

THE PONDICHERY MUNICIPALITIES ACT, 1973.

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THE PONDICHERRY MUNICIPALITIES ACT, 1973.

(No.9 of 1973)

(13-8-1973)

Chapter I Preliminary

1. **Short title and commencement.**— (1) This Act may be called the Pondicherry Municipalities Act, 1973.

(2). It extends to the whole of the Union territory.

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

Provided that different dates may be appointed for different provisions of this Act or for different areas, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. **Definitions.**— In this Act, unless the context otherwise requires.-

(1) "Administrator" means the Administrator of the Union territory of Pondicherry appointed by the President of India under article 239 of the Constitution.

(1A) "appoint" includes to appoint temporarily or in an officiating capacity;

(2) "appointed day" in relation to an area means the date on which the relevant provisions of this Act come into force in that area;

(3) "appointment" includes temporary and officiating appointment'

(4) "Assembly" means the Legislative Assembly of the Union territory of Pondicherry ;

(5) "building" includes—

(a) a house, out-house, stable, shop, hut, latrine, godown, shed, wall (other than a boundary wall not exceeding two and a half metres in height) and any other structure whether of masonry, bricks, mud, wood, metal, or any other material whatsoever;

(b) a structure on wheels or simply resting on the ground without foundations; and

(c) a ship, vessel, boat, tent, van and any other structure used for human habitation or used for keeping or storing any article or goods;

(9) "casual vacancy" means a vacancy occurring otherwise than by efflux of time and "casual election" means an election held on the occurrence of a casual vacancy;

(9A) "Chairman" and "Vice-Chairman" shall respectively mean the Chairperson and the Vice-Chairperson of a Municipal Council;

(10) "commissioner" means the Commissioner of a Municipality appointed under section 14;

(11) "commune" means a commune constituted under the French Decree dated 12th March, 1880;

(12) "company" means any company as defined in the Companies Act, 1956 (Central Act 1 of 1956), and includes—

(a) any foreign company within the meaning of section 591 of that Act;

(b) any co-operative society registered or deemed to be registered under the law relating to co-operative societies for the time being in force; and

- (c) any body corporate, or any firm or association carrying on business in the Union territory whether incorporated or not and whether its principal place of business is situated in the said Union territory or not;
- (13) "council" or "municipal council" means a municipal council constituted under section 7;
- (17) "Director" means a Director appointed under sub-section (1) of section 106;
- (18) "election authority" or "Election Commission" means the Commission consisting of the Election Commissioner appointed by the Administrator and referred to in section 15-A;
- (21) "Government" means the Government of the Union territory of Pondicherry;
- (22) "hut" means any building which is constructed principally of wood, mud, leaves, grass or thatch or metallic sheets and includes any temporary structure of whatever size or any small building of whatever material made, which the council may declare to be a hut for the purposes of this Act;
- (23) "latrine" means a place set apart for defecating or urinating or both and includes a closet of the dry or water-carriage type and urinal;
- (24) "local authority" means a Municipality or village panchayat or commune panchayat council, as the case may be, constituted under any law for the time being in force in the Union territory;
- (26-A) "Municipal area" means any local area declared to be a Municipality under section 3;
- (27) "municipal office" means the principal office of any municipal council;
- (28) "notification" means a notification published in the Official Gazette;
- (31) "ordinary vacancy" means a vacancy occurring by efflux of time and "ordinary election" means an election held to fill ordinary vacancy;
- (32) "owner" includes—
 - (a) the person for the time being receiving or entitled to receive whether on his own account or on behalf of another person as agent, trustee, guardian, manager or receiver or for any religious or charitable purpose the rents or profits of the property in connection with which the word is used; and
 - (b) the person for the time being in charge of the animal or vehicle in connection with which the word is used;
- (33-A) "panchayat" means a panchayat constituted under the Pondicherry Village and Commune Panchayat Act, 1973;
- (33-B) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (34) "prescribed" means prescribed by rules made under this Act;
- (39) "registration officer" means the Electoral Registration Officer appointed by the Election Commission by notification;
- (44) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the Union territory under article 341 of the Constitution;
- (46) "Union territory" means the Union territory of Pondicherry;
- (50) "Year" means the financial year.

CHAPTER II

Constitution and abolition of Municipalities

3. **Constitution of Municipalities:—** (1) The Administrator may, after making such inquiry as he deems fit, by notification, declare any local area to be Municipality.

(2) Every notification issued under sub-section (1) shall define the limits of the Municipality to which it relates.

CHAPTER III

Constitution or appointment of Municipal Authorities

6. **The municipal authorities :—** The municipal authorities charged with carrying out the provisions of this Act are:—

- (a) a council;
- (b) a chairman; and
- (c) a commissioner.

(a) COUNCIL

7. **Constitution of municipal council:—** (1) There shall be constituted for every Municipality a municipal council having authority over the Municipality and consisting of such number of councillors as may be notified by the Government:

Provided that when any municipal area is altered or when an existing council which was functioning immediately before the appointed day is deemed to have been succeeded by the municipal council, the number of councilors for each of the municipal councils shall be such as may be determined by the Government by order notified in the Official Gazette.

(2) A municipal council shall consist of :—

- (a) person chosen by direct election from the territorial constituencies in the Municipality and for this purpose each Municipality shall be divided into territorial constituencies to be known as wards;
- (b) two persons, who are not less than 25 years of age and who have special knowledge or experience in municipal administration to be nominated by the Government;
- (c) the member of the House of the People and the members of the Legislative Assembly of the Union territory representing constituencies which comprise wholly or partly the Municipality; and
- (d) the member of the Council of States who is registered as an elector within a Municipality:

Provided that the persons referred to in clause (b) shall not have the right to vote in the meetings of the municipal council.

8. **Incorporation of municipal council:—** The council constituted under section 7 shall by the name of the Municipality, be a body corporate, shall have a perpetual succession and a common seal and subject to any restriction or qualification imposed by this or any other enactment, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, of entering into contract and of doing all things necessary for the purpose of its constitutions.

9. **Reservation of seats:—** (1) There shall be reservation of seats for the Scheduled Castes in every municipal council 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 municipal council as the population of the Scheduled Caste in that Municipality bears to the total population of that area. The number of such reserved seats shall be determined by the Government by notification published in the Official Gazette:

(2) One-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes.

(3) One-third (including the number of seats reserved for women belonging to the Scheduled Castes) of the total number of seats to be filled by direct election in every municipal council shall be reserved for women.

(4) The offices of the Chairpersons in the municipal councils shall be reserved for the Scheduled Castes and women:

Provided that the number of offices of chairpersons reserved for the Scheduled Castes in the municipal councils shall bear, as nearly as may be, the same proportion to the total number of such offices in the municipal councils as the population of the Scheduled Castes in all the Municipalities bears to the total population of all the Municipalities, the number of such reserved offices being determined by the Government by notification published in the Official Gazette:

Provided further that as nearly as may be one-third of the total number of the offices of chairpersons in the municipal councils shall be reserved for women:

Provided also that while determining the number of reserved seats for women under sub-sections (2), (3) and (4), fractions, if any, shall be counted as one.

(5) The allotment of reserved seats under sub-sections (1), (2) and (3) and the allotment of reserved offices of chairpersons under sub-section (4) shall be made by the Election Commission, once in five years, by rotation to different constituencies in a municipal council or to the offices of chairpersons of different municipal councils, as the case may be. Such allotment shall be made in accordance with such procedure as may be prescribed and in such manner that a constituency in a municipal council or an office of chairperson of a municipal council is reserved again only after exhausting such reservation in respect of every other constituency or office of chairperson, as the case may be.

(6) The reservation of seats under sub-section (1) and (2) and the reservation of offices of chairpersons (other than the reservation for women) under sub-section (4) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.

(7) Nothing contained in this section shall be deemed to prevent the members of the Scheduled Castes and women from standing for election to the non-reserved seats and the non-reserved offices of chairpersons in the municipal councils.

10. **Duration of municipal councils.—** (1) Every municipal council, 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 municipal council shall be given a reasonable opportunity of being heard before its dissolution.

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

(a) before the expiry of its duration specified in sub-section (1); and

(b) before the expiration of a period of six months from the date of its dissolution:

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

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

(4) A casual vacancy of councillor shall be filled, subject to provisions of sub-section (2), at a casual election as soon as possible.

11. Procedure when no councillor is elected:— (1) If at an ordinary or casual election held under section 10 no councillor is elected, a fresh election shall be held on such day as the election authority may fix.

(2) If at such fresh election no councillor is elected, the council shall elect a qualified person to fill the vacancy in the manner prescribed.

(3) The term of office of a councillor elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

(b) Chairman

12. Chairman and Vice-Chairman of council :— There shall be a chairman and Vice-Chairman for every municipal council.

12-A. Election of chairman :— (1) (a) The chairman shall be elected by the persons whose names appear in the electoral roll for the municipal council from among themselves in accordance with such procedure as may be prescribed:

Provided that no person shall be eligible for election as chairman unless he has attained the age of twenty-five years.

(b) If at an ordinary or casual election no chairman is elected, a fresh election shall be held:

Provided that a person who contests for election as a councillor shall not be eligible to contest for election as chairman.

Provided further that no councillor shall be eligible for election as chairman.

(2) Election of the chairman may be held ordinarily at the same time and in the same place as the ordinary election of the members of the council is held.

(3) The term of office of the chairman who is elected at an ordinary election shall, save as otherwise expressly provided in sub-section (4), be five years beginning at noon of the day on which the ordinary vacancy occurs.

(4) Any casual vacancy in the office of the chairman shall be filled by fresh election and a person elected as chairman 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.

(5) Unless the Election Commission otherwise directs, no casual vacancy in the Office of the Chairman shall be filled within six months before the date on which the ordinary election of the Chairman under sub-section (1), is due.

(6) The provisions of sections 15 to 66 of Chapter IV shall, as far as may be, apply in relation to the office of the chairman as they apply in relation to the office of an elected member of the municipal council.

(7) The chairman shall have all the rights and privileges of an elected member of the municipal council.

12-B. Election of Vice-Chairman :— (1) The Vice-Chairman shall be elected by and from amongst the elected members of the municipal council in accordance with such procedure as may be prescribed.

(2) If at an election held under sub-section (1), no Vice-Chairman is elected, a fresh election shall be held for electing a Vice-Chairman .

12-C. Cessation of office of chairman and Vice-Chairman :— The chairman or Vice-Chairman shall cease to hold office as such,-

(a) in the case of the chairman , on his becoming disqualified for holding the office or on his removal from office or on the expiry of his term of office or in the event of dissolution of the council or on his otherwise ceasing to be a chairman ; and

(b) in the case of Vice-Chairman , on the expiry of his term of office as a councillor or in the event of dissolution of the council or on his otherwise ceasing to be councillor.

Chapter-IV

Election

(a) Election of councillors

15. Definitions.— In this Chapter, unless the context otherwise requires,-

(1) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(2) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(3) "electoral rights" means the right of a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate, or to vote or refrain from voting at an election;

(4) "returned candidate" means a candidate, whose name has been published under section 64 as duly elected;

(5) "tribunal" means an election tribunal appointed under section 52.

15-A. Election to municipal councils.— The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of , all elections to the municipal councils shall be vested in the Election Commission consisting of an Election Commissioner appointed under section 9A of the Pondicherry Village and Commune Panchayats Act, 1973.

16. Election of municipal councillors.— (1) For the purposes of election of councillors to a municipal council, the Government, after previous publication and hearing objections, if any, may by notification , divide the Municipality into wards.

(2) The Election Commission shall, after the previous publication in the prescribed manner, determine the wards in which the seats, if any, as determined under section 9 are to be reserved for the Scheduled Castes and or for the women.

(3) All the electors of a ward, irrespective of their community or sex, shall be entitled to vote at an election to any seat in the ward, whether reserved or not..

17. Election to more than one seat.— (1) If a person is elected to more than one seat in one or more municipal councils, then unless he resigns all but one of the seats by writing under his hand addressed to the election authority within the time specified in sub-section (2), all the seats shall become vacant.

(2) Such resignation shall be made-

- (a) where the date of declaration of the person elected to more than one seat is on the same day, fourteen days from that date; and
- (b) where the dates of declaration of the person elected to more than one seat are different, fourteen days from the last of such dates.

18. Qualifications for inclusion in electoral roll for Municipality and publication thereof.— (1) Every person who is qualified to be included in such part of the electoral roll for any Assembly constituency as relates to the Municipality or any portion thereof shall be entitled to be included in the electoral roll for the Municipality, and no other person shall be entitled to be included therein:

Provided that any person who is entitled to be included in a separate part of the electoral roll for such Assembly constituency by virtue of a statement referred to in section 20 of the Representation of People Act, 1950 (Central Act 43 of 1950), shall not be eligible for being included in the electoral roll for the Municipality prepared for the purposes of this Act, unless he makes an application giving the particulars of his address in the Municipality to the person authorised under sub-section (2) for such inclusion.

Explanation.— Where, in the case of an Assembly constituency, there is no distinct part of the electoral roll relating to the Municipality, all persons who are qualified to be included in such roll under the registration area comprising the Municipality and whose addresses are situated in the Municipality shall be entitled to be included in the electoral roll for the Municipality prepared for the purposes of this Act.

(2) The electoral rolls for a municipal council shall be prepared and published under the superintendence, direction and control of the Election Commission.

(3) The electoral roll for the Municipality shall be divided into separate parts for each ward.

(4) Every person whose name appears in the electoral roll for the Municipality shall so long as it remains in force and subject to any revision thereof which might have taken place and subject also to the other provisions of this Act, be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election:

Provided that no person shall vote at an election of member if he—

- (a) has been adjudged to be of unsound mind or is a deaf-mute, or
- (b) has voluntarily acquired the citizenship of a foreign State, or
- (c) has been sentenced by a criminal court for an electoral offence punishable under section 27 or section 38 or clause (a) of sub-section (2) of section 39 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and five years have not elapsed from the date of such sentence or disqualification provided that the disqualification under this clause may at any time be removed by the Government if it thinks fit.

Explanation.— In this section, the expression "Assembly constituency" shall mean a constituency provided by law for the purpose of elections to the Legislative Assembly of Pondicherry.

19. **Power to rearrange and republish electoral roll.**— Where after the electoral roll for a Municipality or any alterations thereto have been published under sub-section (2) of section 18 the Municipality is divided into wards for the first time or the division of the Municipality into wards is altered or the limits of the Municipality are varied, the Election Commission shall, in order to give effect to the division of the Municipality into wards or to the alteration of the wards or to the variation of the limits, as the case may be, cause a rearrangement and republication of the electoral roll for the Municipality or any part of such roll, in such manner as it may direct.

(b) Qualifications for membership of council

20. **Qualification of candidates.**— (1) No person shall be qualified for election as a councillor, unless the name of such person appears on the electoral roll of the Municipality and in the case of a seat reserved for Scheduled Castes and or women, he is himself a member of any of the Scheduled Castes, and or is a woman.

(2) No officer or servant of the Central Government or of any State Government or of a local authority or of any institution notified by the Government in this behalf shall be qualified for election or for holding office as a councillor:

Provided that this prohibition shall not apply to the holder of any office which does not involve both of the following incidents, namely that the incumbent—

- (a) is a whole-time servant of the Central Government or any State Government or of any local authority or of any institution so notified; and
- (b) is remunerated either by salary or fees:

Provided further that if any question arises either before or after an election whether any person is or is not disqualified under this sub-section, the question shall be referred to the Government whose decision shall be final.

21. **Disqualification of candidates.**— (1) A person who has been convicted and sentenced by a criminal court to imprisonment for any offence involving moral delinquency or for an offence punishable under the Protection of Civil Rights Act, 1955 (Central Act 22 of 1955) shall be disqualified for election as a councillor while undergoing the sentence and for five years from the date of the expiration of the sentence.

(2) Notwithstanding anything contained in sub-section (1), the Government may direct that such sentence shall not operate as a disqualification.

(3) A person shall be disqualified for election as a councillor if such person is at the last date for filing of nomination or at the date of election.—

- (a) of unsound mind, or a deaf, mute;
- (b) an applicant to be adjudicated an insolvent or an undischarged insolvent;
- (c) interested in a subsisting contract made with or any work being done for the municipal council except as a shareholder (other than a director) in a company:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of immovable property or any agreement for the same; or

- (ii) any agreement for the loan of money or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the council is inserted; or
- (iv) the sale to the council of any articles in which he regularly trades, or the purchase from the council of any article to a value in either case not exceeding fifteen hundred rupees in the aggregate in any year during the period of the contract or work;
- (d) employed as paid legal practitioner on behalf of the council or as legal practitioner against the council or as paid legal practitioner on behalf of the Government;
- (e) all officers or servants holding office under this Act, or any Honorary Magistrate having jurisdiction over the Municipality or any part thereof;
- (f) already a councillor whose term of office as such will not expire before his fresh election can take effect; or has already been elected a councillor whose term of office has not yet commenced;
- (g) a person who having held any office under the Central Government or any State Government or any local authority has been dismissed and is disqualified for further employment in any such office;
- (h) debarred from practicing as a legal practitioner; or
- (i) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the Municipality upto and inclusive of the previous years, in respect of which a bill or notice has been duly served upon him and the time if any specified therein for payment has expired;
- (j) a person who has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State.

22. Disqualification of councillors.— A person shall be disqualified for being chosen as, and for being, a councillor, if he—

- (a) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of section 21, unless the Government directs that such sentence shall not operate as a disqualification;
- (b) becomes of unsound mind or a deaf-mute;
- (c) applies to be adjudicated or is adjudicated as an insolvent;
- (d) subject to the proviso to clause (c) of sub-section (3) of section 21, acquires any interest in any subsisting contract made with, or work being done for, the council except as a share holder (other than a director) in a company;
- (e) is employed as paid legal practitioner on behalf of the council or accepts employment as a legal practitioner against the council or as paid legal practitioner on behalf of the Government.
- (f) is appointed as an officer or servant under this Act or as an Honorary Magistrate having jurisdiction over the Municipality or any part thereof.
- (g) accepts employment under any other council.
- (h) ceases to reside in the Municipality or within three and quarter kilometers thereof.
- (i) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the Municipality within three months after a bill or notice has been served upon him

under this Act, or where in the case of any arrear this Act does not require the service of any bill or notice within three months after a notice requiring payment of the arrear (which notice it shall be the duty of the Commissioner to serve at the earliest possible date) has been duly served upon him by the commissioner; or

- (j) absents himself from the meetings of the council for a period of six consecutive months reckoned from the date of commencement of his term of office, or of the last meeting which he attended or of his restoration to office as councillor under sub-section (4) , as the case may be, or if within the said period less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a councillor absents himself shall be counted against him under this clause if—

- (i) due notice of that meeting was not given to him, or
 - (ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting,
 - (iii) the meeting was held on a requisition of members.
- (k) is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislative Assembly of the Union territory:

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; and

- (l) if so disqualified by or under any law made by the Legislative Assembly of the Union territory.

(2) Where a person ceases to be a councillor under clause (a) of sub-section (1) or under section 63 he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence or order is annulled on appeal or revision or the disqualification caused by the sentence or incurred under section 63, is removed by an order of the Government and any person elected to fill the vacancy in the interim shall, on such restoration, vacate the office.

(3) where a person ceases to be a councillor under clause (j) of sub-section (1), the commissioner shall at once intimate the fact in writing to such person and report the same to the council at its next meeting. If such person applies for restoration of his own motion to the council on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the council may, at the meeting next after the receipt of such application, restore him to his office of councillor:

Provided that a councillor shall not be so restored more than twice during his term of office.

23. Decision on question of disqualification.— (1) Whenever it is alleged that any person who has been elected as a councillor is disqualified under sub-section (1) of section 20, section 21, section 22, section 24 or section 63, and such person does not admit the allegation or whenever any councillor is himself in doubt whether or not he has become disqualified for office under section 22 or section 24 or section 63, such councillor or any other councillor may, and the commissioner at the request of the council shall, apply to the Subordinate Judge having jurisdiction over the Municipality or if no Subordinate Judge has such jurisdiction to the District Munsiff having such jurisdiction.

(2) The said Subordinate Judge or District Munsiff, after making such inquiry as he deems necessary, shall determine whether or not such person is disqualified under sub-section (1) of section 20, section 21, section 22, section 24 or section 63.

(3) Pending such decision, the councillor shall be entitled to act as if he is not disqualified.

(4) Against any decision under sub-section (2) the councillor may, and the commissioner, at the request of the council, shall within thirty days from the date of such decision, appeal to the District Judge:

Provided that the District Judge may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(5) where an appeal has been preferred, under sub-section (4), the District Judge may, on sufficient cause being shown, stay the operation of the decision appealed from and in such a case, the decision appealed from shall be deemed never to have taken effect.

(6) The decisions of the District Judge on appeal under sub-section (4), and subject only to such decision, the decision of the Subordinate Judge or the District Munsiff under sub-section (2) shall be final.

24. Oath of affirmation to be made by councillors.— (1) Every person, who is elected to be a councillor shall, before taking his seat, make and subscribe before the Director or some person appointed in that behalf by him an oath or affirmation in the following form, namely:-

I, A.B., having been elected a councillor of the municipal council, do swear in the name of 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 person who, having been elected to be a councillor, fails, to make within three months of 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 or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

(3) Any person who has been elected to be a councillor shall not take his seat at a meeting of the council or do any act as such councillor unless he has made the oath or affirmations as laid down in sub-section (1).

(4) Notwithstanding anything contained in sub-section (3), a chairman or a member of a committee constituted under this Act, who has not made the oath or affirmation as councillor shall be entitled to act as such chairman or member:

Provided that he makes the oath or affirmation and takes his seat at the first meeting of the council which he attends within two months after he is elected as, or becomes entitled to exercise the functions of, the chairman or member, as the case may be.

Explanation.— For the purposes of this section, "chairman" includes Vice-Chairman exercising the functions of the chairman under sub-section 7 of section 12, the member appointed to be chairman under sub-section (2) of that section and the officer appointed by the Director to be ex-officio chairman under sub-section (8) of that section.

(c) Corrupt practices

25. Corrupt practices.— The following shall be deemed to be corrupt practices for the purpose of this Act:—

(1) "bribery", that is to say,—

(A) Any gift, offer or promise by 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 refrain 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 gratifications or gratifications 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.

(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:

Provided that-

- (a) without prejudice to the generality of the provision of this clause any such person as is referred to therein 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, or
 - (ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he has interest, 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.

(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 elections of that candidate or for prejudicially affecting the election of any candidate.

(5) 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.

(6) 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 the candidate himself, the members of his family or his agent), to or from any polling station or a place fixed for the poll:

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 or railway carriage 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.

(7) 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 any Municipality or any other local authority or the Central Government or any State Government and belonging to any of the following classes, namely:—

- (a) gazetted officer;
- (b) stipendiary Judges and Magistrates;
- (c) members of the Armed Forces of the Union;
- (d) members of the police forces;
- (e) excise officers; and
- (f) such other class of persons as may be prescribed.

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 the election with the consent of the candidate.

Explanation 2. For the purposes of clause (7), 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.

(d) Electoral offences

26. 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 voting and shall not (except for some purposes authorized 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 six months, or with fine, or with both.

27. **Promoting enmity between classes in connection with election.**— Any person who in connection with election under this Act promotes or attempts to promote on grounds of religion, race, caste community or language, feelings of 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, or with fine, or with both.

28. **Prohibition of public meeting on the day preceding the election day and on the election day.**— (1) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with hours 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 fine which may extend to two hundred and fifty rupees.

29. **Disturbances at election meeting.**— (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 with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any public meeting of a political character held in any ward between the date of the issue of notification calling upon the ward to elect a member 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.

30. **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 print 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 documents, where it is printed in the Pondicherry region to the Election Authority; and in any other region to such authority as may be prescribed.

(3) For the purposes of this section-

(a) any process of 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 purposes of promoting or prejudicing the election of a candidate a 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 (3) 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.

31. Officers etc., at elections not to act for candidates or influence voting.— (1) No person who is a Returning Officer, or an Assistant Returning Officer, or a presiding officer, or a polling officer at an election, or an officer or clerk appointed by the Returning Officer or the presiding 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 election 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, or
- (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.

(4) An offence punishable under sub-section (3) shall be cognizable.

32. 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 one hundred metres 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 fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

33. 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 megaphone or a loudspeaker; 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 willfully aids or abets the contravention of, the provisions of sub-section (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 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.

34. 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 authorized in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector 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.

35. Penalty for illegal hiring or procuring of conveyances at elections.— If any person is guilty of any such corrupt practice as is specified in clause (6) of section 25 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.

36. Breaches of official duty in connection with election duty.— (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.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceeding 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 Returning Officers, Assistant Returning Officers, presiding officers, polling officers, and any other persons appointed to perform any duty in connection with receipt of nominations or withdrawal of candidature, 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.

37. Penalty for municipal and Government servants, etc., for acting as election agent, polling agent or counting agent.— If any person in the service of the Central Government or of any State Government or of a local authority or any institution or class of institutions notified by the Government in this behalf, acts as an election agent or a polling agent or a counting agent of candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

38. Removal of ballot papers from polling stations to be an offence.— (1) Any person who at any election fraudulently takes or attempts to take, a ballot paper out of a polling station, or willfully 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 fine which may extend to five hundred rupees, 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 the 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.

39. 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
- (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 authorized by law to put in; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers there 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 willfully 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 a Returning Officer or 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.

(4) An offence punishable under sub-section (2) shall be cognizable.

40. Prosecution regarding certain election offences.— No court shall take cognizance of any offence punishable under section 31 or under section 36 or under clause (a) of sub-section (2) of section 39 except on a complaint in writing made by order of, or under authority from, the Government.

(e) Requisitioning of property for election purposes

41. Requisitioning of premises, vehicles, etc., for election purposes.- (1) If it appears to the Government or to an officer authorised by it (which Government or the officer is hereinafter referred to as the requisitioning authority) that in connection with an election under this Act—

- (a) any premises other than residential buildings actually occupied 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, vessel or animal is needed or is likely to be needed for the purpose of transport of 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 requisitioning authority may, by order in writing, requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with such requisitioning:

Provided that no vehicle, vessel or animal 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 requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner specified for the service of a notice under section 467 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.

(4) In this section,—

- (a) 'premises' means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;
- (b) 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

42. Payment of compensation.— (1) Whenever in pursuance of section 41 the requisitioning authority requisitions any premises, the municipal council shall pay to the persons interested compensation, the amount of which shall be determined by the requisitioning authority 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 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 to the Government within one month from the date of service of the order determining the compensation 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 the compensation or as to the apportionment of the amount of compensation it shall be referred by the requisitioning authority 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.— In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 41 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 41 the requisitioning authority requisitions any vehicle, vessel or animal, there shall be paid by the municipal council to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal, being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within one month from the date of service of the order determining the compensation 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 or vessel 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.

43. Power to obtain information.— The requisitioning authority may, with a view to requisitioning any property under section 41 or determining the compensation payable under section 42, 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 so specified.

44. Powers of entry into and inspection of premises, etc.— (1) Any person authorised in this behalf by the requisitioning authority may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 41 should be made in relation to such premises, vehicle, vessel or animal or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions 'premises' and 'vehicle' have the same meaning as in section 41.

45. Eviction from requisitioned premises.— (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 41 may be summarily evicted from the premises by any officer empowered by the requisitioning authority 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 buildings or do any other act necessary for effecting such eviction.

46. Release of premises from requisition.— (1) When any premises requisitioned under section 41 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any right in respect of the premises which any other person may

be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 41 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

47. Penalty for contravention of any order regarding requisitioning.— If any person contravenes any order made under section 41 or section 43, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(f) Dispute regarding elections

48. Election petition.— (1) 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 sub-section (1) of section 56 and section 57 to the tribunal by any candidate at such election, or by any person entitled to vote at such election within thirty days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidates at the election and the dates of their election are different, the later of those two dates.

49. 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 51 all the contesting candidates other than the petitioner and in any other case all the returned candidates; and
- (b) any other candidate against whom allegations of any corrupt practice are made in the petition.

50. Contents of the 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 practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt 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 (Central Act 5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

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

51. **Relief that may be claimed by the petitioner.**— A petitioner may claim all or any of the following declarations namely:—

- (a) that the election of all or any of the returned candidates is void; or
- (b) that the election of all or any of the returned candidates is void and that he himself or any other candidate has been duly elected;
- (c) that the election as a whole is void.

52. **Election tribunal.**— The Government shall appoint, by notification, any member of the judicial service not below the rank of the Subordinate Judge as an election tribunal for the trial of petitions in respect of an election under this Act. The tribunal shall deal with such petitions and proceedings in connection therewith in the prescribed manner.

53. **Powers of the tribunal.**— The tribunal shall have all 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, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of witnesses and requiring the deposit 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 the 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).

54. **Decision of the 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 all or any of the returned candidates to be void; or
- (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected; or
- (d) declaring the election to be wholly void.

55. **Other orders to be made by the tribunal.**— At the time of making an order under section 54 the tribunal shall also make an order—

- (a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—
 - (i) a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice; and

- (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and
- (b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that a person who is not a party to the petition shall not 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 against him, of calling evidence in his defence and of being heard.

56. Grounds for declaring election to be void.- (1) Subject to the provisions of sub-section (2) if the tribunal is of opinion-

- (a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be elected as a councillor under this Act; or
- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected,-
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interests of the returned candidate (by an agent other than his election agent), or
 - (iii) by the improper reception, refusal or rejection of any vote or the reception, of any vote which is void, or
 - (iv) by any non-compliance with the provisions of this Act or any rules or orders made under this Act,

the tribunal shall declare the election of the returned candidate to be void.

(2) 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 but the tribunal is satisfied—

- (a) that 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 consent of the candidate or his election agent;
- (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and
- (c) that in all other respects the election was free from any corrupt 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.

57. **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, claimed 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 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.

58. **Procedure in case of an equality of votes.**— If during the trial of an election petition it appears that 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 purposes of the petition; and
- (b) in so far as that question is not determined on 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.

59. **Communication of the orders of the tribunal and the transmission of the records of the case to the Election Authority.**— The tribunal shall send a copy of its orders made under section 54 or section 55 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 Election Authority.

60. **Appeal against the order of the tribunal.**— An appeal from an order passed by the tribunal under section 54 or section 55 shall lie to the High Court:

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.

61. **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 60 shall be final and conclusive.

62. **Orders when to take effect.**— An order of the tribunal under section 54 or section 55 shall take effect immediately after the expiry of the period of an 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.

63. **Disqualification of persons convicted of election offences.**— Every person convicted of any of the offences punishable under sections 26 to 39 or under Chapter X-A of the Indian Penal Code, 1860 (Central Act 45 of 1860), shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of municipal councillor for a period of five years from the date of his conviction.

(g) Miscellaneous

64. **Publication of the results of election.**— (1) Where a general election is held for the purpose of constituting new municipal council there shall be notified by the Election Authority in the Official

Gazette, as soon as may be after the date ordinarily fixed for the completion of the election, under the provisions of this Act or of the rules made thereunder, the names of the members elected for the various wards of each municipal council by that date and upon the issue of such notification that municipal council shall be deemed to be duly constituted:

Provided that the issue of such notification shall not be deemed-

- (a) to preclude the completion of the election in any ward or wards for which poll could not be taken for any reason on the date originally fixed for the purpose; or
- (b) to affect the duration of the municipal council, if any, functioning immediately before the issue of the said notification.

(2) Where a bye-election is held for the purpose of filling the vacancy of any seat or seats in a municipal council, there shall be notified by the Election Authority in the Official Gazette as soon as may be after the date originally fixed for the completion of the election under the provision of this Act or of the rules made thereunder the name or names of the member elected for the ward or wards by that date.

65. Power to make rules regulating elections.— (1) The Government may, by notification, make rules generally to provide for or to regulate matters in respect of elections to be held under this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) maintenance of the electoral rolls and their publications;
- (b) notification of the elections;
- (c) administrative machinery for the conduct of elections;
- (d) the nominations of candidates, form of nomination paper, objections to nomination, scrutiny of nominations;
- (e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the council;
- (f) the assignment of symbols to candidates;
- (g) the withdrawal of candidature;
- (h) the appointment of agents of candidates;
- (i) the form of ballot paper;
- (j) the procedure in contested and uncontested elections;
- (k) the steps to be taken to prevent personation of voters;
- (l) the manner of recording votes;
- (m) the procedure to be followed in respect of challenged votes and tendered votes;
- (n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes;
- (o) the custody and disposal of papers relating to elections;
- (p) the circumstances in which poll may be suspended or held afresh;
- (q) appointment of tribunal, procedure for filing election petitions including deposit of security and costs of election petitions;

(r) any other matter relating to elections which is to be or may be prescribed under this Act.

66. **Jurisdiction of civil courts barred.**— No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

Chapter VI

108. Power of Government to remove Chairman.—

(12) Any person in respect of whom a notification has been issued under sub-section (11) removing him from the office of Chairman, shall be ineligible for election as Chairman and for holding any of those offices until the date on which notice of the next ordinary election to the municipal council is published in the prescribed manner or the expiry of one year from the date specified in the notification whichever is earlier.

108 A. Power of Government to remove Vice-Chairman.-

(2) The provisions of sub-sections (2) to (12) of section 108 shall, as far as may be, apply in relation to the removal of the Vice-Chairman as they apply in relation to the removal of the Chairman by the Government on its own motion.

109. Dissolution of council.-

(3) An election to constitute the council shall be completed before the expiration of a period of six months from the date of its dissolution.

Chapter XXII

505. **Repeal and savings.**— Subject to the provisions of this Chapter, all laws in force in the Union territory corresponding to the provisions of this Act, including French Decrees, dated the 12th March, 1880, 10th May, 1882, 29th October, 1912 and 17th July, 1936 and the Pondicherry Municipal Councils (Election) Act, 1966, (1 of 1966) shall in so far as they are applicable to the Municipalities specified in Schedule II, stand repealed as from the appointed day:

Schedule II

| Sl. No. | Region | Name of the municipal council | Name of the existing council or municipal committee |
|---------|-------------|-------------------------------|---|
| (1) | (2) | (3) | (4) |
| 1. | Pondicherry | Pondicherry municipal council | (1) Pondicherry municipal council (2) Mudaliarpeth municipal council |
| 2. | Karaikal | Karaikal municipal council | Karaikal municipal council |
| 3. | Mahe | Mahe municipal council | Mahe municipal council |
| 4. | Yanam | Yanam municipal council | Yanam municipal council |