authority, as the case may be, on the project and give recommendations or suggestions in that behalf;

(d) to co-ordinate between concerned department of the Government and Government Agency for a project;

(e) to monitor the competitive bidding process for Category II Projects and provide for course correction, if required;

(f) to provide enablers for projects;

(g) to prioritise and categorise projects and to prepare a project shelf;

(h) to prepare road map for project development;

(i) to identify inter-sectoral linkages;

(j) to approve the terms of reference for consultancy assignments in Category II projects and the consultant selection process thereof;

(k) to decide financial support and approve allocation of contingent liabilities for projects;

(i) to recommend and approve bid documents, risk sharing principles and bid processes for Category II projects;

(m) to approve the scale and scope of a *suo-motu* proposal or project undertaken through Swiss-Challenge Approach and to recommend modifications of a non-financial nature if required;

(n) to resolve issues relating to project approval process;

(o) to prescribe time limits for clearances necessary for any project;

(p) to review periodically the status of clearances and ensure that clearances are accorded within specified time frames and grant clearances if not granted within time frames or if denied, as may be specified;

(q) to decide issues pertaining to user levies including but not limiting to prescribing mechanism and procedure for setting, revising, collecting and/or regulating user levies and to decide and settle disputes relating to user levies;

(r) to approve sectoral policies and model contract principles;

(s) to issue and/or amend guidelines needed to effectively implement the Act;

(t) to co-ordinate with sector regulator/s;

(u) to administer and manage the Fund and its assets;

(v) to co-ordinate execution of the projects with Government, Government Agency and Local Authority;

(w) to supervise or otherwise ensure adequate supervision over the execution, management and operation of project;

(x) to build public opinion;

(y) to fix and provide for recovery of fees, levies, tolls and charges as may be specified from time to time;

(z) to levy and recover charges for abuse and polluter charges from the developer;

(aa) to prescribe regulations to regulate its own procedures;

(bb) to take all steps necessary for enforcing the provisions of the Act and realising the objectives of the Act.

11. Powers of the Infrastructure Authority:— (1) Notwith-standing anything contrary in any other laws for the time being in force, the Infrastructure Authority shall have the power to grant any clearance or permission required for any project save and except sanction to the project by the Government as provided under this Act and such clearance or permission when granted shall be final, binding and conclusive on the concerned State-level statutory bodies or administrative bodies or authorities, as the case may be.

(2) Notwithstanding anything contrary in any law for the time being in force, the Infrastructure Authority may give directions to any Government Agency or Local Authority or other Authority or Developer or Person with regard to implementation of any project under the Act or for carrying out its functions under this Act and such Government Agency of Local Authority or other Authority or Developer or Person shall be bound to comply with such directions.

(3) The Infrastructure Authority shall have power to call upon any Government Agency, Local Authority or any other Body or Authority or Developer or Person to furnish information, details, documents and particulars as may be required by the Infrastructure Authority in connection with or in relation to any project, which such Government Agency, Local Authority or Body or Authority, Developer or Person, shall furnish to the Infrastructure Authority without any delay or default.

(4) The Infrastructure Authority shall have power to inspect, visit, review and monitor any project and its implementation, execution, operation and management through its official or officials and the persons in charge of the project shall be bound to give full cooperation to the Infrastructure Authority.

(5) The Infrastructure Authority shall have all powers to enable to carry out its functions under the Act.

12. Report to the Government:— The Infrastructure Authority shall submit quarterly report as regards its working and operation to the State Government.

CHAPTER—III
Infrastructure Project Delivery Process

13. Participation in Infrastructure Project:— Any private sector participant may participate in financing, construction, maintenance, operation and management of Infrastructure Projects covered under the Act.

14. Project Identification:— Either the Infrastructure Authority or the Government Agency or the Local Authority may identify or conceptualise any Infrastructure Project. If the Authority identifies or conceptualises any Infrastructure Project, then the same will be referred by the Authority to the concerned Government Agency or the Local Authority for its consideration and further action. If the Government Agency or Local Authority identifies or conceptualises any infrastructure project, then the same will be referred to Infrastructure Authority for its consideration, evaluation and further action as may be required.

15. Prioritisation of Projects:— The Infrastructure Authority will prioritise projects based on demand and supply gaps, inter-linkages and any other relevant parameters and create a project shelf.

16. Recommendations by the Infrastructure Authority:— The Government Agency or the Local Authority in accordance with the advice

recommendations and suggestions of the Infrastructure Authority shall submit the project to the Government along with the proposed concession agreement relating thereto for its consideration and sanction.

17. Sanction by the Government:— The Government shall consider the proposal submitted by the Government Agency or Local Authority and the proposed Concession Agreement and either accept the proposal and Concession Agreement with or without modification or return the proposal and Concession Agreement to the Government Agency or the Local Authority for reconsideration or reject the proposal within such time as may be prescribed. The Government Agency or the Local Authority will take suitable action on the decision taken by the Government on the proposal and the Concession Agreement including revising and resubmitting the proposal and the Concession agreement if returned by the Government for reconsideration by the Government Agency or the Local Authority:

Provided that if the Bidder whose proposal submitted for sanction is not in a position to implement the project, the Government may at the request of the Government Agency or the Local Authority with the approval of the Infrastructure Authority consider the proposal of the Bidder offering the second most competitive bid for sanction.

18. Consultant selection:— The Government Agency or the Local Authority shall ensure adequate competition in the consultant selection process for any project. They may, frame the terms of reference for consultant studies and in case of Category II projects and present the same for approval and modification, if necessary, by the Infrastructure Authority:

Provided that in the case of such selection process adequate weightage shall be given to the technical capabilities.

19. Developer selection processes:— The Government Agency or the Local Authority may adopt appropriate Developer selection process including any of the following processes, namely:—

(I) Direct Negotiations:—

(i) The Government Agency or the Local Authority may directly negotiate with a Bidder for implementing;

(a) Category-I projects initiated by a Bidder; or

(b) the projects which involve proprietary technology, or franchise which is exclusively available with the Bidder globally; or

(c) the projects where competitive bid process has earlier failed to identify a suitable Developer; or

(d) the projects in prescribed social infrastructure sectors where a non-profit organisation seeks to develop a project; or

(e) a linkage Infrastructure Project with the concerned Developer of Mega Infrastructure Project.

(ii) In case a developer is selected through direct negotiations, the Government Agency or the Local Authority may renegotiate the financial offer or recommend that all subsequent procurement for the project is made through the competitive bidding, procurement process, the cost of the project be determined after such competitive bidding procurement process and renegotiate the financial offer based on the revised cost of the project.

(II) Swiss Challenge Approach:—

(i) The Swiss Challenge Approach will be followed in any project belonging to Category -II initiated by a private sector participant who is hereinafter referred to as 'Original Project Proponent', by a *suo-motu* proposal.

(ii) The Original Project Proponent must submit to the Government Agency or Local Authority:—

(a) details of his technical, commercial, managerial and financial capability;

(b) technical, financial and commercial details of the proposal;

(c) principles of the concession agreement.

(iii) The Government Agency or the Local Authority would first evaluate the Original Project Proponent's technical, commercial, managerial and financial capability as may be prescribed and determine whether the Original Project Proponents capabilities are adequate for undertaking the project.

(iv) The Government Agency or the Local Authority shall forward such *suo-motu* proposal to the Infrastructure Authority along with its evaluation within the prescribed time for the approval of the Infrastructure Authority.

(v) The Infrastructure Authority would then weigh the technical, commercial and financial aspects of the Original Project Proponents proposal and the concession agreement along with the evaluation of the projects by the Government Agency or the Local Authority and ascertain if the scale and scope of the project is in line with the requirements of the State and whether the sharing of the risks as proposed in the Concession Agreement is in conformity with the risk-sharing frame work as adopted or proposed by the Government for similar projects, if any and if the project is in conformity with long term objective of the Government.

(vi) If the Infrastructure Authority recommends any modification in the technical, scale, scope and risk sharing aspects of the proposal or the Concession Agreement, the Original Project Proponent will consider and incorporate the same and resubmit its proposal within prescribed time to the Government Agency or the Local Authority.

(vii) If the Infrastructure Authority, finds merit in such *suo-motu* proposal, the Infrastructure Authority will then require Government Agency or the Local Authority to invite competing counter proposals using the Swiss Challenge Approach giving adequate notice as may be prescribed. The Original Project Proponent will be given an opportunity to match any competing counter proposals that may be superior

to the proposal of the Original Project Proponent. In case the Original Project Proponent matches or improves on the competing counter proposal, the project shall be awarded to the Original Project Proponent, otherwise the bidder making competing counter proposal will be selected to execute the project.

(viii) In the event of the Project not being awarded to the Original Project Proponent and being awarded to any other Bidder, the Government Agency or the Local Authority will reimburse to the Original Project Proponent reasonable costs incurred for preparation of the *suo-motu* proposal and the Concession Agreement. The *suo-motu* proposal and the Concession Agreement prepared by the Original Project Proponent shall be the property of the Government Agency or the Local Authority as the case may be.

(ix) The reasonable costs of preparation of the *suo-motu* proposal and the Concession Agreement shall be determined as per the norms prescribed by the Government and shall be binding upon the Original Project Proponent.

III. Competitive Bidding:—

(i) Competitive Bidding will be adopted in all projects initiated by the Government Agency or the Local Authority. The notice inviting participation will be adequately published by the Government Agency or the Local Authority as may be prescribed.

(ii) The bid process will be designed to assist and ascertain, technical, financial, managerial and commercial, capabilities of the Developer.

(iii) In case of a two stage process being adopted for a Mega Infrastructure Project, the Government Agency or the Local Authority may require all Bidders to obtain from their Prospective Lenders, financial terms, expectations regarding State Support, comments on the Concession Agreement and other project documents (hereinafter called "Deviations").

(iv) Any Deviations proposed shall be enclosed in a separate envelope and shall not be part of the envelope containing the financial or the commercial offer with regard to a Project. The procedure for determining the common set of Deviations and the effect to be given to such common set of Deviations shall be as may be prescribed.

(v) All proposals shall be opened and evaluated at a common platform in a free and fair manner.

(vi) It will be open for the Government Agency or the Local Authority to adopt one or two stage process depending upon the complexity of the Project.

(vii) The Government Agency or the Local Authority will periodically inform the Infrastructure Authority of the progress of all Projects undertaken through a two-stage bid process.

20. Approval of contract principles:— In case a model contract for a sector has not been adopted or in case there are Deviations proposed vis-a-vis

the approved model contract for a Sector, then, the Infrastructure Authority will formulate or approve the contract principles as the case may be.

21. Selection criteria:— The Government Agency or the Local Authority will first satisfy itself about the technical ability of the Developer to undertake and execute the Project and will follow,—

(a) one or combination of one or more of the following criteria for Developer selection through competitive bidding in Build Own Operate and Transfer, Build Operate and Transfer and Build Own and Operate Projects,—

(i) Lowest bid in terms of the present value of user fees;

(ii) Highest revenue share to the Government;

(iii) Highest up front fee;

(iv) Shortest concession period;

(v) Lowest present value of the subsidy;

(vi) Lowest capital cost and Operation and Management cost for Projects having a definite scope;

(vii) Highest equity premium; and

(viii) Quantum of State Support solicited in present value.

(b) For Build Transfer, Build Lease and Transfer and Build Transfer and Lease Projects selection criteria used will be the lowest net present value of payments from the Government.

(c) Such other suitable selection criteria the Infrastructure Authority may allow or determine.

22. Treatment of Sole Bid:— In case of the competitive bidding process resulting into a Sole Bid, the Government Agency or the Local Authority shall in consultation with the Infrastructure Authority, either,—

(i) accept the Sole Bid, or

(ii) re-negotiate the financial offer, or

(iii) reject the Sole Bid.

23. Treatment of limited response:— In case the competitive bidding process does not generate sufficient response and if even a Sole Bid is not received, then the Government Agency or the Local Authority shall in consultation with the Infrastructure Authority either,—

(i) modify either the pre-qualification criteria and/or the risk sharing provisions and restart the bid process; or

(ii) may cancel the competitive bid process; or

(iii) in case of (ii) above, may have direct negotiation with any Private Sector Participant.

24. Treatment of Bid submitted by a consortium:— (a) All proposals submitted by a Bidding Consortium shall enclose a memorandum of understanding, executed by all consortium members setting out the role of each of the consortium members and the proposed equity stake of each of the consortium members with regard to a Project.

(b) The Lead Consortium Member of a Pre-qualified Consortium cannot be replaced except with the prior permission of the Infrastructure Authority and which permission will be considered only in case of acquisition or merger of the Lead Consortium Member Company. Further, after a Bidding Consortium is selected to implement any Project, the Lead Consortium Member shall maintain a minimum equity stake of 26% for a period of time, as specified in the Sector Policy or the Concession Agreement.

(c) Replacement of other Consortium Members may be permitted, provided the same is not prejudicial to the original strength of Consortium as determined in course of the evaluation of original bid or proposal.

(d) Any change in the shareholding or composition of a Consortium shall be with the approval of the Infrastructure Authority.

25. Speculative bids:— The Government Agency or the Local Authority with the approval of the Infrastructure Authority will be entitled to treat the speculative or unrealistic bids as non-responsive and reject the same. By reason of any speculation or unrealistic bid or rejection of such bid, shall not necessarily lead to termination of the bid process. The Infrastructure Authority will prescribe the norms for determining the speculative or unrealistic bids.

26. No negotiation on financial or commercial proposal:— Save as otherwise provided in the Act the Government, or the Government Agency or the Local Authority will not negotiate with the Bidder on the financial or commercial aspect of the proposal submitted by the Bidder.

27. Bid Security:—(1) The Bidder will be required to submit a bid security along with the proposal for undertaking the Infrastructure Project, the bid security amount will be determined based on the Project cost by the Government Agency or the Local Authority.

(2) The procedure for refund of bid security will be specified in the request for proposal. In any event, the bid security of unsuccessful Bidder would be returned within 30 calendar days from the date of selection of the Developer.

CHAPTER—IV

Generic risks disclosure and allocation, Securitisation, Right of lenders and facilities to be provided by the Government Agency or the Local Authority

28. Generic Risks Disclosure and its allocation and treatment:— The Government Agency or the Local Authority will as far as possible disclose Generic Risks involved in a Project and a list of such Generic Risks along with allocation

and treatment of such Generic Risks may be provided in the Concession Agreement or other contract to be entered into between the Government Agency or the Local Authority and the Developer. The Government Agency or the Local Authority will make optimum disclosure of the Generic Risks, however if any risk is not disclosed due to inadvertence or due to circumstances beyond the control of the Government Agency or the Local Authority, then the same shall not be a ground for any claim, demand or dispute by the Developer.

29. Facilitation of securitisation:— The Government Agency or the Local Authority may facilitate a Developer to securitise Project receivables and Project assets in favour of Lenders subject to such terms as may be fixed by the Government or by the Infrastructure Authority to safeguard the successful implementation, completion, working, management and control of the project.

30. Rights of Lenders:— The Lenders will be entitled to recover their dues from the Developer and Project receivables in the form of User Levies and in the event of default by the Developer in completing or implementing a Project, the Lenders will have the right to substitute the Developer with the consent of the Government and subject to the approval of such substituted Developer by the Government Agency or the Local Authority and by the Infrastructure Authority, on the same terms and conditions as applicable to the previous Developer or with such modifications as may be specifically approved by the Infrastructure Authority.

31. Facilities to be provided by the Government Agency or the Local Authority:— The Government Agency or the Local Authority will provide all facilities to the Developer for obtaining statutory clearances at State level, for providing power and water at Project Site during construction on such terms as may be prescribed and provide best effort support for obtaining Central Government clearances and assistance in rehabilitation and resettlement activities if any incidental to the Project on such terms as may be prescribed.

CHAPTER—V
Conciliation Board

32. Establishment of Board:— The State Government may by notification, establish a Board to be called the "Conciliation Board" with effect from such date as may be specified.

33. Constitution of the Board:— The Board will comprise of 3 members and will have a retired High Court Judge acting as its Chairperson and two other members who shall be experts in the field of either infrastructure or finance or banking or law.

34. Headquarters:— The Board will have its permanent Headquarters at Hyderabad and the Board shall meet under the Chairpersonship of the Chairperson.

35. Term of Office of the members:— Every member of the Board shall hold office for a term of 3 years from the date of appointment. The State

Government shall be entitled to reappoint any member or members for one more term of 3 years.

36. Terms and conditions of appointment:— The terms and conditions of appointment, remuneration and perquisites of the members shall be such as may be prescribed by the Government.

37. Functions of the Board:—The functions of the Board shall be as follows,—

(a) To assist the Government Agency, or Local Authority and any Developer in an independent and impartial manner to reach an amicable settlement of their disputes arising under the Act or the Concession Agreement;

(b) The Board shall be guided by principles of objectivity, fairness, obligations of the parties, the usages of the trade and the circumstances governing the disputes including the good business practice prevalent in the national and international field covered by the dispute between the parties;

(c) The Board may conduct the conciliation proceedings in such a manner as it may consider appropriate, taking into account the circumstances of the case, the wishes of the parties that may be expressed and for reaching a speedy settlement of the dispute;

(d) The Board may, at any stage of the conciliation proceedings, make proposals for settlement of dispute. Such proposal need not be in writing and need not be accompanied by any Statement of reasons therefor.

38. Administrative assistance:— In order to facilitate the conduct of the conciliation proceedings, the Board with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

39. Powers of the Board:— The Board shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while dealing with the conciliation proceedings in respect of the following matters, namely:—

(i) The summoning and enforcing the attendance of any party or witness and examining the witness on oath;

(ii) The discovery and production of any document or other material as evidence;

(iii) The reception of evidence on oath;

(iv) The requisitioning of the report of any body or any analysis or decision from the appropriate forum or laboratory or other relevant sources;

(v) The issuing of any commission for examining any witness;

(vi) The power to regulate its own procedure and prescribe rules; and

(vii) any other matter, which may be prescribed.

40. Judicial proceeding:— Every proceeding before the Board shall be deemed to be a judicial proceeding within the meaning of Section 193 and

Section 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Board shall be deemed to be a Civil Court for the purpose of Section 195 and Chapter XIV of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

CHAPTER—VI
Conciliation Proceedings

41. Application and scope:— Any dispute, claim, or difference arising out of or in connection with or in relation to any Concession Agreement or contract between the Government Agency or Local Authority on the one hand and the Developer on the other hand, shall as far as possible, be amicably settled between the parties. In the event of any dispute, claim or difference not being amicably resolved, such dispute, claim or difference shall be referred to the Conciliation Board.

42. Commencement of conciliation proceedings:— (1) The party initiating conciliation shall send to the other party a written invitation to conciliate under this part, briefly identifying the subject matter of the dispute, claim and / or difference. The party initiating conciliation shall file the invitation with the Board in such Form as may be prescribed.

(2) The conciliation proceedings shall commence when the other party receives the written invitation from the party initiating conciliation.

(3) If the other party does not reply or does not participate in the conciliation proceedings, then the Board shall have power to call upon the other party to file its reply or give notice to the other party and proceed further without reply. [1]

(4) The Board may request each party to submit to it further written statement of their position and the facts and grounds in support thereof, supplemented by any document and other evidence as such party deems appropriate. The parties shall send a copy of such statement, documents and other evidence to the other party.

43. The Board and certain Enactments:— The provisions of Section 66 of the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996) shall apply to the Board as regards the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and the Indian Evidence Act, 1872 (Central Act 1 of 1872).

44. Co-operation of the parties with the Board:— The parties shall co-operate with the Board and in particular, shall comply with requests by the Board to submit written materials, give evidence and attend meetings.

45. Suggestions by parties for settlement of dispute:— Each party may on his own initiative or at the invitation of the Board, submit to the Board suggestions for the settlement of the dispute.

46. Settlement agreement:— (1) When it appears to the Board that there exists a possibility of a settlement, the terms and conditions of which may be acceptable to the parties, the Board shall formulate the terms and conditions of the possible settlement and submit the same to the parties for their observations.

After receiving the observations of the parties, if any, the Board may reformulate the terms and conditions of the possible settlement.

(2) If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the Board may draw up or assist the parties in drawing up the settlement agreement.

(3) When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.

(4) The Board shall authenticate the settlement agreement and furnish a copy thereof to each of the parties.

47. Status and effect of settlement agreement:— The settlement agreement shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an Arbitral Tribunal under Section 30 of the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996) or its amendment or re-enactment as the case may be.

48. Termination of conciliation proceedings:— The conciliation proceedings shall be terminated,—

(a) by the signing of the settlement agreement by the parties, on the date of the agreement; or

(b) by an order of the Board, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the order; or

(c) by a written communication of the parties jointly addressed to the Board to the effect that the conciliation proceedings are terminated on the date of the communication; or

(d) on the expiry of the period of 3 months from the date of the commencement of the conciliation proceedings, if the parties to conciliation proceedings request in writing to continue conciliation, such conciliation proceedings shall stand terminated on the expiry of period of 90 days from the date of such joint communication in writing to the Board requesting the Board to continue conciliation.

49. Resort to Arbitral or Judicial Proceedings:— (1) The parties shall not initiate during the conciliation proceedings any arbitral or judicial proceedings in respect of any dispute, claim or difference i.e. the subject matter of the conciliation proceedings.

(2) Notwithstanding the provisions of sub-Section (1) herein the party may initiate arbitral or judicial proceedings, where, in his opinion, such proceedings are necessary for preserving his rights during the conciliation proceedings.

50. Commencement of arbitral or judicial proceedings:— No party shall commence any arbitral or judicial proceedings in respect of any dispute, claim

or difference arising out of or in connection with or in relation to any contract or concession agreement, without first initiating the conciliation proceedings and commencing the conciliation proceedings by sending to other party a written invitation to conciliate and filing the same with the Board.

51. Costs:— (1) Upon termination of the Conciliation proceedings the Board shall fix the costs of the conciliation and give written notice thereof to the parties.

(2) For the purpose of sub-Section (1) "costs" means reasonable costs relating to,—

(a) the fees of the Board as may be prescribed and expenses of the Board and witnesses requested by the Board with the consent of the parties;

(b) any expert advice requested by the Board with the consent of the parties;

(c) any assistance provided by the Conciliation Board;

(d) any other expenses incurred in connection with the conciliation proceedings and the settlement agreement.

(3) The costs shall be borne equally by the parties unless the Settlement Agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

52. Deposits:— (1) The Board may direct each party to deposit an equal amount as an advance for the costs referred to in sub-Section (2) of Section 51, which the Board expects, will be incurred.

(2) During the course of the conciliation proceedings, the Board may direct supplementary deposits in an equal amount from each party.

(3) If the required deposits under sub-sections (1) and (2) are not paid in full by the parties within thirty days of the direction, the Board may suspend the proceedings or may make a written order of termination of the proceedings to the parties, effective on the date of that order.

(4) Upon termination of the conciliation proceedings, the Board shall render an account to the parties of the deposits received and shall return any unexpended balance to the parties.

53. Admissibility of evidence in other proceedings:— The provisions of Section 81 of the Arbitration and Conciliation Act, 1996 (Central Act No. 26 of 1996) shall apply to the matters before the Board relating to admissibility of evidence in other proceedings.

CHAPTER—VII
Infrastructure Projects Fund

54. Establishment of the fund:— The Government shall establish a fund to be called the "Infrastructure Projects Fund" and shall contribute a sum of Rs. 100 lakhs to the fund. The Government will make such further contributions to the fund as it may deem appropriate from time to time.

55. Fees and charges to be credited to the fund:— The Government Agency or the Local Authority will *inter alia* levy fees and charges on the application for projects and project fee on the developer under the Concession Agreement as may be prescribed from time to time and which fees shall be credited to the fund.

56. Administration of the fund:— The fund will be administered and managed by the Infrastructure Authority and the Infrastructure Authority will be entitled to appoint an officer or officers for the management, control and administration of the fund.

57. Utilisation of the fund:— The Infrastructure Authority will utilise the Fund for achieving objects and purposes of this Act and for financing the activities of the Infrastructure Authority for realising the objects and purposes of the Act from time to time.

58. Operation of the fund:— The fund will be operated by and under the name of the Infrastructure Authority.

59. Formulation of policy and regulations for the fund:— The Infrastructure Authority shall formulate its policy and regulations for financing, working, administration and management of the fund.

60. Audit report of the fund:— The working of the fund shall be subject to audit by Comptroller and Auditor General and the Infrastructure Authority shall submit a report every year as regards the working and operation of the fund to the State Government who will present the same before the Legislative Assembly of the State.

CHAPTER—VIII
Miscellaneous

61. Control by Government:— (1) The Infrastructure Authority shall exercise its powers, and perform its functioning under the Act in accordance with the policy framed and guidelines laid down from time to time, by the Government and it shall be bound to comply with such directions, which may be issued, from time to time, by the Government for efficient administration and effective implementation of the Act.

(2) If, in connection with the exercise of the powers and the performance of the functions of the Infrastructure Authority under the Act, any dispute arises between the Infrastructure Authority and the Government, the Government shall decide the matter and the Government's decision shall be final.

62. Transparency:— The Infrastructure Authority shall ensure transparency while exercising its powers and discharging its functions.

63. Abuser charges:— (1) The Infrastructure Authority shall be entitled to levy abuser charges for abuse, on the Developer, if any Developer abuses the rights granted to the Developer under the Concession Agreement :

Provided the Infrastructure Authority shall give an opportunity of not less than fifteen days from the date of service of notice to the Developer to show cause in writing, why such abuser charges should not be levied on him, before passing the order under this section.

(2) The Concession Agreement will provide what will constitute abuse of rights granted to the Developer. The abuser charges will be as prescribed by the Infrastructure Authority from time to time:

Provided that the abuser charges levied under this Section shall be final and conclusive subject to provisions of Section 66 of the Act.

64. Polluter Charges:— (1) The Infrastructure Authority shall be entitled to levy Polluter Charges for pollution of the environment on the Developer, if the Developer pollutes the environment and/or does not adhere to the specified mitigation measures as provided in the Concession Agreement.

(2) The Infrastructure Authority shall give an opportunity of not less than fifteen days from the date of service of notice to the Developer to show cause, in writing, why such Polluter Charges should not be levied on the Developer, before passing the order under this Section.

(3) The Polluter Charges will be as prescribed by the Infrastructure Authority:

Provided that the Polluter Charges levied under this Section shall be final and conclusive subject to provisions of Section 66 of the Act.

65. Appeal:— (1) An appeal shall lie to the Government against the Order passed by the Infrastructure Authority under Sections 11, 63 and/or Section 64 of the Act within 30 days from the date of receipt of the order subject to the rules prescribed by the Government in this regard.

(2) The decision of the Government under sub-Section (1) shall be final and conclusive.

66. Indemnity by the Developer:— The Developer shall be bound to indemnify the Government Agency or the Local Authority against any defect in design, construction, maintenance and operation of the Project and shall undertake to reimburse all costs, charges, expenses, losses and damages in that behalf.

67. Recovery of costs, charges, dues, fees, and fines:—The Infrastructure Authority or the Government Agency or the Local Authority or the Conciliation Board shall be entitled to recover all sums due to it under the Act, whether by way of costs, charges, dues, fees or fines, in accordance with the provisions of the Andhra Pradesh Revenue Recovery Act, 1864 (Act No. II, 1864) as if any such sum may be recovered in the same manner as arrear of land revenue under the provisions of the said Act and remit the same to the Infrastructure Projects Fund as it may direct.

68. Application of fines and charges:— The Infrastructure Authority or the Government Agency or the Local Authority or the Conciliation Board imposing the costs, charges, fees and fine under the Act may direct that the whole or any part thereof shall be applicable towards payment of the costs of the proceedings.

69. Penalties:— (1) Whoever fails or omits to comply with or contravenes any of the provisions of the Act or order or directions of the Infrastructure Authority shall be liable for each of such failure or omission or contravention, for fine which shall not be less than Rs. 50,000/- (Rupees Fifty Thousand) but which may extend up to Rs. 100,00,000/- (Rupees One Crore) or shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with both.

(2) Whoever fails or omits to comply with or contravenes any of the provisions of the Act or order or directions of the Board shall be liable for each of such failure or omission or contravention, for fine which shall not be less than Rs. 50,000/- (Rupees Fifty Thousand) but which may extend upto Rs. 1,00,00,000/- (Rupees One Crore) or shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to two years or with both.

70. Offences by companies:— (1) Where an offence under the Act has been committed by a company, every person who at the time when the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-Section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such an offence.

(2) Notwithstanding anything contained in sub-section (1), wherein an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

For the purposes of this Section,—

(a) "*Company*" means a body corporate and includes a firm or other association of individuals; and

(b) "*Director*" in relation to a firm, means a partner in the firm.

71. Power to compound offences:— The Infrastructure Authority and the Conciliation Board may for reasons to be recorded in writing either before or

after the institution to proceedings compound any offence relating to contravention of any provisions of the Act or order made by it.

72. Cognizance of offences:— (1) No Court shall take cognizance of any offence punishable under the Act, except upon a complaint in writing made by an officer of the Infrastructure Authority or the Conciliation Board generally or specially authorised in this behalf by the Infrastructure Authority or Conciliation Board as the case may be and no Court other than the Metropolitan Magistrate or a Judicial Magistrate of First Class or a Court superior thereto shall try any such offence.

(2) The Court may, if it sees reasons so to do dispense with the personal attendance of the officer of the Infrastructure Authority or the Conciliation Board filing the complaint.

73. Penalties and proceedings not to prejudice other actions:— The proceedings and actions under this Act against a person contravening the provisions of the Act or orders passed by the Infrastructure Authority or the Conciliation Board shall be in addition to and without prejudice to actions that may be initiated under other Acts.

74. Protection of action taken in good faith:— No suit, claim or other legal proceedings shall lie against the Infrastructure Authority or Conciliation Board or the Chairman or other members of the Infrastructure Authority or Conciliation Board or the staff or representatives of the Infrastructure Authority or Conciliation Board in respect of anything which is in good faith done or intended to be done under the Act or any rules or regulations or orders made thereunder.

75. Members and staff of Infrastructure Authority or Conciliation Board to be public servants:— The Chairman, other members and officers and other employees of the Infrastructure Authority or Conciliation Board appointed for carrying out the objects and purposes of the Act, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

76. Bar of Jurisdiction:— Any order or proceedings under the Act including but not limiting to any notification of a Project as Infrastructure Project, categorisation or prioritisation of Projects, Concession Agreement, bid process, selection of Developer, modification of any proposal, sanction of any proposal, implementation and execution of any Project, actions of Infrastructure Authority, actions of the Government or the Government Agency or the Local Authority, actions of the Board, grievance or objection of any party or person or group in respect of any Infrastructure Project, validity, legality, efficacy of any action or decision in respect of any Infrastructure Project of Infrastructure Authority or the Government or the Board, dispute settlement or dispute resolution in respect of any matters under the Act shall be heard only by the High Court and by no other court or courts subordinate to the High Court.

77. Power to remove difficulties:— (1) If any difficulty arises in giving effect to the provisions of the Act or the rules, regulations, scheme or orders made hereunder, the State Government may by order published in the Official Gazette, make such provision, not inconsistent with the provisions of the Act as appears to it to be necessary or expedient for removing the difficulty.

(2) All orders made under sub-Section (1) shall, as soon as may be after they are made, be placed on the Table of the Legislative Assembly of the State and shall be subject to such modification by way of amendments or repeal as the Legislative Assembly may make either in the same session or in the next session.

78. Power to make regulations:— The Infrastructure Authority and Conciliation Board may make regulations, with the approval of the Government, by notification in the Official Gazette, for the proper performance of their respective functions under the Act.

79. Power to make rules:— (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modifications in the rule or in the annulment of the rule, the rule shall from the date on which the modification or the annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

80. Delegation of Powers:— The Government may by notification, direct that any power exercisable by the Government under the Act shall be exercisable by an officer of the Government, subject to such terms as may be specified in such notification.

81. Act to override other State Laws:— If any provision contained in any State Act is repugnant to any provision contained in the Act, the provision contained in the Act shall prevail and the provision contained in any such State Act shall to the extent of repugnancy be void.

82. Repeal of Ordinance 4 of 2001:—The Andhra Pradesh Infrastructure Development Enabling Ordinance, 2001 is hereby repealed.

SCHEDULE—I

[See Section 2(h)]

The following Concession Agreement or arrangements with their variations and combinations may be arrived at by the Government Agency or the Local Authority for undertaking Infrastructure Projects. The arrangements enumerated hereinafter are indicative in nature and the Government Agency or the Local Authority shall be entitled to evolve and arrive at such Concession Agreement or arrangement incorporating any of the arrangements enumerated hereinafter or any other arrangements as may be found necessary or expedient for any specific Project.

(i) Build - and Transfer (BT) — A contractual arrangement whereby the Developer undertakes the financing and construction of a given infrastructure or development facility and after its completion hands it over to the Government, Government Agency or the Local Authority. The Government, Government Agency or the Local Authority would reimburse the total Project investment, on the basis of an agreed schedule. This arrangement may be employed in the construction of any infrastructure or development Projects, including critical facilities, which for security or strategic reasons, must be operated directly by the Government or Government Agency or the Local Authority.

(ii) Build—Lease—and—Transfer (BLT) — A contractual arrangement whereby a Developer undertakes to finance and construct Infrastructure Project and upon its completion hands it over to the Government or Government Agency or the Local Authority concerned on a lease arrangement for a fixed period, after which ownership of the facility is automatically transferred to the Government or Government Agency or the Local Authority concerned.

(iii) Build—Operate—and—Transfer (BOT)—A contractual arrangement whereby the Developer undertakes the construction, including financing, of a given infrastructure facility, and the operation and maintenance thereof. The Developer Operates the facility over a fixed term during which he is allowed to a charge facility users appropriate tolls, fees, rentals and charges not exceeding those proposed in the bid or as negotiated and incorporated in the contract to enable the recovery of investment in the Project. The Developer transfers the facility to the Government or Government Agency or the Local Authority concerned at the end of the fixed term that shall be specified in the Concession Agreement. This shall include a supply-and-operate situation which is a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the Government, Government Agency or the Local Authority so requires, operates the facility providing in the process technology transfer and training to Government, Government Agency or the Local Authority nominated individuals.

(iv) Build—Own—and—Operate (BOO) — A contractual arrangement whereby a Developer is authorised to finance, construct, own, operate and

maintain an infrastructure or development facility from which the Developer is allowed to recover his total investment by collecting user levies from facility users. Under this Project, the Developer owns the assets of the facility and may choose to assign its operation and maintenance to a facility operator. The transfer of the facility to the Government, Government Agency or Local Authority is not envisaged in this structure, however the Government, Government Agency or Local Authority may terminate its obligations after specified time period.

(v) Build—Own—Operate—Transfer (BOOT)— A contractual arrangement whereby a Developer is authorised to finance, construct, maintain and operate a Project and whereby such Projects is to vest in the Developer for a specified period. During the operation period, the Developer will be permitted to charge user levies specified in the Concession Agreement, to recover the investment made in the Project. The Developer is liable to transfer the project to the Government, Government Agency, or the Local Authority after the expiry of the specified period of operation.

(vi) Build—Transfer—and—Operate (BTO)—A contractual arrangement whereby the Government or Government Agency or the Local Authority contracts out an infrastructure facility to a Developer to construct the facility on a turn-key basis, assuming cost overruns, delays and specified performance risks. Once the facility is commissioned satisfactorily, the Developer is given the right to operate the facility and collect user levies under a Concession Agreement. The title of the facilities always vests with the Government, Government Agency or the Local Authority in this arrangement.

(vii) Contract—Add—and—Operate (CAO)—A contractual arrangement whereby the Developer adds to an existing infrastructure facility which it rents from the Government, Government Agency of the Local Authority and operates the expanded Project and collects user levies, to recover the investment over an agreed franchise period. There may or may not be a transfer arrangement with regard to the added facility provided by the Developer.

(viii) Develop-Operate-and-Transfer (DOT)—A contractual arrangement whereby favourable conditions external to a new Infrastructure Project which is to be built by a Developer are integrated in the BOT arrangement by giving that entity the right to develop adjoining property and thus, enjoy some of the benefits the investment creates such as higher property or rent values.

(ix) Rehabilitate-Operate-and-Transfer (ROT)—A contractual arrangement whereby an existing facility is handed over to the private sector to refurbish, operate (collect user levies in operation period to recover the investment) and maintain for a franchise period, at the expiry of which the facility is turned over to the Government or Government Agency or the Local Authority. The term is also used to describe the purchase of an existing facility from abroad, importing, refurbishing, erecting and consuming it within the host country.

(x) Rehabilitate-Own-and-Operate (ROO)—A contractual arrangement whereby an existing facility is handed over to the operator to refurbish and operate with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility and collect user levies in perpetuity.

Schedule—II

[See Section 2(e)]

Categories of Projects

All Infrastructure Projects may be categorized based on the extent of Government support required and the exclusivity of the rights granted. The Government Agency or the Local Authority with the approval of the Infrastructure Authority will be entitled to evolve any further category or categories of the Project having combination of categories as per the priority and other requirements of the Government Agency or the Local Authority. The Government Agency or the Local Authority with the approval of the Infrastructure Authority may divide the **Projects** into following categories:

1. Category - I Projects: shall be **Projects** where,—

(i) no fiscal incentives in the form of contingent liabilities or financial incentives are required;

(ii) the Project is viable even when land is granted at the market rates;

(iii) no exclusive rights are conferred on the Developer;

(iv) minimal inter-linkages are required.

2. Category - II Projects: shall be Projects where,—

(i) Government or Government Agency will be required to provide asset support;

(ii) financial incentives in the form of contingent liabilities or direct financial support are required to be provided;

(iii) exclusive rights are conferred on the Developer;

(iv) extensive linkages i.e. support facilities for the project such as water connection etc. are needed.

Schedule—III

[See Section 2(nn)]

Sectors

1. Roads (State Highways, Major District Roads, Other District Roads & Village Roads), Bridges and Bypasses

2. Health

3. Land reclamation

4. Canals, Dams

5. Water Supply, treatment and distribution
6. Waste management
7. Sewerage, drainage
8. Public Markets
9. Trade Fair, Convention, Exhibition and Cultural Centres
10. Public buildings
11. Inland water transport
12. Gas and Gas Works
13. Sports and recreation Infrastructure, Public gardens and parks
14. Real Estate
15. Any other Projects or sectors as may be notified by the Government.

Schedule-IV

[See Section 2(1)]

Generic Risks

The Government Agency or the Local Authority will endeavour to disclose, allocate and provide for the treatment of the following risks in the Concession Agreement as may be applicable to a Project.

I. Construction Period Risks:

(i) Land Expropriation
(ii) Cost overruns
(iii) Increase in Financing Cost
(iv) Time & Quality Risk
(v) Contractor Default
(vi) Default by the Developer
(vii) Time, Cost & Scope of identified but related Work, and variations.
(viii)Environmental Damage - Subsisting\On going.

II. Operation Period Risks:

(i) Government Agency Default.
(ii) Developer Default.
(iii) Termination of Concession Agreement by Infrastructure Authority or Government or Government Agency.
(iv) Environmental Damage - Ongoing.
(v) Labour Risk.
(vi) Technology Risk.

III. Market & Revenue Risks:

(i) Insufficient Income from User Levies.

(ii) Insufficient Demand for Facility.

IV. Finance Risks:

(i) Inflation

(ii) Interest Rate

(iii) Currency Risk

V. Legal Risk:

(i) Changes in Law

(ii) Title/Lease rights

(iii) Security Structure

(iv) Insolvency of Developer

(v) Breach of Financing Documents

(VI) Miscellaneous Risks:

(i) Direct Political Force Majeure

(ii) In-direct Political Force Majeure

(iii) Natural Force Majeure

(iv) Sequestration

(v) Exclusivity

(vi) Development Approvals

(vii) Adverse Government Action/In Action

(viii)Provision of Utilities

(ix) Increase in Taxes

(x) Termination of Concession by the Government

(xi) Payment Failure by the Government

Schedule-V

[See Section 2(rr)]

State Support

The Government will consider the grant of following forms of State Support, ranked in its order of preferences i.e.:

(i) Administrative Support

(ii) Asset Support

(iii) Foregoing Revenue Streams

(iv) Guarantees for contingent liabilities; and

(v) Financial Support

I. Administrative Support:

(i) The State Government will offer the following administrative support to all the Projects covered under the Act, namely:—

(a) Provide State level statutory clearances within specified time limits after the Project is sanctioned in favour of the Developer.

(b) Automatically grant non-statutory State level clearances, if a Project meets specifications as may be prescribed.

(c) Provide Best Effort support for obtaining all central level clearances.

(d) Undertake all rehabilitation & resettlement activities and recover the cost from Developer.

(e) Provide construction power and water at Project site.

(f) Acquire land necessary for the Project, if the same does not already belong to the Government.

II. Asset Based Support:

(i) The State Government will offer asset based support to all Category II Projects covered under the Act. The Category I Projects will receive asset based support only if the sector policy specifically provides for the same. The asset based support comprises:

(a) Government owned land would be provided at concessional lease charges for Projects where ownership would revert to the Government, within a maximum period of 33 years from the date of grant of land;

(b) The State Government will commit/facilitate development of linkage Infrastructure for Projects.

III. Foregoing Revenue Streams:

(i) The Government will forego revenue streams in case of all Category II Projects. Government will forego revenue streams in case of Category I Projects only if the sector policy specifically provides for the same. Such support would be in the form of,—

(a) exemption of sales tax on all inputs required for Project construction.

(b) exemption of stamp duty and registration fees on the first transfer of land, from the Government to the Developer and on Project agreements registered in the State.

(c) exemption from payment of seigniorage fees i.e. cess on minor minerals during construction period.

IV. Guarantees:

(i) The Government may guarantee receivables only in the case of Category II Projects, provided they are not collected directly from users.

(ii) The Government may also provide off take guarantees if it is the service distributor and is responsible for collection of user levies.

V. Financial Support:

(i) Direct financial support may be considered only in the case of Category II Projects.

(ii) The Government will have the final authority to approve direct financial support.

(iii) Infrastructure Authority will ensure that appropriate Project structuring will eliminate, to the extent possible, the need for financial support.

(iv) Extent of financial support will be used as one of the selection criteria whenever financial support is to be provided.

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6. THE ANDHRA PRADESH INFRASTRUCTURE DEVELOPMENT ENABLING (TERMS AND CONDITIONS, ETC. OF THE MEMBER OF THE INFRASTRUCTURE AUTHORITY) RULES, 2003

[1][*G.O.Ms.No. 124. Industries & Commerce (INF), dt. 18-6-2004*]

In exercise of the powers conferred by sub-section (1) of Section 79 read with Sections 6, 8, 12 and 60 of the Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act No. 36 of 2001), the Government of Andhra Pradesh hereby makes the following rules:—

1. Short title and commencement:— (1) These rules may be called the Andhra Pradesh Infrastructure Development Enabling (Terms and conditions, etc. of the member of the Infrastructure Authority) Rules, 2003.

(2) These rules shall come into force from the date of publication in the Andhra Pradesh Gazette.

2. Definitions:— (1) In these rules unless the context otherwise requires:—

(a) *"Act"* means "the Andhra Pradesh Infrastructure Development Enabling Act, 2001".

(b) *"Authority"* means "the Infrastructure Authority" constituted under sub-section (1) of Section 3 of the Act.

(c) *"Government"* means "the Government of Andhra Pradesh".

(d) *"Member"* means "a member of the Authority appointed by the Government under sub-section (4) of Section 4 of the Act".

(2) The words and expressions used in these rules and not defined herein but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Term of Office of members and their resignation, etc.:— (1)(a) A member of the authority shall hold office for a period of two (2) years from the date of his appointment.

(b) A member may resign his membership by writing under his hand addressed to the Government, but he shall continue in office until his resignation is accepted by the Government.

(2) A person who holds or who had held office as Chairman or a Member of the Authority shall be eligible for reappointment.

(3) In case the Chairman post falls vacant, Chief Secretary to Government shall hold charge as Chairman until such time the said post is filled up by the Government.

(4) A casual vacancy shall be filled by the Government by appointment of another member for the residual/remaining term.

1. Published in A.P. Gaz., R.S. to Pt.I, dated 8-7-2004.

4. Pay and allowances of the Chairman and the members:— (1) A member other than an *ex-officio* member shall be paid the following fee or reimbursement of the expenses as follows:—

(a) Sitting fee of Rs. 2,500/- per meeting.

(b) Reimbursement of travelling expenses, boarding and lodging expenses actually incurred/payable.

(c) Pay and allowances of the Chairman other than an *ex-officio* Chairman shall be as determined by the Government from time to time.

5. Removal of members/chairman:— The Government may remove any member including the Chairman if in the opinion of the Government such member has become incapable of performing his duties as a member of the authority for any reason including incapacity, insolvency, unsound mind, acted contrary to any provision of the Act, rules and regulations made thereunder.

Provided that such removal will not be done without issuing notice.

6. Staff of the authority:— The Government will determine the staff strength and their service conditions for the efficient performance of the functions of the Authority.

7. Acts of authority:— No act or proceedings of the Authority shall be deemed to be invalid by reason only of any vacancy or any defect in the constitution of the Authority.

8. Decision of the Authority:— All decisions of the Authority shall be authenticated by the signature of Officer of the authority duly authorised by it in that behalf.

9. Funds:— (1) The Authority shall maintain Infrastructure Authority Fund to which all money received by the authority from Government or other authorities or persons by way of grant, loans, donations or otherwise shall be credited.

(2) The funds specified in Rule 10 (1) above shall be applied towards meeting the expenses incurred by the Authority in discharge of its duties and functions under the Act and the Rules and not for any purpose.

(3) The Authority may keep such sum of money out of its funds as it may deem fit in deposit in any of the scheduled bank or financial Institutions authorised by the Government.

10. Budget:— The authority shall prepare a budget in respect of each financial year showing the estimated receipts and expenditure of the authority and forward it to the Government for approval by the 15th January of the year proceeding the Financial year.

11. Report of the Authority:— The Infrastructure Authority shall submit quarterly report as regards its working and operation to the State Government. It shall also prepare every year an Audit Report giving a true and full account of

its activities during the previous year, Government shall place the same Audit Report before the Legislature for its information.

12. Furnishing of Returns etc.:— The Authority shall furnish to the Government such returns or other information with respect to its activities, functions, meetings etc., as the Government may from time to time require.

13. Accounts and Audit:— (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including a balance sheet.

(2) The accounts of the authority shall be subject to annual audit by such person as may be appointed by the Government and any expenditure incurred by that person shall be borne by the authority.

(3) The person so appointed or any other person authorised by him in connection with the audit of the accounts shall have the same right, privilege and Authority in connection with such audit as the Accountant General has, in connection with the audit of Government accounts.

(4) The accounts as certified by the person so appointed or any other person authorised by him in that behalf together with the audit report thereon shall be forwarded annually to the Government who will place the same before the Legislature for its information.

14. Conduct of Members:— (1) A member of the Authority shall act in a manner to protect and further the interests of the State Government.

(2) Any member having directly or indirectly any share or interest himself or by his partner or is professionally interested on behalf the client principal or other person in any manner whatsoever including pecuniary interest or otherwise in any matter coming up for consideration at a meeting of the authority shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his/her interest at such a meeting and the diclosure shall be recorded in the minutes of the meeting and the member shall not take part in any discussion or decision pertaining to that matter.

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7. THE ANDHRA PRADESH INFRASTRUCTURE AUTHORITY (CONSTITUTION OF COMMITTEES) REGULATIONS, 2003

[1][G.O.Ms.No. 125, Industries & Commerce (INF), dated 18-6-2004]

From the Chairman, I.A., Lr.No. IA/Int/Setup/2003/01, dt. 26-7-2003

The Chairman, infrastructure Authority vide his letter read above has furnished the proposals in regard to regulating the Constitution of Committees and Conduct of Business under Section 9 read with Section 78 of the Andhra Pradesh Infrastructure Development Enabling Act, 2001, for approval of the Government.

2. Government after careful examination in exercise of the powers conferred under Section 78 of the Andhra Pradesh Infrastructure Development Enabling Act, 2001 hereby accord approval for the said Regulations as detailed below:—

1. Short title and commencement:— (1) These Regulations may be called the Andhra Pradesh Infrastructure Authority (Constitution of Committees) Regulations, 2003.

(2) These Regulations shall come into force from the date of publication in the Andhra Pradesh Gazette.

2. Definitions:— (1) In these Regulations, unless there is anything repugnant in the subject or context:—

(a) *"Act"* means "the Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act No. 36 of 2001).

(b) *"Authority"* means "The Infrastructure Authority constituted under Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act No. 36 of 2001).

(c) *"Section"* means a Section of the Act.

(d) *"Executive Committee"* means a Committee appointed by the Authority under Section 9 of the Act.

(e) *"Member"* means a member of an Executive Committee.

(2) The words and expressions used in these Regulations but defined therein shall have the meanings respectively assigned to them in the Act and Rules made under the Act.

3. Constitution of Committees:— (1) The Authority may constitute Executive Committee(s) from among its members. The Executive Committee(s) shall be headed either by the Chairperson or by an *ex-officio* member nominated by the Authority.

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1. Published in A.P. Gazette Part-I (Ext.) dt. 3-7-2004.

(2) No business shall be transacted at a meeting of the Executive Committee unless half of the total number of members are present at such meeting:

Provided that if a meeting of the Executive Committee is adjourned for want of quorum, any business remaining undisposed of that meeting shall be disposed of at the adjourned meeting and if that meeting is also adjourned for want of quorum that business may be disposed of at the third meeting whether there is quorum or not.

(3) Any meeting may with the consent of the majority of the members present there at be adjourned from time to time; but no other business shall be transacted at the next adjourned meeting unless the business remaining undisposed of at the previous meeting is first disposed of.

(4) Every question shall be decided by a majority of votes of the members present and voting on the question, the presiding authority having a second or casting vote in the case of equality of votes.

(5) A minutes shall be kept by the presiding authority, or the names of the members present and of the proceedings, at each meeting of the Executive Committee in a book which shall be signed by the presiding authority.

(6) A member shall not vote or take part in the discussion at a meeting of Special Committee on any matter in which he has, directly or indirectly, any share or interest by himself or by his partner or he is professional interested on behalf of the client, principal or other person.

4. (1) The Chairperson of the Authority shall have the right of being present at a meeting of the Executive Committee and of taking part in the discussion thereat as a member has but shall not be entitled to vote at such meeting.

(2) The Executive Committee(s) may be empowered by the Authority to decide on all matters other than the matters reserved for the Authority i.e.,

(a) Recommendation for sanction to the Government;

(b) Recommendation on policy formulation and model contracts to Government;

(c) All decisions pertaining to State support under the items specified in Schedules, II, III, IV and V of the Act;

(d) Issuance and amendment of guidelines under the Act;

(e) Issues pertaining to Abuser and polluter charges;

(f) Any other issues as decided by Infrastructure Authority.

(3) The recommendations and approvals of the Executive Committee(s) shall be ratified by the Infrastructure Authority within one week from the date of receipt of the recommendations/approvals of the Executive Committee(s) or in the following meeting of the Authority.

(1) The Authority in addition to the Executive Committee(s) may delegate any of its powers and/or functions other than those reserved for Authority

to any Sub-Committee of its members or to such Officer(s) as it may be deem appropriate. The Authority shall also ensure that powers/functions delegated to Executive Committee(s) and Sub-Committee(s) are exclusive.

(2) The Authority shall specify the terms of reference for the Sub-Committee(s) including the objectives for forming such committees, the key tasks assigned the time limit for completion of such tasks and the procedure to be followed by such Sub-Committee(s).

(3) The Authority shall nominate any *ex-officio* member as the Chairperson of such Sub-Committee(s).

(4) The decision/recommendations of the Sub-Committee(s) shall be placed for consideration of the Authority within one week of receipt of its decision/recommendations or in the following meeting of the Authority.

The Infrastructure Authority shall publish the above Regulations in the Andhra Pradesh Extraordinary Gazette as required under the Act.

The Infrastructure Authority is directed to take necessary action accordingly.

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8. THE ANDHRA PRADESH INFRASTRUCTURE AUTHORITY (TRANSACTION OF BUSINESS OF THE MEETINGS OF THE INFRASTRUCTURE AUTHORITY) REGULATIONS, 2003

[1][*G.O.Ms.No. 126, Industries & Commerce (INF), dt. 18-6-2004*]

From the Chairman, I.A., Lr.No. IA/Int/ Setup/2003/01, dt. 26-7-2003

The Chairman, Infrastructure Authority vide his letter read above has furnished the proposals in regard to Procedure for transaction of business of the meetings of the Authority under Section 7 read with Section 78 of the Andhra Pradesh Infrastructure Development Enabling Act, 2001.

2. Government after careful examination in exercise of the powers conferred under Section 78 of the Andhra Pradesh Infrastructure Development Enabling Act, 2001 hereby accord approval for the said Regulations as detailed below:—

1. Short title and commencement:— (1) These Regulations may be called the Andhra Pradesh Infrastructure Authority (Transaction of Business of the meetings of the Infrastructure Authority) Regulations, 2003.

(2) These Regulations shall come into force from the date of publication in the Andhra Pradesh Gazette.

2. Definitions:— (1) In these Regulations, unless the context otherwise requires:—

(a) *"Act"* means "the Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act No. 36 of 2001).

(b) *"Authority"* means "The Infrastructure Authority constituted under sub-section (1) of Section 3 of Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act No. 36 of 2001).

(c) *"Government"* means the Government of Andhra Pradesh.

(2) The words and expressions used in these Regulations but defined there in shall have the meanings assigned to them in the Act and Rules made under the Act.

3. Meetings of the Infrastructure Authority:— (1) The Authority shall meet at such times and places and shall observe such procedure in regard to the transaction of business at its meetings (Including the quorum at meetings) as may be determined by it.

(2) The Chairman or in his absence any *ex-officio* member of the Authority chosen by the members present from among themselves shall preside at a meeting of the Authority.

1. Published in A.P. Gazette Part-I (Ext.), dt. 3-7-2004.

(3) A copy of the proceedings of the meetings of the Authority shall be forwarded to the Government.

(4) The Infrastructure Authority may meet at least once in three months and at least (6) times in a year, adjourn and otherwise regulate its meetings, as it thinks fit. Questions arising at any meeting shall be decided by a majority of votes of the members present. In case of any equality of votes, the Chairman shall have a second or casting vote.

(5) All agenda items, proposal or other matters shall be placed before the Infrastructure Authority with prior consultation with the Chairperson. Notices for convening the meetings shall be issued with the period approval of the Chairperson giving at least (7) days notice to the members and other invitees. However meetings can be convened at a shorter notice with the prior permission of the Chairperson.

(6) Every notice along with the agenda for the meeting shall be accompanied with all relevant papers, reports, studies, information on various aspects like financial, environmental, different options available together with course of action recommended and any other relevant data for arriving at a proper decision in the matter.

(7) No resolution shall be deemed to have been passed by the Infrastructure Authority or a committee thereof by circulation, unless the Resolution has been circulated in draft together with all necessary papers to all the members at their usual address in India and has been approved by a majority of such of them, as are entitled to vote on the resolutions.

(8) The Quorum for the purposes of the meetings shall be 1/3rd of the total strength of the Authority or for members, whichever is higher out of whom at least (2) shall be *ex-officio* members. In the event of absence of quorum for the meeting within 30 minutes of the stipulated time, the meeting shall be adjourned for some other date.

(9) The Minutes of the meetings duly approved by the Chairperson shall be communicated to all the members and the invitees in not later than (3) days from the date of the meeting. Minutes of the meetings shall be entered into a book under the signature of the Chairperson. The Minutes of the meetings shall be confirmed in the successive meeting with or without modifications, if any suggested by the members.

(10) If the Chairperson is not present within 30 minutes of the time fixed for the meeting of the Authority for any reason, any one of the *ex-officio* members of the Authority shall act as Chairperson with the consent of the members present and conduct the meetings.

(11) A member other than an *ex-Officio* Member who has absented himself from (three) consecutive meetings shall cease to be a member. The absence of *ex-officio* members from (three) consecutive meetings shall be brought to the notice of the Government.

The infrastructure Authority shall publish the same in the Andhra Pradesh Extraordinary Gazette as required under the Act.

The Infrastructure Authority is directed to take necessary action accordingly.

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9. THE ANDHRA PRADESH DISTRICT PLANNING COMMITTEES ACT, 2005

[As Amended by Act No. 23 of 2007]

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 15th November, 2005 and the said assent is hereby first published on the 17th November, 2005 in the Andhra Pradesh Gazette for general information.

[1][Act No. 40 of 2005]

An Act to constitute District Planning Committees for the purpose of Article 243-ZD of the Constitution of India and to discharge the functions of the State Government in regard to the items of business of the Government and for matters connected therewith or incidental thereto.

Whereas, under Article 243ZD of the Constitution of India the Government is empowered to constitute in the State, a District Planning Committee at the District level to consolidate the plans prepared by the Panchayats and the Municipalities in the District by undertaking Legislation;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-sixth Year of the Republic of India as follows:—

[2]Statement of Objects and Reasons

Under Article 243 ZD of the Constitution of India, District Planning Committees have to be constituted in the State at the district level. The District Development Review Committees (DDRCs) have been constituted in G.O.Ms. No 26, Finance and Planning (Plg.D.P.III) Department, dated 22-6-1995. The Cabinet Sub-Committee on Local Bodies have recommended for the constitution of the District Planning Committees in the State. The Council of Ministers in their meeting held on 7-11-2001 have decided to constitute the District Planning Committees in place of the District Development Review Committees as prescribed under the Seventy Fourth Constitutional Amendment.

The following are the salient features of the Bill, namely:—

(i) the main objectives of the District Planning Committees will be to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole;

(ii) each district planning committee will have thirty members, twenty four of which (four-fifth of the total members) will be elected by and form amongst the elected members of the Zilla Parishad and the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

1. Pub. in A.P. Gaz. Part-IV-B, Ext. No. 61, dated 17-11-2005.
2. Appended to L.A. Bill No. 14 of 2005, Pub. in A.P. Gaz., Part-IV-A, Ext. No. 14, dated 3-10-2005.

(iii) the Chairperson of the Zilla Parishad shall be the *ex-officio* Chairperson of the District Planning Committee. The District Collector will be the Member Secretary of the District Planning Committee. Four members will be nominated by the Government of whom one member shall be from the Minorities and three members shall be nominated from the experts of the subject;

(iv) all the M.L.As and M.Ps (Lok Sabha and Rajya Sabha) in the district will be special invitees in the District Planning Committee, the Chairpersons of the Municipalities and the Mayors of the Municipal Corporations in the District shall also be permanent special invitees, in case they are not the elected members of the Committee;

(v) the District Planning Committee will exercise the same review and monitoring, functions at the district level, which were exercised by the District Development Review Committees earlier.

As the Legislative Assembly of the State was not then in session having been dissolved, it was considered necessary to give effect to the above decision immediately, the Andhra Pradesh District Planning Committees Ordinance, 2003 (A.P. Ordinance No. 10 of 2003) was promulgated by the Governor on the 30th December, 2003 and the same was published on the same day, and so as to continuity of law the Andhra Pradesh District Planning Committees Ordinance, 2005 (A.P. Ordinance No. 21 of 2005) as promulgated by the Governor on the 11th September, 2005.

The Bill seeks to replace the said Ordinance.

[1][Amendment Act No. 23 of 2007]

According to Section 5 of the Andhra Pradesh District Planning Committees Act, 2005 (Act No. 40 of 2005), the members of the House of the People, the members of the Andhra Pradesh Legislative Assembly representing constituencies which are comprised wholly or partly in the District and Members of the Council of State representing the State shall be the permanent special invitees to the meetings of the District Planning Committee.

The Legislative Council of the State of Andhra Pradesh which has been created under the Andhra Pradesh Legislative Council Act, 2005 (Act No. 1 of 2006) has been constituted vide G.O.Ms.No. 208, General Administration (Election. F) Department, dated 30-3-2007.

It has therefore, been decided to amend the provision of Section 5 of the Andhra Pradesh District Planning Committees Act, 2005 suitably so as to include the Members of the Legislative Council of the State of Andhra Pradesh as special invitees to the District Planning Committees.

This Bill seeks to give effect to the above decision.

1. Appended to L.A. Bill No. 15 of 2007, Pub. in A.P. Gaz., Part-IV-A, Ext. No. 15, dated 20-7-2007.

1. Short title, extent and commencement:— (1) This Act may be called the Andhra Pradesh District Planning Committees Act, 2005.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force on the 30th December, 2003.

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

(a) *"Committee"* means the District Planning Committee constituted under Section 3;

(b) *"District"* means a district as construed in the Andhra Pradesh Districts (Formation) Act, 1974 (Act 7 of 1974);

(c) *"Government"* means the State Government;

(d) *"Municipalities"* means Municipal Corporations, Municipal Councils and Nagar Panchayats as constituted under the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) or the various Municipal Corporations established under the Andhra Pradesh Municipal Corporations Acts;

(e) *"Notification"* means a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;

(f) *"Panchayats"* means a Gram Panchayat or a Mandal Parishad and Zilla Parishad constituted under the Andhra Pradesh Panchayat Raj Act, 1994 (Act 13 of 1994);

(g) *"Population"* means the population as ascertained at the last preceding census of which relevant figures have been published;

(h) *"Prescribed"* means prescribed by rules made under this Act;

(i) *"State"* means the State of Andhra Pradesh.

3. Constitution of District Planning Committee:— (1) There shall be constituted for every district, a District Planning Committee, to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole and to exercise such other powers as may be entrusted to it by the Government from time to time.

(2) Every Committee shall in preparing the Draft Development Plan,—

(a) have regard to,–

(i) matters of common interest between the Panchayats and Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Government may, by order, specify.

(3) Where the term of the existing members of the Municipality or Panchayat has expired and the elected members cease to be members of the Committee then the Committee with remaining members shall continue to discharge the functions till new elections are held.

4. Composition of Committees:— (1) The Committee constituted under Section 3 shall consist of the following thirty members in each district, namely:—

(i) the Chairperson, Zilla Parishad, shall be the Ex-officio Chairperson of the Committee;

(ii) the District Collector shall be the Member Secretary;

(iii) four members to be nominated by the Government of whom one member shall be from the Minorities and three members shall be nominated from the experts of the subject;

(iv) twenty four members of the Committee shall be elected in the prescribed manner by and from amongst the elected members of the Zilla Parishad Territorial Constituencies and the Municipalities in the District by following the rule of reservation as specified in the Andhra Pradesh Panchayat Raj Act, 1994 (Act 13 of 1994):

Provided that the number of members to be elected from the rural and urban areas shall be as nearly as possible in proportion to the ratio between the population of the rural and urban areas of the district.

(2) The members nominated under clause (iii) of sub-section (1) shall hold office for such term as may be notified by the Government.

5. Special Invitees:— (1)(a) Members of the House of the People and Members of the State Legislative Assembly representing constituencies which are comprised wholly or partly in the district shall be permanent special invitees to the meetings of the Committee.

(b) Members of the Council of State representing the State shall also be the permanent special invitees to the meetings of the Committee of a district of their choice.

[1][(c) Members of the Legislative Council of the State shall also be the permanent special invitees to the meetings of the Committee of the District where he/she is a registered voter.]

(2) The Chairman of the Municipality and the Mayor of the Municipal Corporation in the district shall also be permanent special invitees in case they are not the elected members of the Committee.

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1. **Inserted by Act No. 23 of 2007.**

6. Term of elected members:— (1) An elected member of the Committee shall cease to be member thereof, if he ceases to be a member of the Municipality or Panchayat as the case may be.

(2) A vacancy arising under sub-section (1) or by reason of death or resignation of a member shall be filled in accordance with the provisions of Section 4.

7. Preparation of Development Plan:— (1) Every Gram Panchayat, Mandal Parishad, Zilla Parishad, Nagar Panchayat, Municipality, Municipal Corporation, in the district shall prepare a Development Plan before the beginning of the financial year taking into consideration the tax levied by them and the non-tax revenue received by them and the funds likely to be received from the Government and other departments or Agencies during the financial year and such a plan shall also include the human development or disaster mitigation initiatives proposed to be undertaken during the financial year.

(2) The Development Plan shall lay down the targets set under different development or performance indicators for the financial year.

8. Functions of the Committee:— The Committee shall perform the following functions, namely:—

(i) ensure that each Gram Panchayat or Mandal Parishad or Zilla Parishad or Nagar Panchayat or Municipality or Municipal Corporation in the district prepares a Development Plan for the financial year which shall be consolidated into the District Development Plan and shall be submitted to the Government for incorporation into the State Plan;

(ii) review from time to time the implementation of the Development Plan so prepared and monitor the achievements at the district level against the targets set under different development or performance indicators;

(iii) formulate draft five year plans of the district in their socio-economic, temporal and spatial dimensions;

(iv) make necessary recommendations to the Government concerning the development of the district;

(v) perform such other functions as entrusted by the Government subject to the guidelines issued from time to time.

9. Powers of the Committee:— (1) The Committee shall exercise such powers as may be notified under this Act or may be allotted to it by the Government in respect of the business of the Government.

(2) The Government may prescribe and notify the manner in which the powers so notified or allotted to the Committee may be exercised.

(3) White exercising such powers, the Committee shall be deemed to be a body subordinate to the Government and shall exercise these powers, for and on behalf of the Government.

10. Functions of the Member Secretary:— The Collector of the district shall be the Member Secretary of the Committee, and shall be responsible for maintaining the record of the Committee, preparing the records of discussions and communication of decisions and all other incidental ancillary matters.

11. Constitution of Sub-Committees:— The Committee may constitute such Sub-Committees consisting of members of the committee and the permanent special invitees to discharge one or more of the functions entrusted to it under this Act.

12. Meetings of the Committee:— (1) The meetings of the Committee shall be held at least once in every quarter of the financial year in such manner as may be prescribed.

(2) The meetings of the Committee shall be held on the scheduled date and time as may be prescribed at the District Headquarters.

(3) The Chairperson or in his absence a member elected by the members present shall preside over the meetings of the Committee.

(4) The Committee may invite experts to attend its meeting.

(5) The non-official member experts shall be paid such travelling and other allowances as may be prescribed, for attending the meetings.

(6) The Committee shall regulate its own procedure, subject to such rules as may be prescribed.

13. Power to remove difficulties:— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with the provisions thereof which appears to it to be necessary or expedient for the purpose of removing the difficulty.

14. Power to make rules:— (1) The Government may make rules to carry out the purposes of this Act.

(2) Every rule made under this Act, shall immediately after it is made be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen

days which may be comprised in one session or in two successive sessions and if before the expiry of session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. Repeal of Ordinance 10 of 2003 and Ordinance 21 of 2005:— The Andhra Pradesh District Planning Committees Ordinance, 2003 and the Andhra Pradesh District Planning Committees Ordinance, 2005 are hereby repealed.

10. THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1992[1]

[20th April, 1993]

Be it enacted by Parliament in the Forty third Year of the Republic of India as follows:—

1. Short title and commencement:— (1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992.

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

2. Insertion of new Part IX-A:— After Part IX of the Constitution, the following Part shall be inserted, namely:—

"PART IX-A

The Municipalities

243-P. Definitions:— In this Part, unless the context otherwise requires,—

(a) *'Committee'* means a Committee constituted under Article 243S;

(b) *'district'* means a district in a State;

(c) *'Metropolitan area'* means an area having a population of ten lakhs or more comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) *'Municipal area'* means the territorial area of a Municipality as is notified by the Governor;

(e) *'Municipality'* means an institution of self-Government constituted under Article 243-Q;

(f) *'Panchayat'* means a Panchayat constituted under Article 243B;

(g) *'Population'* means the population as ascertained at the last preceding census of which the relevant figures have been published.

243-Q. Constitution of Municipalities:— (1) There shall be constituted in every State,—

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

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1. Received the assent of the President on 20th April, 1993 and published in the Gaz. of India, (Ext.), Part II, Section 1, dated 20th April, 1993.
2. Came into force from 1.6.1993 vide S.O.346(E), dated 1.6.1993.

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243-R. Composition of Municipalities:— (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide—

(a) for the representation in a Municipality of—

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of Article 243-S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243-S. Constitution and composition of Wards Committees, etc.:— (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243-T. Reservation of seats:— (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality 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 by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.

(3) 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 by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in Article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

243-U. Duration of Municipalities, etc.:— (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,—

(a) before the expiry of its duration specified in clause (1);

(b) 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 Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

243-V. Disqualification for membership:— (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243-W. Powers, authority and responsibilities of Municipalities, etc.:— Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may

contain provisions of the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule.

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243-X. Power to impose taxes by, and Funds of, the Municipalities:— The Legislature of a State may, by law,—

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making, such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243-Y. Finance Commission:— (1) The Finance Commission constituted under Article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriate by the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243-Z. Audit of accounts of Municipalities:— The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

243-ZA. Elections to the Municipalities:— (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in Article 243-K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

243-ZB. Application to Union territories:— The provision of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under Article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union Territory having a Legislative Assembly to that Legislative Assembly

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union Territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243-ZC. Part not to apply to certain areas:— (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of Article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

243-ZD. Committee for district planning:— (1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the District Planning Committees ;

(b) the manner in which the seats in such Committees shall be filled:

Provided that no less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district ;

(c) the functions relating to district planning which may be assigned to such Committees ;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation ;

(ii) the extent and type of available resources whether financial or otherwise ;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243-ZE. Committee for Metropolitan Planning:— (1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees ;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area ;

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees ;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees ;

(e) the manner in which the Chairpersons of such committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area ;

(ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation ;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State ;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise ;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243-ZF. Continuance of existing laws and Municipalities:— Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier :

Provided that all Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243-ZG. Bar to interference by Courts in electoral matters:— Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243-ZF shall not be called in question in any Court ;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State."

3. Amendment of Article 280:— In clause (3) of Article 280 of the Constitution, sub-clause (c) shall be relettered as sub-clause (d) and before sub-clause (d) as so relettered, the following sub-clause shall be inserted, namely:—

"(c) the measures needed to augment the consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State."

4. Addition of Twelfth Schedule:— After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:—

"TWELFTH SCHEDULE

(Article 243-W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.

14. Burials and burial grounds, cremations, cremation grounds and electric crematoriums.
15. Cattle ponds, prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries."

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