

An act to consolidate and amend the law relation to the Municipal Government of Delhi. Be it enacted by Parliament in the Eighth Year of the Republic of India as follows: -

Chapter - 1

Preliminary

1. Short title, extent and commencement-

1. This act may be called. The Delhi Municipal Corporation Act, . 1957.
2. Except as otherwise provided in this Act, it extends only to Delhi.
3. The provisions of this Act, except this section which shall come into force at once shall come into force on such date as the Central Government may, by notification in the Official Gazettee, appoints.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provisions to the commencement of this Act shall be construed 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 National Capital Territory of Delhi; (1A) " Appellate Tribunal" means an Appellate Tribunal constituted under section 347;
2. "budget-grant" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Corporation and includes any sum by which such budget-grant my be increased or reduced by transfer from or to other heads in accordance with provisions of this Act and the regulations made thereunder
3. "building" means a house, hut-house stable, latrine, urinal, shed, hut, wall (offer than boundary wall) or any other structure, whether of masonry, bricks, wood, mud, metal or other material but does to include any portable shelter.
4. "bye-law" means a bye-law made under this Act, by notification in the Official Gazette;
5. "casual vacancy" means vacancy occurring otherwise than by efflux of time in the office of a councilor or an alderman or in any other elective office;
6. "Commissioner" means the Commissioner of the Corporation;
7. "Corporation" means the Municipal Corporation of Delhi established under this Act;
8. "Corrupt practice" means any of the practices specified in section 22;
9. "dangerous disease" means-
 - a. cholera, plague, chicken-pox, small-pox, tuberculosis, leprosy, enteric fever, cerebrospinal meningitis and diphtheria; and
 - b. any other epidence, endemic; or infections disease which the Commissioner may, by notification in the Official Gazette, declare to be a dangerous disease for the purpose of this act;
10. "Delhi" means the entire area of the Union territory of Delhi except New Delhi and Delhi Cantonment.
11. "Delhi Cantonment" means the area for the time being within the local limits of the Delhi Cantonment Board;
12. * * * * *
13. * * * * *
14. * * * * *

14A * * * * *

15. "darain" includes a sewer, a house drain, drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sewage, offensive matter, polluted water, waste water, rain water or sub-soil water;

15A "Election Commission" means the Elections Commissions of the National Capital Territory of Delhi referred to in Section 7;

15B "Election Commission" means the Elections Commissions of the National Capital Territory of Delhi appointed by the Administrative under section 7;

16. "Entertainment" includes nay exhibition, performance amusement, game or sport to which persons are ordinarily admitted on payment;
17. "factory" means a factory as defined in the factories Act, 1948 (63 of 1948);
18. "filth" includes offensive matter and sewage;
19. * * * * *
20. * * * * *
21. "goods~ includes animals

21A

"Government" means the Government of the National Capital Territory of Delhi

22. "House –gully" or "service passage" means a passage or strip of land constructed, set apart or utilized or the purpose of serving as or carrying a drain or affording access to a latrine, urinal cesspool or other receptacle for filth or other polluted matter, by municipal employed in the cleansing thereof or in the removal of such matter therefrom;
23. "hut" means any building which is constructed principally of wood, bamboo, mudleaves, grass cloth or thatch and includes any structure of whatever material made which the Corporation may declare to be a hut for the purposes of this Act.
24. "Land" includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over nay street;
25. "licensed architect", "licensed draughtsman", "licensed engineer", "licensed plumber", "licensed surveyor" and " licensed town planner" means respectively a person licensed under the provision of this Act as an architect draughtsman, engineer, plumber, surveyor and town planner;
26. "market" includes any place where persons assembly for the sale of, or for the purpose of exposing for sale, meat, fist, fruits, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place notwithstanding that there may be no common regulation for the concourse of buyers and seller and whether or not any control is exercised over the business of, or the person frequenting, the market by the owner of the place or by any other person;
27. "member" in relation to the Corporation means [****]
28. "municipal authority" means any of the municipal authorities specified in section 44;
29. "municipal market" means a market vested in or managed by the Corporation;
30. "municipal slaughter house" means a slaughter house vested in or managed by the Corporation;
31. * * * * *
32. "New Delhi" means the area within the boundaries described in the First Schedule;
33. "nuisance" includes any act, omission, lace, animal or thing which causes or is likely to cause injury, 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 injuries to health or property;
34. "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 payable;
 - B. an owner in occupation of, or otherwise using his hand or building,
 - C. a rent-free tenant of any land or building
 - D. a license in occupation of any land or building; and
 - E. any person who is liable to pay to the owner damages for the use and occupation of any land or building;

"Offensive matter" includes animal carcasses, kitchen or stable refuse, dung, dirt and putrid or putrefying substances other than sewage;

"Official Gazette" means the Official Gazette of the Union territory of Delhi;

"Owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or being whether on his own account or on account of himself and other or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant and also includes--

- . the custodian evacuee property in respect of evacuee property vested in him under the Administration of Evacuee Property Act, 1950 (31 of 1950); and
- a. the estate officer to the Government of India, the Secretary of the Delhi Development Authority, constituted under the Delhi Development Act, 1957 (61 of 1957), the General Manager of a railway and the head of a Government department, in respect of properties under their respective control;

"premises" means any land or building or part of a building and includes --

- . the garden, ground and out-houses, if any, appertaining to a building or part of a building; and
- a. any fittings affixed to a building or part of building for the more beneficial enjoyment thereof;

"private street" means any street, which is not a public street and includes any passage securing access to two or more places belonging to the same or different owners;

"private market" means a market which is not a municipal market;

"private slaughter house" means a slaughter house which is not a municipal slaughter house;

>"public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not;

"public securities" means any securities of the Central Government or a State Government or any securities issued under this Act or any debentures issued by the Bombay, Calcutta or Madras Municipal Corporation;

"public street" means any street which vests in the Corporation as public street or the soil below the surface of which vests in the Corporation or which under the provisions of this Act becomes, or is declared to be, a public street' aforesaid which is so produced in the course of any trade or carried on at those premises, but does not include domestic sewage;

"trade premises" means any premises used or intended to be used for carrying on any trade or industry;

"trade refuse" means the refuse of any trade or industry;

"urban areas" means the area of Delhi which are not rural areas;

"vehicle" includes a carriage, car van, dray, truck, hand-cart, bicycle, tricycle, cycle-rikshaw, auto-rikshaw, motor vehicle and every wheeled conveyance which is used or is capable of being used on a street;

"ward" means a municipal ward provided by order made under section 5 for the purpose of election of councilors;

63A "ward committee" means the Wards Committee referred to in section 50;

"water course" includes any river, stream or channel whether natural or artificial;

* * * * *

"workshop" means any premises (including the precincts thereof) other than a factory, wherein any industrial process is carried on;

"year" means a year commencing on the 1st day of April.

"zone" means a zone referred to in section 3A]

Notes

This Section deals with the definitions of various terms used in the Act which are 68 in number. The meaning given to a particular term under this section is to be applied unless and until the context, wherein a particular term is used, otherwise requires. *Dial Singh vs. Gurudwara Sri Akal Takht Air 1928 Lahore 325*. The law does not permit a Court to ignore the statutory definition of a term or to proceed to extract the meaning of an expression independently. The Courts should opt to adopt the clear definition of any clause and should

interpret it accordingly. *Nana Rao vs. Arunachalam* AIR 1940 Madras 385 The Courts have no jurisdiction to correct or amend the definition of any term in the interpretation clause. *Mordway vs. Sate* AIR 1954 V. P. 24.

Chapter II

The Constitution of the Corporation

Corporation

1. Establishment of the Corporation –

1. With effect from such as the Central Government may, by notification in the Official Gazette, appoint, there shall be a Corporation charged with the municipal Government of Delhi, to be known as the Municipal Corporation of Delhi.
2. The Corporation shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this act, to acquire hold and dispose of property of property and may by the said name sue and be sued.
 45. "railway administration" has the meaning assigned to in the India Railway Act 1890 (9 to 1890);
 46. "rate layer" means a person liable to pay any rate, cess or license fee under the Act;
 47. "rateable value" means the value of any land or building fixed in accordance with the provision of this Act and the bye-laws made thereunder for the purpose of assessment to property taxes;
 48. "regulation" means a regulation made [by the Corporation] under this Act, by notification in the Official Gazette.;
 49. "reside",--
 - a. a person shall be deemed to "reside" in any dwelling house which or some portion of which he sometimes, although not uninterruptedly, uses as a sleeping apartment, and
 - b. a person shall not be deemed to cease to "reside" in any such dwelling house merely because he is absent from it or has elsewhere another dwelling house in which he resides, if there is the liberty of returning to it any time and no abandonment of the intention of returning to it;
 50. "rubbish" includes ashes broken bricks, broken glass, dust, malba mortar and refuse of any kind which is not filth;
 51. "rule" means a rule made by Central Government under this Act, by notification in the Official Gazette;
 52. "rural areas " means the areas of Delhi which immediately before the establishment of the Corporation are situated within the local limits of the District Board of Delhi established under the Punjab District Board Act, 1883 (Punjab Act 20 of 1883), but shall not include such portion thereof as may, virtue of a notification under section 507, cease to be included I the rural areas as herein defined;
 53. "Scheduled caste" means any of the Scheduled Castes specified in Part I of the Scheduled to the Constitution (Scheduled Castes) (Union Territories) Order, 1951;
 54. "sewage" means night-soil and other contents of latrine, urinals, cesspools or drains, and polluted water from sinks, bath-rooms, stables, cattle sheds and other like place and includes trade effluents and discharged form manufactories of all kinds;
 55. "shed" means a slight or temporary structure for shade or shelter;
 56. "Slaughter house" means any place ordinarily used for the slaughter or animals for the purpose of selling the flesh thereof for human consumption;
 57. "Street" includes any way, road, lane, square, court, alley, gully, passage, whether a thoroughfare or not and whether build upon or not, over which the public have a right of way and also the road way or footway over any bridge or causeway;

58. 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

3.

ss. The Corporation shall be composed of the councilors;

tt. The following persons shall be represented in the Corporation, namely: -

- i. ten persons, who are not less than 25 years of age who have special knowledge or experience in municipal administration, to be nominated by the Administrated proved the persons nominated under this sub-clause shall not have the right to vote in the meetings of the Corporation
 - ii. members of the House of the People representing constituencies which comprise wholly or partly the area of the Corporation and the members of the Council of States registered as electors within the area of the Corporation
 - iii. as nearly as possible one-fifth of the members of the Legislative Assembly of the National Capital Territory of Delhi representing constituencies which comprise wholly or party the area of the Corporation to be nominated by the Speaker of that Legislative Assembly by rotation every year: Provided that while nominating such members by rotation the Speaker shall ensure that as far as possible all the members are given an opportunity of being represented in the Corporation at least once during the duration of the Corporation
 - iv. The Chairpersons of the Committees, if any, Constituted under sections 39, 40 and 45, if they are not councilors].
2. Councilors shall be chosen by direct election on the basis of adult suffrage from various into which Delhi shall be divided in accordance with the provisions of this Act,
 3. The total number of councilors shall at the establishment of the Corporation be eighty; Provided that twelve out of the eighty seats of councilors shall be reserved of the members of the Scheduled Castes.
 4. Upon the Completion of each census after the establishment of the Corporation the number of seats shall be on the basis of the population of Delhi as ascertained at that census and shall be determined by the Central Government by notification in the Official Gazette and the number of seats to be reserved for the members of the Scheduled Castes, shall, as nearly as may be, bear the same ratio to the total number of seats as the population of Scheduled Castes bears to the total population of Delhi.

Provided that the total number of seats shall in no case be more than one hundred and thirty-four or less than eighty;

Provided also that for the first election to the Corporation to be held immediately after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, the provisional population figures of Delhi as published in relation to 1991 census shall be deemed to be the population of Delhi as ascertained in that census;

Provided also that seats reserved for Scheduled Castes may be allotted by rotation to different wards in such manner as the Central Government may, be order published in the Official Gazette, direct,”

5. Seats shall be reserved for women belonging to Schedueld Castes, form among the seats reserved for the Scheduled Castes, the number of such seats being determined by the Central Government by order published in the Official Gazette which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes
6. eats shall be reserved for women, the number of such seats being determined by order published in the Official Gazette by the Central Government which shall not be

less than the one-third of total number of seats other than those reserved for the Scheduled Castes;

Provided that such seats reserved for women shall be allotted by rotation to different wards in such manner as the Central Government may by order published in the Official Gazette direct in this behalf.

2.

3A Division of Delhi into Zones.

7. Delhi shall be divided into the number of zones specified in column 1 of the Fourteenth Schedule and each zone shall be known by the name specified in column 2 of that Schedule and each zoned shall extend to the areas comprised in the wards specified against the zone is column 3 of the said Scheduled.
8. The Central Government may, after consultation with the Government, from time to time, by notification in the Official Gazette, after the names, increase or diminish the areas or any zone specified in column (3) of the Fourteenth Schedule.

2. **Duration of the Corporation.**

1. The Corporation unless sooner dissolved under section 490, shall continue for five years for the date appointed for its first meeting and no longer;
2. An election to constitute the Corporation shall be completed,-

xiv. before the expiry of its duration specified in sub-section (1);

xv. 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 Corporation would have continued is less six months, it shall not be necessary to hold any election under sub-section for constituting the Corporation for such period.

2. **Delimitation of wards-**

1. For the purposes of election of councilors, Delhi shall be divided into single-member wards in such manner that the population of each of the wards shall, so far as practicable, be the same throughout Delhi.
2. The Central Government shall, by order in the Official Gazette, determine, -

ss. the number of wards,

tt. the extent of each wards : [* * * *]

uu. the wards in which seats shall be reserved for the Scheduled Castes.]

vv. the wards in which seats shall be reserved for women; and

ww. the manner in which seats shall be rotated under sub-sections (6) and (8) of section 3.

5A * * * *]

2. **Power to alter delimitation orders-**

The Delhi Corporation, with the previous approval of the Central Corporation Government, may, from time to time by order in the Official gazette, alter or amend any order under section 5.

3. **Election to the Corporation**

1. The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections of the Corporation shall be vested in the Election Commissioner of the National Capital Territory of Delhi consisting of an Election Commissioner to be appointed by the Administrator.

2. Subject to the provisions of any law made by the legislative Assembly of the National Capital Territory Delhi, the conditions of service and tenure of office of the Election Commissioner shall be such as the Administrator may by rules determine.

Provided that the Election Commissioner shall not be removed from office except in a like manner and on the like grounds as a Judge of High Court and the conditions of service of the Election Commissioner shall not be varied to the disadvantage after his appointment.

3. The Administrator shall, when so requested by the Election Commission make available to court Commission such staff which the Administrative considers necessary for discharge of the functions conferred on the Election Commission by sub-section (1)

7A. Electoral roll of ever ward – For every ward there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and rules made thereunder.

7B. Electoral registration officers

4. The Electoral roll for each ward shall be prepared and revised by an electoral registration officer who shall be such officer of Government or the Corporation as the [Election Commission may in consultation with the Government] designate or nominate in this behalf.
5. To assist the electoral registration officer in the discharge of his function under sub-section (1) the [Election Commission may in consultation with the Government] designate or nominate in this behalf.

7C. Assistant Electoral registration officers –

6. The Election Commissioner may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his function.
7. Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

7D. Registration of electors- The person entitled to be registered as electors in the electoral roll of a [assembly] constituency in Delhi as relates to the area comprised within a ward shall be entitled to be so registered in the electoral roll of that ward and the provisions in this behalf in the Representation of the People Act, (43 of 1950)

7E Preparation and revision of electoral rolls-

8. The electoral roll for each ward shall be prepared before each general election in such manner as may be prescribed by rules by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made for the purpose; Provided that if the [Election Commission] is satisfied that, instead of preparing a fresh electoral roll of ward before general election, it would be sufficient to adopt the electoral roll of the [assembly] constituency for the time being in force as relates to the ward, it may, by order, for reasons to be specified therein, direct that the electoral roll of the [assembly] constituency for the time being in force as relates to the ward shall, subject to any rules made for the purpose, be the electoral roll of the ward for the general election.
9. The electoral roll prepared or adopted, as the case may be under sub-section (1) shall-
 - ss. unless otherwise directed by the [Election Commission] for reasons to be recorded in writing, be revised in the manner prescribed by rules by reference

to the qualifying date before each by election to fill a casual vacancy in a seat allotted to the ward; and

- tt. be revised in any year in the manner prescribed by rules by reference to the qualifying date if such revision has been directed by the Central Government;

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

Notwithstanding anything contained in sub-section (2), the Central Government may, at any time, for reasons to be recorded in writing, direct a special revision of the electoral roll for any ward or part of a ward in such manner as it may think fit;

Provided that the electoral roll for the wards as in force at the time of the issue of any such direction shall continue to be in force until the completion of the special revision so directed.

Explanation: - In this section, the expression "qualifying date" means such date as the Central Government may, by order, specify in this behalf.

7F. Correction of entries in electoral roll – If the electoral registration officer, on an application made to him or on his own motion, is satisfied after such inquiry as he thinks fit that any entry in the electoral roll for any ward-

- K. is erroneous or defective in any particular; or
- L. should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within such ward; or
- M. Should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident within such ward or that he is otherwise not entitled to be registered in the electoral roll of such ward, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

7G. Inclusion of name in electoral roll –

- 14. Any person whose name is not included in the electoral roll of ward may apply to the electoral registration officer for the inclusion of his name in that roll.
- 15. The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein;

Provided that if the applicant is registered in the electoral roll of any other ward, the electoral registration officer shall inform the electoral registration officer of the ward, and that officer, shall on receipt of the information, strike off the applicant's name from the roll.

- 16. No amendment, transposition or deletion of any entry shall be made under section 7F and no direction for the inclusion of a name in the electoral roll of a ward shall be given under this section after the last date for making nominations for an election in that ward and before the completion of that election.

7H. Appeal- An appeal shall lie within such time and such manner as may be prescribed by rules to the [Election Commission] from any order of the electoral registration officer under section 7F. or section 7G.

7I. Jurisdiction of civil courts board - No civil court shall have jurisdiction.

- q. to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a ward; or
- r. to question the legality of an action taken by or under the authority of an electoral registration officer or of any decision given by the [Election Commission] in the electoral roll for a ward.

Qualification of councilor ship –

A person shall not be qualified to be Chosen as a councilor [unless he has attained the age of 21 years and his name] is registered as an Provided that in the case of a seat reserved for the Scheduled Castes, a person shall not be so qualified unless he is also a member of any of said castes. Provided further that in the case of a seat reserved for women no person other than a woman shall be qualified to be chosen as a councilor

Disqualifications for membership of corporation

- 0. A person shall be disqualified for chosen as, and kind for being, a councilor. [* * * * *]
 - . if he is of unsound mind and stands so declared by a competent court;
 - a. if he is an undischarged insolvent;
 - b. if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State.
 - c. if he is so disqualified by or under any law for the time being in force for the purpose of elections to the Legislative Assembly of the National Capital Territory of Delhi;
 - d. if he is so disqualified by or under any law made by the Legislative Assembly of the National Capital Territory of Delhi.
 - e. if he holds any office of profit under the Government; [or Central Government]
 - f. if he is licensed architect, draughtsman, engineer, plumber, surveyor or town planner or is a partner of a firm of which any such licensed person is also a partner;
 - g. if he is interested in any subsisting conduct made with, or nay work being done for, the Corporation excepts as a shareholder (other than director) in an incorporated company or as a member of a co-operative society;
 - h. if he retained or employed in any professional capacity either personally or in the name of a firm of which he is a partner or with which he is engaged in a professional capacity, in connection with any cause or proceeding in which the Corporation or any of the municipal authorities is interested or concerned.
 - i. if he, having held any office under the Government, the Corporation or any other authority, has been dismissed for corruption or disloyalty to the State unless a period of four years has elapsed since his dismissal or the disqualification has been removed by the [Election Commission].
 - j. if he fails to pay any arrears of any kind due to him, otherwise than as a agent, receiver, trustee or an executor, to the Corporation within three months after a notice in this behalf has been served upon him.
- 1. Notwithstanding anything contained in sub-section (1). [* * * * *]
 - a. a person shall not be deemed to have incurred any disqualification under clause (F) or clause of that sub-section by reason only of his receiving.
 - i. any pension; or
 - ii. any allowance or facility for serving as the Mayor or Deputy Mayor or as a councilor[* * *]
 - iii. any fee for attendance at meetings of any committee of the Corporation;]
 - b. a person shall not be deemed to have any interest in a contact or work such as is referred to in clause (i) of that sub-section by reason only of his having a share or interest in-

- i. any lease, sale, exchange 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 Corporation is inserted; or
 - iv. the sale to the Corporation or to any municipal authority or any officer or other employee of the corporation on behalf of the Corporation, of an article in which he regularly trades or the purchase from the Corporation or from any such authority officer or other employee on behalf of the Corporation of any article of a value in either case not exceeding five thousand rupees in the aggregate in any year during the period of the contract or work; or
 - v. the letting out on hire to the Corporation or the hiring from the Corporation of any article of the value not exceeding two thousand rupees in the aggregate in any year during the period of the Contract or work; or
 - vi. any agreement or contact with the Corporation or any municipal authority for any goods or service which is Corporation may generally supply.].
2. If a person sits or votes as member of the Corporation when he knows that he is not qualified or that he is disqualified for such membership, he shall be liable in respect of each day on which he so sits or votes to a penalty three hundred rupees to be recovered as an arrear of tax under this Act.

Right to vote -

Every person whose name is, for the time being, entered in the electoral roll for a ward shall be entitled to vote at the election of a councillor from that ward.

General elections of councillors

- 0. A general election of councillors shall be held for the purpose of constituting the Corporation under section 3.
- 1. [(2)* * * * *]
- 2. For the aforesaid purpose the [Election Commission] shall, by one or more notifications published in the Official Gazette, call upon all the wards to elect councillors in accordance with the provisions of this Act and the rules and orders made thereunder before such date or dates as may be specified in the notification or notifications;

Provided that where in any ward a seat has been reserved for the Scheduled Caste, such notification or notifications shall specify that the person to fill that seat shall belong to one of the said castes.

[Provided further that where in any ward a seat has been reserved for woman, such notification or notification shall specify that the person to fill that seat shall belong to one of the said castes.

[Provided further that where in any ward a seat has been reserved for women, such notification or notification shall specify that the person to fill that seat shall be a woman.]

Filling of casual vacancies in councillorship-

- 0. When a casual vacancy occurs in the office of a councillor the [Election Commission] shall, as soon as may be after the occurrence of such vacancy and subject to the provisions of sub-section
- 1. By a notification in the Official Gazette, call upon the ward concerned to elect a person for the purpose of filling the vacancy in accordance with the provisions of this Act and

the rules and orders made thereunder before such date as may be specified in the notification.

Provided that no election shall be held to fill a casual vacancy occurring within [Six months] prior to the holding of a general election under section 11.

2. If the vacancy be a vacancy in a seat reserved for the Scheduled Castes and notification issued under sub-section(1) shall specify that the person to fill that seat shall belong to one of the Scheduled Castes.
3. If the vacancy be a vacancy in a seat reserved for women the notification issued under sub-section (1) shall specify that the person to fill that seat shall be a woman.]

[13.* * * * *]

Publication of result of election –

The names of all persons elected as councilors shall as far as may be after each election be published by the Election Commission simultaneously in the Official Gazette.

Warding election

Warding election petitions-

No Election of a councilor [* * *] shall be called in question except by an election petition presented to the court of the district judge of Delhi within fifteen days from the date of the publication of the result of the election under section 14.

An election petition calling in question any election may be presented under any of the grounds specified in section 17 by any candidate at such election, by any elector of the ward concerned or by a councilor].

A petitioner shall join as respondents to his petition all the candidates at the election.

An election petition –

- a. shall contain a concise statement of the material facts on which the petitioner relies
- b. shall, with sufficient particulars, set forth the ground or grounds on which the election is called in question; and
- c. shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the verification of pleadings.

Election petition for getting an election declared void and for a further declaration that the petitioner was duly elected, the returned candidate is not entitled to plead prove that the petitioner himself was guilty of corrupt practices and was therefore not entitled to be declared as elected, Such a Plea raised by a returned candidate which is of the nature of recrimination as contemplated by Section 97 of the Representation of the People Act, 1951 is not maintainable under any of the provisions of Delhi Municipal Corporation Act, 1957. *Sudershan Bhalla vs. Shri R.N. Aggarwal*, *Chief Justice, Delhi. ILR (1975) 2. Del. 359: Item No. 236 DHCYD 1975.*

Grounds that may be claimed by the petitioner –

A petitioner may claim-

- a. a declaration that the election of all or any of the returned candidates is void, and
- b. in addition there to, a further declaration that he himself or any other candidate has been duly elected.

The expression “returned candidate” means a candidate whose name has been published in the Official Gazette under section 14.

Provisions for declaring elections to be void-

Subject to the provision of sub section-

if the court of the district judge is of opinion.



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- [Chief Election Officer D](#)
- [Election Commission of](#)

- a. that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as councillor.
- b. that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agents, or
- c. that any nomination paper 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 interest of the returned candidate by a person other than that candidate or his agent or a person acting with the consent of such candidate or agent, or
 - iii. by the improper acceptance or refusal of any vote or reception of any vote which is void, or
 - iv. by the non-compliance with the provisions of this Act or of any rules or orders made thereunder.

If in the opinion of the court, a returned candidate has been guilty by an agent of any corrupt practice, but the court is satisfied-

- a. that no such practice was committed at the election by the candidate, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate;
- b. that the candidate took all reasonable means for preventing the commission of corrupt practice 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 court may decide that the election of the returned candidate is not valid.

In consideration of the question whether a presiding officer is acting as a person designate or Court, the important points to be investigated are the source of his authority, the nature of proceedings and the action taken thereon. A persona designate, as the phrase implies, is an individual as distinguished from a member of a class. The law confers power on the District Judge to enquire into and dispose of an election petition and he functions as Court but not as persona designate. *Municipal Corporation vs. Ramachandra Laxman* – AIR 1960 Bom. 58.

Where jurisdiction is conferred on a civil court or on a judge who usually preside over them, it is always a question of the nicety to determine whether the matter is so heard and determined by a court of law or by a persona designate. It is well established that even where a special jurisdiction is conferred on a Judge, it does not invariably follow that the jurisdiction is conferred on the Civil Court over which he usually happens to preside. The District Judge under the Municipalities Act is not a civil court but an ad-hoc tribunal created by Act for the purpose of settling election disputes under it *Janardan vs. Hira Lal*- 1957 M.P.L.J. 170 (Nag)

Procedure to be followed by the district judge -

The procedure provided in the Code of Civil Procedure, 1908 (5 of 1908), in regard to suits shall be followed by the court of the district judge as far as it can be made applicable, in the trial and disposal of an election petition under this Act.

Order of the District judge-

At the conclusion of the trial of an election petition, the court of the district judge 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 any other candidate to have been duly elected.

If any person who has filed an election petition, has in addition to calling in question the election of the candidate, claimed declaration that he himself or any other candidate has been duly elected and the court or the district judge is of

- 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 the petitioner or such other candidate

would have obtained a majority of the valid votes.

The court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidates, as the case may be, to have been duly elected.

Provision in case of equality of votes –

On 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, the court or the district judge shall decide between them by lot and proceed as if the one on whom the lot falls had obtained an additional vote.

Finality of decision

An order of the court or the district judge on an election petition shall be final and conclusive.

An election of a councillor [* * * *] not called in question in accordance with foregoing provisions shall be deemed to be a good and valid election.

Chapter II

Corrupt practice and electoral offences

1. Corrupt practices-The following shall be deemed to be corrupt practice for the purposes of this Act: -

1. Bribery as defined in clause (1) of section 123 of the Representation of the people Act, 1951 (43 of 1951).
2. Under influence as defined in clause (2) of the said section,
3. The systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion 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 that candidate's election.
4. The publication by a candidate or his agent or by other person 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 being a statement reasonably calculated to prejudice the prospects of that candidate's election.
5. 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 for the conveyance of any elector (other than the candidate himself, and the member of this family or his agent) to or from any polling station provided in accordance with the rules made under this Act;

Provided that the hiring of vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to or from any such polling station 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 any tramcar or railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station 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.

6. The holding of any meeting in which intoxication liquors are served.
 7. The issuing of any circular, placard or poster having a reference to the election which does not bear the name and address of the printer and publisher thereof.
 8. Any other practice which the Central Government may by rules specify to be a corrupt practice.
 - 9.
2. Maintenance of secrecy of voting
 1. Every officer or 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 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-sections (1) shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.
 3. Officers, etc at election not to act for a candidate or to influence voting
 1. No person who is a returning officer, or an assistant returning officer or a presiding officer or 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 or a member of a police force shall the conduct or management of the election do any act (other than the giving of votes) for the furtherance of the prospects of the election of a candidate.
 2. No such person as aforesaid shall endeavor-
 - 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 for a term which may extend to six months, or with fine, or with both.
 4. Prohibition of canvassing in or near polling station and of public meeting on election day
 1. No person shall, on the date or dates on which the 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 yards 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. exhibition any notice or sign (other than official notice) relating to the election.
 2. No person shall convene, hold or attend any public meeting within any ward on the date or dates on which a poll is taken for an election in the ward.
 3. Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to two hundred and fifty rupees.
 4. An offence punishable under this section shall be cognizable.
 5. Penalty for disorderly conduct in or near polling station-
 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 officer and other person 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 for a term 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 step and use such force, as may be reasonable necessary for preventing any contravention of the provisions of sub-section(1), and may seize any apparatus used for such contravention.
5. An offence punishable under this section shall be cognizable.

Penalty for misconduct at the polling station-

Any person who during the hours fixed for the poll at any polling station, misconduct himself or fails to obey the lawful direction 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.

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 the station.

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.

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

Breaches of Official duty in connection with election

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.

NO suit or other legal proceedings shall lie against any such person for damages in respect of any such omission as aforesaid.

- g. the procedure in contested and uncontested elections and the special procedure at elections in ward where any seat is reserved for the Scheduled Castes [and women] .
- h. the date, time and place for poll and other matters relating to the conduct of elections including.
 1. the appointment of polling stations for each wards.
 2. the hours during which the polling station shall be kept upon for the causing of votes.
 3. the printing and issue of ballot papers,
 4. the checking of votes by reference to the electoral roll,
 5. with indelible ink of the left forefinger or any other finger or limb of the voter and prohibition of the deliver of any ballot paper to any person if at the time such person applies for such paper he has already such mark so as to prevent personation of votes. the manner in which votes are to be given and in particular in the case of illiterate voters or of votes under physical or other disability. >
 6. the procedure to be followed in respect of challenged votes and tendered votes.
 7. the security of votes, counting of votes, the declaration of the results and the procedure in case of equality of voters or in the event of a councillor being elected to represent more than one ward.
 8. the holding of a fresh poll in the case of destruction of or tempering with ballot boxes before the count.
 9. the countermanding of the poll in the case of the death of a candidate before the poll;
 10. the requisitioning of premises, vehicles, vessels or animals, payment of compensation in connection with such requisitioning, eviction from requisitioned premises and release of premises from requisition;

- i. [* * * * *]
 - j. the fee to be paid on an election position.
 - k. any other matter [relating to electoral roll or elections] or election disputes in respect of which the Central Government deems it necessary to make rules under this section or in respect of which this Act makes no provisions or makes insufficient provision and provisions, in the opinion of the Central Government necessary.
2. (2) In making any rule under this section the Central Government may provide that any contraventions there of shall be punishable with fine which may extend to one hundred rupees.

(3) For the purpose of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of any 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.

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

(5) No court shall take cognizance of any offence under section 24, or under section 28, on under clause (a) of sub-section (2) of this section unless there is complaint made by order of or under authority from the [Election Commission]

Chapter II

Power to make rules

31. Power to make rules regulation the election of councilors –

(1) The central Government may make rules to provide for or regulate all or any of the following matters [for the purpose of preparation, revision and maintenance of electoral rolls of wards and holding election] of councilors[* * * * *] under this Act namely: -

(a) the particulars to be entered in the electoral rolls];

(aa) the preliminary publication of electoral roll;

(ab) the manner in which and the time within which claims and objection as to entries in electoral roll may be preferred.

(ac) the manner in which and the time within which claims and objections as to entries in electoral roll may be preferred.

(ac) the manner in which notices of claims or objections shall be published.

(ad) the place, date and time at which claims or objections shall be heard and the manner in which claims or objection shall be heard and disposed of;

(ae) the final publication of electoral rolls;

(af) the revision and correction of electoral rolls and inclusion of names therein;

(ag) the manner in which and the purpose for which the electoral roll of [an assembly] constituency may be used;

- (ah) the correction of electoral rolls on change of extent or boundaries of wards;
- (c) the appointment of returning officers, assistant returning officers, presiding officers and polling officer for the conduct of elections;
- (d) the nomination of candidates, from of nominations papers, objections to nominations and scrutiny of nominations.
- (e) The deposits to be made by candidates, time and manner of making such deposits and the circumstances under which deposits may be returned to candidates or forfeited to the Corporation.
- (f) The withdrawl of candidates;
- (g) The appointments of agents of candidates;
- (h) The procedure in contested and uncontested election and the special procedure at elections in ward where any seat is reserved for the Scheduled Castes [and women]
- (i) The date, time and place for poll and other matters relating to the conduct of elections including.
 - (i) the appointment of polling stations for each ward,
 - (ii) the hours during which the polling station shall be kept open for the casting of votes
 - (iii) the printing and issues of ballot papers.
 - (iv) The checking of votes by reference to the electoral roll,
 - (v) The marketing with indelible ink of the left forefinger or any other finger or limb of the voter and prohibition of the deliver of any ballot paper to any person if at the time such person applies for such paper he has already such mark so as to prevent of votes.
 - (vi) The manner in which votes are to be given and in particular in the case of illiterate voters or of voters uner physical or other disability
 - (vii) The manner in which votes are to be given and in particular in the case of illiterate voters or of voters under physical or other disability.
 - (viii) The procedure to be followed in respect of challenged votes and tendered votes,
 - (ix) The security of votes, counting of votes, the declaration of the results and the procedure in case of equality of voters or in the event of a councilor being elected to represent more than one ward.
 - (x) The countermanding of the poll in the case of destruction of or tempering with ballot boxes before the count,
 - (xi) The countermanding of the poll in the case of the death of a candidate before the poll.

(xii) The requisitioning of premises, vehicles, vessels or animals, payment of compensation in connection with such requisitioning, eviction from requisitioning premises and release of premises from requisitions;]

[(i) * * * * *]

(j) the fee to be paid on an election petition;

(k) any other matter [relating to electoral rolls or elections] or elections disputes in respects of which the Central Government deems it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient and provisions and provisions is, in the opinion of the Central Government necessary.

(2) In making any rule under this section the Central Government may provide that any contravention thereof shall be punishable with fine which may extend to one hundred rupees.