

(For official use only)



EXTRACTS

FROM THE

RAJASTHAN MUNICIPALITIES ACT, 2009

(Relevant provisions governing elections to municipalities in Rajasthan)

**STATE ELECTION COMMISSION,
RAJASTHAN, JAIPUR**

2009

PART – I

EXTRACTS FROM THE RAJASTHAN MUNICIPALITIES ACT, 2009

INDEX

SECTION	SUBJECT	PAGE NO.
CHAPTER I		
<i>Preliminary</i>		
1	Short title, extent and commencement	1
2	Definitions	1
CHAPTER II		
<i>Constitution and Government of Municipalities</i>		
3	Delimitation of Municipalities.	5
4	Power to exempt Municipal Board from operation of any provisions of the Act unsuited thereto.	7
5	Establishment and incorporation of Municipality.	8
6	Composition of Municipality.	8
7	Term of office.	10
8	Municipal government to vest in Municipality.	10
9	Division into wards.	11
10	Determination of wards.	11
11	Election to the Municipality.	12
12	Delegation of functions of State Election Commission	12
13	Electoral Roll for every ward.	12
14	Disqualifications for registration in an electoral roll.	13
15	Making false declaration.	14
16	Chief Electoral Officer.	14
17	District Election Officers.	14
18	Staff of local authorities etc. to be made available.	14
19	Officers and staff deemed to be on deputation to the State Election Commission.	15
20	Breach of official duty in connection with the preparation etc. of electoral rolls.	15
21	Persons qualified for being members.	15
21A.	Restriction on contesting elections for more than one ward.	16
22	Restriction on contesting elections for more than one ward.	16
23	Restrictions on use of vehicles, loud-speakers etc.	17
24	General disqualifications for members.	17
25	Right to vote.	20
26	Manner of voting at election.	20
27	Casual vacancy how to be filled.	20
28	Electoral offences.	21
29	Corrupt practices.	21
30	Jurisdiction of civil courts in electoral matters.	24

EXTRACTS FROM THE RAJASTHAN MUNICIPALITIES ACT, 2009

SECTION	SUBJECT	PAGE NO.
31	Election petition.	24
32	Appeals from orders of District Judge.	25
33	Procedure where election of all candidates is set aside.	25
34	Finality of orders and decision.	26
35	Disqualifications.	26
36	Removal or reduction of period of disqualification.	26
37	Oath of office.	26
38	Resignation.	26
39	Removal of member.	26
40	Inquiry into certain allegations after expiry of term of office.	28
41	Disability of members removed under section 39	28
42	Restriction on simultaneous holding of the office of a member in Municipality and the membership of Parliament or State Legislative Assembly or a Panchayati Raj Institution.	29
43	Every Municipality to have a Chairperson and a Vice - Chairperson.	29
44	Determination of validity of election of Chairperson or Vice - Chairperson.	31
	* * * * *	
50	Handing over charge.	31
	* * * * *	
CHAPTER III		
<i>Conduct of Business and Ward Committee</i>		
53	Motion of non-confidence against Chairperson.	33
	* * * * *	
CHAPTER XVI		
<i>Rules, Regulations and Bye-Laws</i>		
337	Power of State Government to make rules and orders.	34
338	Power of State Government to make regulations.	37
340	Power of Municipality to make bye-laws.	39
341	Rules and bye-laws to be printed and sold.	39
CHAPTER XVII		
<i>Miscellaneous</i>		
342	Offences by companies.	40
343	Power to remove difficulties.	40
344	Repeal and Savings.	40

PART – II

MISCELLANEOUS

Sr. No.	SUBJECT	PAGE NO.
1	Gazette Notification dt. 15.09.2009 issued by Local Self Government Department	42
2	Rajasthan Municipalities (Election) (Amendment) Rules, 2009 (Notification dt. 15.09.2009)	43 – 44
3	The Rajasthan Prevention of Defacement of Property Act, 2006	45 – 48

PART – I

***EXTRACTS FROM THE
RAJASTHAN MUNICIPALITIES
ACT, 2009***

THE RAJASTHAN MUNICIPALITIES ACT, 2009*

(Act No. 18 of 2009)

[Received the assent of the Governor on the 11th day of September, 2009]

An

Act

to consolidate and amend the laws relating to the Municipalities in the State of Rajasthan and to provide for matters connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixtieth Year of the Republic of India, as follows:-

CHAPTER I

Preliminary

1. Short title, extent and commencement.- (1) This Act may be called the Rajasthan Municipalities Act, 2009.

(2) It extends to the whole of the State of Rajasthan, excluding cantonment areas therein.

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

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

* * * * *

(ii) "Backward Classes" means such backward classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified by the State Government from time to time;

* * * * *

(ix) "building" means a structure constructed for whatever purpose and of whatever materials, and includes the foundation, plinth, walls, floors, roofs, chimneys, fixed platforms, verandas, balconies, cornices or projections or part of a building or anything affixed thereto or any wall (other than a boundary wall of less than three meters in height) enclosing, or intended to enclose, any land, sign or outdoor display structure but does not include a tent, shamiana or tarpaulin shelter;

* * * * *

* Published in Rajasthan Gazette extraordinary Part 4 (Ka) on dt. 11.09.2009.

** Came into effect from dt. 15.09.2009, vide notification no. F.10(Ka) Elec/L.S.G./09/1971 dt. 15.09.2009, issued by Local Self Government Department, Government of Rajasthan.

- (xi) "bye-laws" mean the bye-laws made under this Act;
- (xii) "Chairperson" means,-
 - (a) Chairman, in case of a Municipal Board;
 - (b) President, in case of a Municipal Council; and
 - (c) Mayor, in case of a Municipal Corporation;
- (xiii) "Chief Municipal Officer" means,-
 - (a) the Chief Executive Officer-cum-Commissioner, in case of a Municipal Corporation;
 - (b) the Commissioner, in case of a Municipal Council; and
 - (c) the Executive Officer, in case of a Municipal Board;
- (xiv) "clear days" used with reference to the period of notice under any provision of this Act, includes Sundays and other holidays, but does not include the date of receipt of such notice by the person to whom it is addressed or the date specified in the notice;
- (xv) "complex" means a building comprising twenty five or more units, in case of commercial use; and ten or more units, in case of residential use;
- (xvi) "corporator" means a member of a Municipal Corporation;
- (xvii) "councillor" means a member of a Municipal Council;

- * * * * *
- (xxi) "Director of Local Bodies" mean an officer appointed as such by the State Government, or any other officer of the State Government, designated as Commissioner or any other designation, authorized by it to perform the functions of the Director of Local Bodies under this Act;

- * * * * *
- (xxiii) "District Magistrate" means the person appointed under section 20 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) to be the District Magistrate;

- * * * * *
- (xxxiv) "latest census figures" mean the figures as ascertained at the last preceding census of which the relevant figures have been published;

* * * * *

(xxxvi) "member" means any person who is lawfully a member of a Municipality and includes, in case of a Municipal Corporation, a corporator, in case of a Municipal Council, a councillor and in case of a Municipal Board, a member;

* * * * *

(xxxix) "municipal area" means the territorial area of a Municipality as notified by the State Government from time to time;

* * * * *

(xlii) "Municipality" means a Municipal Corporation, Municipal Council, and a Municipal Board in existence at the time of commencement, or constituted in accordance with the provisions of this Act;

(xlili) "No Objection Certificate" means the document issued by the authority entitled to do so by this Act or rules made thereunder and shall include a provisional No Objection Certificate;

* * * * *

(xlvii) "officer of the Municipality" means a person holding for the time being an office created or continued by or under this Act but shall not include a member of the Municipality or of a committee as such;

(xlviii) "other agency" means a company, firm, society, or body corporate in the private sector, or any institution, or government agency, or any joint sector agency, or any agency under any other law for the time being in force;

(xlix) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as an agent or trustee for any person or society or for any religious or charitable purpose or as a receiver who would receive such rent if the land or the building or of any part of the land or the building were let to a tenant;

(l) "population", used with reference to any local area, means the population as ascertained at the last preceding census of which the relevant figures have been published;

(li) "prescribed" means prescribed by this Act or by rules, orders or bye-laws made thereunder;

* * * * *

- (lvi) "rules" mean a rule made in exercise of a power conferred by this Act;
- (lvii) "Scheduled Castes" mean any of the castes specified in the Constitution (Scheduled Castes) Order, 1950;
- (lviii) "Scheduled Tribes" mean any of the tribes specified in the Constitution (Scheduled Tribes) Order, 1950;

* * * * *

(lx) "State " means the State of Rajasthan as formed by section 10 of the State Reorganisation Act,1956 (Central Act No. 37 of 1956);

* * * * *

(lxv) "a transitional area", "a smaller urban area" or "a larger urban area" means an area specified under Article 243Q of the Constitution of India;

* * * * *

(lxvii) "vehicle" includes a bicycle, a tricycle, an auto-motor car and every wheeled conveyance, which is used or is capable of being used on a public street;

(lxviii) "Vice-Chairperson" means-

- (a) Vice-Chairman, in case of a Municipal Board,
- (b) Vice-President, in case of a Municipal Council, and
- (c) Deputy Mayor, in case of a Municipal Corporation;

(lxix) "village" means a village specified under clause (g) of Article 243 of the Constitution of India;

(lxx) "ward" means a ward formed under section 9;

* * * * *

(lxxiii) "whole number" or "total number" when used with reference to the members of a Municipality, means the total number of members, excluding the members

nominated under sub-clause (ii) of clause (a) of sub-section (1) of section 6, holding office at the time.

CHAPTER II

Constitution and Government of Municipalities

3. Delimitation of Municipalities.- (1) The State Government may, by notification published in the Official Gazette, declare any local area not included within the limits of a Municipality to be a Municipality, or include any such area in a Municipality, or exclude any local area from a Municipality, or otherwise alter the limits of any Municipality and when-

- (a) any local area is declared as, or included in, a Municipality, or
- (b) any local area is excluded from a Municipality, or
- (c) the limits of a Municipality are otherwise altered, by amalgamation of one Municipality into another or by splitting up a Municipality into two or more Municipalities, or
- (d) any local area ceases to be a Municipality,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette provide ,-

- (i) in a case falling under clause (a), that the election of the members for the area or the additional area shall be held within a period of six months from the appointed day;
- (ii) in a case falling under clause (b), that the members who in the opinion of the State Government represent the area excluded from the Municipality shall be removed;
- (iii) in a case falling under clause (c), that until the term of the Municipality in which another Municipality is amalgamated expires under this Act, the Chairperson, Vice-Chairperson and members of such another Municipality shall be deemed to be the members of the Municipality in which such another Municipality is amalgamated and where a Municipality is split into two or more Municipalities, that the members representing the area included in the newly constituted Municipality shall be deemed to be the members of such new Municipality and such new Municipality shall continue, unless dissolved sooner, until original Municipality would have continued;
- (iv) in a case falling under clause (d), that the Municipality shall be dissolved.

Explanation.- In this sub-section, "appointed day" means the day from which a change referred to in any of the clauses (a) to (d) takes effect.

(2) It shall be the duty of every Municipality already existing and of every Municipality newly established under this Act and of every Municipality whose local limits

are altered as aforesaid to cause at its own cost, to be erected or set up, and thereafter to maintain, substantial boundary marks of such description and in such positions as shall be approved by the Collector or any officer authorized by him in this behalf, defining the limits or altered limits of the Municipality subject to its authority, as set forth in the notification.

(3) When any local area ceases to be a Municipality, the Municipality established therein shall cease to exist, and the balance of the municipal fund and other property and rights vesting in such Municipality shall, subject to all charges and liabilities affecting the same, vest in the State Government and the proceeds thereof, if any, shall be expended under the orders of the State Government for the benefit of the local area in which such Municipality had jurisdiction.

(4) Notwithstanding anything contained in sub-section (3), when any local area ceases to be a Municipality and is included within the local limits of the jurisdiction of some other local authority, the municipal fund and other property and rights vesting in the Municipality shall vest in such other local authority and the liabilities of the Municipality shall be the liabilities of such other local authority.

(5) When any local area is excluded from a Municipality and included in another Municipality, such portion of the municipal fund and other property vested in the first mentioned Municipality shall vest in, and such portion of the liabilities thereof shall be the liabilities of, the other Municipality as the State Government may, after consulting both Municipalities, declare by notification in the Official Gazette:

Provided that the provisions of this sub-section shall not apply in any case where the circumstances, in the opinion of the State Government, render undesirable the transfer of any portion of the municipal fund and properties or liabilities.

(6) When a dwelling house, manufactory, warehouse, or place of industry or business is situated within the limits of two or more adjacent municipal areas, the State Government may, notwithstanding anything contained elsewhere in this Act, by notification in the Official Gazette, declare the municipal area within which such dwelling house, manufactory, warehouse, or place of industry or business shall be deemed to be included for the purposes of this Act.

(7) When any local area is included in a Municipality, all rules and bye-laws made, orders, directions, notifications and notices issued and powers conferred and in force throughout such Municipality at the time when the said area is so included, shall apply thereto, unless the State Government otherwise directs, from the date of such inclusion.

(8) When an area comprised in a village is specified as, or when any area is excluded from the village and included in, a municipal area, then with effect from the date on which such area is so specified or is so included, the following consequences shall ensue, namely: -

- (a) such area shall cease to be a village;

- (b) the Municipality in which such area is included or the Municipality declared for such area shall exercise jurisdiction over such area and the panchayat established for such area shall cease to function therein;
- (c) until elections are held under sub-section (1) or the term of the Municipality expires under this Act, whichever is earlier, the Sarpanch, Up-Sarpanch and the panch or panchas representing the area of the village so included in, or declared as a Municipality shall be deemed to be the additional members of the Municipality in which such area of the village is included or the Chairperson, Vice-Chairperson and the members respectively of the Municipality declared for such area, as the case may be;
- (d) the whole of the assets vesting in, and of the liabilities subsisting against, the panchayat so declared to be a Municipality or in case where only a part or whole of a village is so included in a Municipality, such portion of the said assets and liabilities as the State Government may direct, shall devolve upon the Municipality declared for such area or upon the Municipality in which such area of the village is so included;
- (e) the Municipality so established by the inclusion of any area of a village therein or by the declaration of a village as a Municipality, shall levy or continue to levy such of the taxes as are lawfully imposed under this Act;
- (f) any such area shall cease to be subject to all rules, notifications, orders and bye-laws made under the Rajasthan Panchayati Raj Act, 1994 (Act No.13 of 1994).

(9) For the purpose of facilitating the inclusion of any area of a village in a Municipality or of the declaration of any such area as a Municipality, the State Government may, by order in writing, give such directions as may appear to it to be necessary.

(10) Save as otherwise provided in this section its provisions shall have effect notwithstanding anything contained in this Act or in the Rajasthan Panchayati Raj Act, 1994 (Act No.13 of 1994) or any other law for the time being in force.

4. Power to exempt Municipal Board from operation of any provisions of the Act unsuited thereto.- (1) The State Government may, by notification, and for reasons to be recorded in writing, exempt any Municipal Board from the operation of any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such Municipal Board until such provisions are applied thereto by notification.

(2) While a notification under sub-section (1) remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions from operation of which the Municipal Board is exempted.

5. Establishment and incorporation of Municipality.- (1) In every transitional area, there shall be established a Municipal Board and every such Municipal Board shall be a body corporate by the name of the Municipal Board of the place by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue or be sued in its corporate name.

(2) In every smaller urban area, there shall be established a Municipal Council and every such Municipal Council shall be a body corporate by the name of the Municipal Council of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) In every larger urban area, there shall be established a Municipal Corporation and every such Municipal Corporation shall be a body corporate by the name of the Municipal Corporation of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name:

Provided that a Municipality under this section may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification, specify to be an industrial township:

Provided further that having regard to the cultural, historic, tourist or other like importance of an urban area, the State Government may, by notification in the Official Gazette, exclude such area from the Municipality and constitute, or without excluding such area from the Municipality constitute in addition to the Municipality, a development authority to exercise such powers and discharge such functions in the said area as may be prescribed and notwithstanding anything elsewhere in this Act, may, in relation to such area, delegate, by notification in the Official Gazette, such municipal powers, functions and duties to the said authority as it may think appropriate for the proper, rapid and planned development of such area.

6. Composition of Municipality.- (1) Subject to the provisions contained in the succeeding sub-sections, but save as provided in the following provisions of this sub-section, all seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies known as wards, the number of such seats, not being less than thirteen, being fixed by the State Government from time to time by notification in the Official Gazette: -

- (a) the following shall represent in the Municipal Board, Municipal Council or, as the case may be, Municipal Corporation, viz.:-
 - (i) the member of the Rajasthan Legislative Assembly representing a constituency which comprises wholly or partly the area of a Municipality; and

- (ii) three persons or ten percent of the number of elected members of the Municipality, whichever is less, having special knowledge or experience in municipal administration, to be nominated by the State Government by notification in the Official Gazette:

Provided that-

- (i) the provisions contained in section 24 and section 35 shall be applicable to the persons to be nominated or nominated members;
 - (ii) the State Government shall have power to withdraw a nominated member at any time;
 - (iii) a nominated member shall not have the right to vote in the meetings of a Municipality;
- (b) the member of the House of the People representing a constituency which comprises wholly or partly the area of a Municipal Council or, as the case may be, a Municipal Corporation shall represent on such Council or such corporation:

Provided that the member referred to in sub-clause (i) of clause (a) shall have a right to vote in the meetings of a Municipal Board, a Municipal Council or, as the case may be, a Municipal Corporation, and the member referred to in clause (b) shall have a right to vote in the meetings of a Municipal Council or Municipal Corporation:

Provided further that the members referred to in sub-clause (i) of clause (a), and clause (b) shall not be subject to any disqualification or any other proceedings under the provisions of this Act.

(2) Upon the completion of each census after the establishment of the Municipality, the number of seats shall be re-determined by the State Government by notification in the Official Gazette on the basis of the population of the municipal area as ascertained at the latest census:

Provided that the determination of seats as aforesaid shall not affect the existing composition of the Municipality until the expiry of its term.

(3) In so fixing the total number of seats for a Municipality, the State Government shall specify the number respectively of general seats and of seats reserved for women and for members of the Scheduled Castes or for members of the Scheduled Tribes or for both or persons belonging to the Backward Classes as it may in each case determine.

(4) The number of seats reserved for members of Scheduled Castes or Scheduled Tribes shall, in relation to the total number of seats fixed for a Municipality, bear as nearly as may be, the same proportion as the population of the Scheduled Castes or Scheduled Tribes in the municipal area bears to the total population thereof.

(5) The percentage of seats reserved for the Backward Classes shall be such as the percentage of the combined population of Scheduled Castes and Scheduled Tribes in relation to the total population in the municipal area falls short of fifty:

Provided that the percentage of seats so reserved for the Backward Classes shall not exceed twenty-one:

Provided further that at least one seat shall be reserved for the Backward Classes in every Municipality where the percentage of the combined population of Scheduled Castes and Scheduled Tribes in relation to the total population in the municipal area does not exceed seventy.

(6) One half of the seats reserved for the Scheduled Castes or the Scheduled Tribes or the Backward Classes shall be reserved for the women belonging to such Castes, Tribes or, as the case may be, Classes.

(7) One half including the number of seats reserved under sub-section (6) of the total number of seats shall be reserved for women.

(8) The reservation of seats for Scheduled Castes and Scheduled Tribes and the Backward Classes under sub-sections (3), (5) and (6) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.

(9) All the seats fixed for a Municipality, general as well as reserved, shall be filled up by direct election from the wards in the municipal area and such election shall be held in the prescribed manner.

Explanation.- If a fraction forms part of the number of seats computed under this section, the number of seats shall be increased to the next higher number in case the fraction consists of half or more of a seat and the fraction shall be ignored in case it consists of less than half of a seat.

7. Term of office.- (1) Every Municipality unless sooner dissolved under the provisions of this Act, shall continue for five years from the date appointed for its first meeting and no longer.

(2) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (1).

Explanation.-For the purposes of this section, the expression “first meeting” means the meeting of the elected members of the Municipality held immediately after the general elections.

8. Municipal government to vest in Municipality.- Except as in this Act otherwise expressly provided, the municipal government of a Municipality shall vest in the Municipal Board, Municipal Council, or as the case may be, Municipal Corporation through their

Chairpersons, which shall stand charged with the duty of carrying out the provisions of this Act subject to the limitations and restrictions specified therein.

9. Division into wards.- (1) For purposes of elections, a Municipality shall be divided into such number of wards as is equal to the total number of seats fixed for the Municipality under sub-section (1) of section 6.

(2) The representation of each ward shall be on the basis of the population of that ward and shall, as far as possible, be in the same proportion as the total number of seats for the Municipality bear to its population.

10. Determination of wards.- (1) The State Government shall by order determine,-

- (a) the wards into which each Municipality shall, for the purpose of its elections, be divided;
- (b) the extent of each ward;
- (c) the number of seats, if any, reserved for members of the Scheduled Castes or, as the case may be, Scheduled Tribes and for women members of such castes and tribes and for members of the Backward Classes and women members thereof; and
- (d) the number of wards for women candidates.

(2) The seats reserved for Scheduled Castes or, as the case may be, for Scheduled Tribes and for the Backward Classes and for women may be allotted by rotation to different wards in such manner as may be prescribed.

(3) The State Government shall carry out the determination of the boundaries of the wards and allocation of seats reserved in favour of the Scheduled Castes, Scheduled Tribes, the Backward Classes and women among the wards having regard to the provisions of section 6 and also to the following provisions, namely: -

- (a) all wards shall, as far as practicable, be geographically compact areas;
- (b) wards which are reserved for the Scheduled Castes or Scheduled Tribes shall be distributed to different parts of the municipal areas where the proportion of the population of such castes or tribes, as the case may be, is comparatively large; and
- (c) the numbering of wards shall start from the north-west corner of the local area of a Municipality.

(4) The draft of the order under sub-section (1) shall be published for filing objections thereto within a period of not less than seven days and a copy of the same shall be sent to the Municipality concerned for comments.

(5) The State Government shall consider any objection and the comments received under sub-section (4) and the draft order shall, if necessary, be amended, altered or modified accordingly, and thereupon it shall become final.

11. Election to the Municipality.-(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipality shall be vested in the State Election Commission.

(2) An election to constitute a Municipality shall be completed-

- (i) before the expiry of its duration specified in section 7;
- (ii) before the expiration of a period of six months from the date of its dissolution:

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

(3) For the aforesaid purpose the State Government shall on the recommendation of the State Election Commission call upon all the wards to elect members, in accordance with the provisions of this Act and the rules and orders made thereunder, on such date or dates as may be specified in the notification.

(4) When a new Municipality is established, it shall, as far as may be, be constituted in accordance with the provisions of this Act relating to general election to a Municipality.

(5) The State Government shall, when so requested by the State Election Commission, make available to the Commission such staff as may be necessary for discharge of the functions conferred on the State Election Commission by sub-section (1).

12. Delegation of functions of State Election Commission.- The function of the State Election Commission under this Act or the rules made or orders issued thereunder, may, subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, be performed also by a Deputy Election Commissioner, if any, or by the Secretary to the State Election Commission.

13. Electoral Roll for every ward.- (1) For every ward there shall be an electoral roll prepared, revised, modified, updated and published in the prescribed manner by an Electoral Registration Officer who shall be such officer of the State Government or a local authority as the State Election Commission may, in consultation with the State Government, designate or nominate in this behalf.

(2) The Electoral Registration Officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for each ward.

(3) The State Election Commission may appoint one or more persons as Assistant Electoral Registration Officers to assist any Electoral Registration Officer in the performance of his functions.

(4) 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.

(5) Subject to the provisions of section 14, every person who-

- (a) is not less than eighteen years of age on the qualifying date, and
- (b) is ordinarily resident in a ward of the Municipality,

shall be entitled to be registered in the electoral roll for that ward.

Explanation.- (i) A person shall not be deemed to be ordinarily resident in a ward on the ground only that he owns, or is in possession of, a dwelling house therein.

(ii) A person absenting himself temporarily from his place of ordinary residence shall not, by reason thereof, cease to be ordinarily resident therein.

(iii) A person who is a patient in any establishment, maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or any other illness involving long treatment or who is detained in prison or other legal custody at any place or residing in a hostel for study or residing in a hotel etc. as a casual visitor shall not, by reason thereof, be deemed to be ordinary resident therein.

(iv) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the same shall be determined with reference to all the relevant facts of the case and in accordance with such rules as may be made in this behalf by the State Government.

(v) A member of Parliament or the State Legislature shall not, during the term of his office, ceased to be ordinarily resident in the ward in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that ward in connection with his duties as such member.

(vi) "Qualifying date", for the purpose of this section, means the first day of January of the year in which electoral roll is so prepared or revised.

(6) No person shall be entitled to be registered in the electoral roll for more than one ward.

(7) No person shall be entitled to be registered in an electoral roll more than once.

14. Disqualifications for registration in an electoral roll.-(1) A person shall be disqualified for registration in the electoral roll for the ward if he-

- (a) is not a citizen of India; or
- (b) is of unsound mind and stands so declared by a competent court; or
- (c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person, who becomes so disqualified after registration, shall forthwith be struck off the electoral roll prepared under this Act:

Provided that the name of any person struck off the electoral roll of a ward by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-entered in that roll, if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

15. Making false declaration.-If any person makes in connection with-

- (a) the preparation, revision or correction of an electoral roll, or
- (b) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall on conviction be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees, or with both.

16. Chief Electoral Officer.- (1) There shall be a Chief Electoral Officer who shall be such officer of the State Government as the State Election Commission may, in consultation with the State Government, designate or nominate in this behalf.

(2) Subject to the superintendence, direction and control of the State Election Commission-

- (a) the Chief Electoral Officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act;
- (b) shall supervise the conduct of all elections in the State under this Act; and
- (c) shall exercise such other powers and functions as the State Election Commission may direct.

17. District Election Officers.- (1) For each district in the State, the State Election Commission shall, in consultation with the State Government, designate or nominate a District Election Officer who shall be an officer of the State Government:

Provided that the State Election Commission may designate or nominate more than one such officer for a district if the State Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

(2) Where more than one District Election Officers are designated or nominated for a district under the proviso to sub-section (1), the State Election Commission shall in the order designating or nominating the District Election Officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the Chief Electoral Officer, the District Election Officer shall co-ordinate and supervise all work in connection with the conduct of elections in the Municipalities of the district within his jurisdiction.

(4) The District Election Officer shall also perform such other functions as may be entrusted to him by the State Election Commission and the Chief Electoral Officer.

18. Staff of local authorities etc. to be made available.- (1) Every local authority in the State shall, when so required by the Chief Electoral Officer, make available to any

Electoral Registration Officer such Staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls.

(2) The authorities specified in sub-section (3) shall, when so required by the Chief Electoral Officer, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(3) The following shall be the authorities for the purposes of sub-section (2), namely:

-

- (i) every local authority;
- (ii) any other institution, concern or undertaking which is established by or under a State Act or which is controlled or financed wholly or substantially by funds provided directly or indirectly by the State Government.

19. Officers and staff deemed to be on deputation to the State Election Commission.- The officers and staff deployed in connection with the preparation, revision and correction of the electoral rolls and for the conduct of all elections under this Act shall be deemed to be on deputation to the State Election Commission for the period during which they are so deployed and such officers and staff shall, during that period, be subject to the control and superintendence of the State Election Commission.

20. Breach of official duty in connection with the preparation etc. of electoral rolls.- (1) If any Electoral Registration Officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall on conviction be punishable with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees or with both.

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

(3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the State Election Commission or the Chief Electoral Officer or the District Election Officer concerned.

21. Persons qualified for being members.- Subject to the provisions contained in sections 6 and 24 a person shall not be qualified to be chosen to fill a seat on a Municipality unless-

- (a) in the case of a seat reserved for the Scheduled Castes or Scheduled Tribes or the Backward Classes, such person is a member of any of these Castes or

Tribes or Classes, as the case may be, and is an elector for any ward in the Municipality;

- (b) in the case of a seat reserved for a woman, such person belongs to the female sex and is an elector for any ward in the Municipality;
- (c) in the case of a seat reserved for a woman belonging to the Scheduled Castes or Scheduled Tribes or the Backward Classes, such person is a member of any of these castes or tribes or classes, as the case may be, and is an elector for any ward in the Municipality and belongs to the female sex;
- (d) in the case of any other seat, such person is an elector for any ward in the Municipality; and
- (e) he has attained the age of 21 years, in either case whether the seat is reserved or not.

21A. Special qualification for election on certain seats.- Notwithstanding anything to the contrary contained in any provision of this Act or of any other law for the time being in force, a person shall not be eligible for election on such seats in a Municipality, as may be determined by the State Government in the prescribed manner, unless he or she is within the age group of twenty one years to thirty five years and is otherwise eligible for election on such seats:

Provided that-

- (i) not more than two seats each from the seats reserved for the Scheduled Castes, Scheduled Tribes, Backward Classes or women in a Municipality shall be determined under this section;
- (ii) where number of seats reserved in a Municipality for any of the Scheduled Castes, Scheduled Tribes, Backward Classes or women is three or less than three, only one seat from such Castes, Tribes, Classes or, as the case may be, women shall be determined under this section;
- (iii) where number of unreserved seats in a Municipality is five or less than five, only one from such seats shall be determined under this section; and
- (iv) where the number of unreserved seats in a Municipality is more than five, one seat out of each block of five such seats shall be determined under this section and any fraction of less than five seats shall be ingnored.

22. Restriction on contesting elections for more than one ward.-Notwithstanding anything contained in section 21, no person shall be entitled, in cases where election to a seat is contested, to contest such election for more than one ward, and every person who may have filed his nomination paper for seats to a Municipality for more than one ward shall withdraw his candidature from all but one of the seats by a notice in writing which shall contain such

particulars as may be prescribed and deliver the same before 3 P.M. on the last date fixed for withdrawal:

Provided that if a person fails to withdraw his candidature from all but one seat in the manner specified above, he shall be deemed to have withdrawn his candidature from all seats.

23. Restrictions on use of vehicles, loud-speakers etc. .- (1) The State Election Commission may impose reasonable restrictions on the use of vehicles or loudspeakers or on displaying of cut outs, hoardings, posters and banners by any candidate or his duly authorized election agent during the period of election commencing from the date of publication of notification for election to a Municipality and ending on the date on which the whole process of election is completed.

(2) If any candidate or his duly authorized election agent contravenes any of the restrictions imposed by the State Election Commission under sub-section (1), he shall, on conviction, be punishable with a fine which may extend to two thousand rupees.

(3) Every person punished under sub-section (2) shall, by an order of the State Election Commission, be liable to be disqualified for being chosen as or for being a member of any Municipality for a period which may extend to six years from the date of such order:

Provided that the State Election Commission may by a subsequent order, for reasons to be recorded, remove any disqualification under this section or reduce the period of any such disqualification.

(4) No court shall take cognizance of an offence referred to in sub-section (2) except on the complaint made by an officer authorized in this behalf by any general or special order of the State Election Commission.

24. General disqualifications for members.- A person, notwithstanding that he is otherwise qualified, shall be disqualified, for being chosen as or for being a member of a Municipality-

- (i) if he has been convicted of an offence involving moral turpitude or of any other offence by a competent court of law and sentenced to imprisonment for six months or more, or
- (ii) if he has been convicted of an offence under section 245 of this Act, or
- (iii) if he is under trial in the competent court which has taken cognizance of the offence and framed the charges against him of any offence punishable with imprisonment for five years or more, or
- (iv) if he has been convicted of an offence under the Prevention of Food Adulteration Act, 1954 (Central Act No. 37 of 1954), or
- (v) against whom an order has been passed under section 117 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), in proceedings

instituted under section 110 of the said Code, such order not having been subsequently reversed, or

- (vi) if he has been dismissed or removed from the service of the Central or a State Government or any local authority or any other authority specified under clause (xi) for misconduct, or
- (vii) if, he having been a professional practitioner, has been debarred from practicing as such by order of any competent authority, or
- (viii) if he holds any place of profit in the gift or disposal of the Municipality, or
- (ix) if he is disqualified under section 35 or section 41, or
- (x) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Rajasthan Legislative Assembly:

Provided that no person shall be disqualified under this clause on the ground that he is less than 25 years of age, if he has attained the age of 21 years, or

- (xi) if he holds a salaried or part-time appointment under the Central or a State Government or a local authority or any other authority, or
- (xii) if he holds a salaried whole time or part-time appointment under a university or any corporation, body, enterprise or co-operative society, which is either controlled or wholly or partly financed by the State Government, or
- (xiii) if he is an undischarged insolvent, or
- (xiv) if he has been adjudged by a competent court to be of unsound mind, or
- (xv) if he, save as hereinafter provided, has directly or indirectly, by himself or any member of his family or his partner, employer or employee, any share or interest in any work done or supply made by the order of such Municipality or in any contract or employment with or under or by or on behalf of such Municipality, or
- (xvi) if he is employed as a paid legal practitioner on behalf of such Municipality or contesting as lawyer against the Municipality in any court of law at the time of filing nomination as candidate for such Municipality or accepts employment as legal practitioner against such Municipality during the term for which he has been elected, or
- (xvii) if he has more than two children, or
- (xviii) if he has been in arrear of any municipal dues for more than two years and proceedings for the recovery have been initiated against him under this Act, or
- (xix) if he has been convicted of an offence involving misappropriation or embezzlement of municipal property or fund by a competent court :

Provided that-

- (a) the disqualification mentioned in clause (i) shall cease to operate after the expiry of six years from the date of the release of the disqualified person from imprisonment;
- (b) the disqualification mentioned in clause (v) shall cease to operate after the expiry of the period for which a person is ordered to furnish security;
- (c) the disqualification mentioned in clause (ix) shall cease to operate after the expiry of the period for which a person is so disqualified unless such disqualification is removed earlier by an order of the State Election Commission;
- (d) a person shall not be deemed to have incurred the disqualification under clause (xv) by reason of his-
 - (i) having any share or interest in any joint stock company, otherwise than as a managing director or agent which shall contract with or be employed by or on behalf of the Municipality, or
 - (ii) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or
 - (iii) having a share or interest in any newspapers in which any advertisement relating to the affairs of the Municipality may be inserted , or
 - (iv) holding a debenture or being otherwise interested in any loan raised by or on behalf of the Municipality, or
 - (v) having a share or interest in the occasional sale of any article in which he regularly trades to the Municipality to a value not exceeding in any official year such amount as the Municipality, with the sanction of the State Government, may fix in this behalf, or
 - (vi) having a share or interest in the occasional letting out on hire to the Municipality, or in the hiring from the Municipality, of any article for an amount not exceeding in any official year two thousand rupees or such higher amount not exceeding five thousand rupees as the Municipality, with the sanction of the State Government, may fix in this behalf;
- (e) a person having more than two children shall not be disqualified under clause (xvii) for so long as the number of children he had on 27th November, 1995 does not increase.

Explanation.- For the purpose of clause (xvii) any number of children born out of a single delivery shall be deemed to be one entity and any child given in adoption shall not be excluded while computing the number of children.

25. Right to vote.- (1) Except as expressly provided by this Act, every one who is for the time being registered in the electoral roll of any ward, shall be entitled to vote in that ward.

(2) No person shall vote at an election in any ward, if he is subject to any of the disqualifications referred to in section 14.

(3) No person shall at any election vote in more than one ward and if a person votes in more than one ward his votes in all the wards shall be void.

(4) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been registered in the electoral roll thereof more than once, and, if he does so vote, all his votes shall be void.

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

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

26. Manner of voting at election.- (1) At every election, where a poll is taken, votes shall be given by ballot in such manner as may be prescribed and no votes shall be received by proxy.

(2) Every elector shall have one vote. If an elector gives votes to more than one candidate then, at the time of counting of the votes, all votes given by him shall be rejected as void.

(3) Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines, in such manner as may be prescribed, may be adopted in such ward or wards of any Municipality as the State Election Commission may, having regard to the circumstances of each case, specify.

Explanation.-For the purpose of sub-section (3), “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used in any election.

27. Casual vacancy how to be filled.- (1) A casual vacancy in the office of a member occurring otherwise than by efflux of time shall be filled, subject to the provisions of sub-section (4), at a bye-election which shall be fixed to take place as soon as may be, in the manner as may be prescribed for a general election.

(2) A member elected at a bye-election shall hold office so long only as the member in whose place he is elected would have been entitled to hold the office, if the vacancy had not occurred.

(3) When a vacancy occurs by reason of death, resignation or removal of any elected member,-

- (a) against a seat reserved in any ward for a member of the Scheduled Caste or, as the case may be, the Scheduled Tribes or the Backward Classes, such vacancy shall be filled in by a member of such caste or tribe or classes; and
- (b) against a seat reserved in any ward for a woman, such vacancy shall be filled in by a woman.

(4) Where a vacancy occurs by reason of death, resignation, removal or avoidance of the election of an elected member and the term of office of that member would, in the ordinary course of events, have determined within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

28. Electoral offences.- The provisions of sections 125, 126, 127, 127A, 128, 129, 130, 131, 132, 132A, 133, 134, 134A, 134B, 135, 135A, 135B, 135C and 136 of the Representation of People Act, 1951 (Central Act No. 43 of 1951) shall have effect as if -

- (a) references therein to an election were references to an election under this Act,
- (b) references therein to a constituency were references to a ward,
- (c) in sections 125 and 127, for the expression “under this Act”, the expression “under the Rajasthan Municipalities Act, 2009 ” and in sections 134 and 136, for the expression "by or under this Act", the expression “by or under the Rajasthan Municipalities Act, 2009” were substituted, and
- (d) in sub-section (1) of section 135B for the words “House of the People or the Legislative Assembly of a State”, the words “ward of the Municipality” were substituted.

29. Corrupt practices.-The following shall be deemed to be corrupt practices for the purposes of an election under this Act, namely:-

- (i) bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person 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 from being, a candidate or to retire from contest 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 his candidature or having retired from contest; or

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

Explanation.—For the purpose of this clause the term “gratification” is not restricted to pecuniary gratification 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 bonafide incurred at, or for the purpose of, any election;

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

Provided that—

- (a) without prejudice to the generality of the provisions 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 ex-communication or of 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 is interested, will become or will be rendered as 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;

- (iii) 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 and language or the use of, or appeal to, religious symbols or the use, or appeal to national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate :

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

- (iv) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste,

community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;

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

Explanation.—For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meaning respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (Central Act No. 3 of 1988);

- (vi) The publication by a candidate or his agent or by any 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 candidature or withdrawal or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate’s election;
- (vii) 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, any member of his family or his agent), to or from any polling station or place fixed for the poll :

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint cost for the purpose of conveying him or them to or 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 any tram, car 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 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;

- (viii) The incurring or authorizing by a candidate or his agent or by any other person of expenditure in contravention of the provision of any rule or order relating to election made under this Act;

- (ix) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person any assistance (other than the giving of vote) for the furtherance of the prospects of the candidate's election from any person in the service of the Government and belonging to any of the following classes, namely:—
- (a) Gazetted Officers;
 - (b) Members of the armed forces of the Union;
 - (c) Members of the police force;
 - (d) Excise Officers;
 - (e) Revenue Officers including Patwaries and like; and
 - (f) Such other class of persons in the service of the Government as may be prescribed.

Explanation.— (i) For the purposes of clause (ix), 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 or polling agent or counting agent of that candidate;

(ii) 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.

30. Jurisdiction of civil courts in electoral matters.— (1) No civil court shall have jurisdiction to entertain or adjudicate upon any question relating to the delimitation of wards, the allotment of seats to such wards, preparation of electoral rolls or conduct of election.

(2) No election to any Municipality shall be called in question except by an election petition presented in accordance with the provisions of this Act.

31. Election petition.— (1) The election of any person as a member of a Municipality may be questioned by an election petition filed within one month from the date of election before the District Judge having territorial jurisdiction over the municipal area on one or more of the following grounds, namely:—

- (a) that on the date of election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act, or
- (b) that any corrupt practice specified in section 29 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 interest of the returned candidate by a person other than that candidate or his election agent or a person acting with the consent of such candidate or 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 of any rules or orders made thereunder, or
- (e) that in fact the petitioner or some other candidate received a majority of the valid votes, or
- (f) that, but for the votes obtained by the returned candidate by corrupt practices, the petitioner or some other candidate would have obtained a majority of the valid votes.

(2) In hearing the election petition, the District Judge shall follow such procedure and exercise such powers as may be prescribed.

32. Appeals from orders of District Judge.— (1) An appeal shall lie to the High Court from every order made by the District Judge on the petition presented under section 31.

(2) The High Court shall, subject to the provisions of this Act and the rules made thereunder, have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this section as if the appeal was an appeal from an original decree passed by a civil court situated within the local limits of its civil appellate jurisdiction.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the order appealed from :

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(4) Where an appeal has been preferred against an order declaring the election of all or any of the returned candidates to be void, the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed not to have taken effect.

(5) Every appeal shall be decided as expeditiously as possible and endeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court.

33. Procedure where election of all candidates is set aside.—Whenever the election of all the members or of more than two-thirds of the total number of the members of a Municipality is declared to be void under section 31 or on appeal under section 32 the State Government shall dissolve the Municipality whereupon the provisions of section 322, except the provisions of sub-section (1) thereof, shall apply.

34. Finality of orders and decision.—The decision of the High Court on an appeal under section 32, and, only subject to such decision, the order of the District Judge under section 31 shall be final and conclusive.

35. Disqualifications.—(1) The following shall entail disqualifications for membership of a Municipality, namely:—

- (a) electoral offences referred to in section 28,
- (b) corrupt practices specified in section 29.

(2) The period of such disqualification shall be six years from the date of the finding of the District Judge as to such corrupt practice or from the date of conviction for such offence, as the case may be.

36. Removal or reduction of period of disqualification.—The State Election Commission may, for reasons to be recorded in writing, remove any disqualification under clause (a) of sub-section (1) of section 35 or reduce the period of any such disqualification.

37. Oath of office.—(1) Every member shall, before entering upon his duties as such, make and subscribe before the Collector or his nominee for the purpose an oath or affirmation in the prescribed form.

(2) Any member who fails to comply with the provisions of sub-section (1) within a period of one month from the date of the first meeting of the Municipality or in case of a member elected in a bye-election or a nominated member, from the date of his election or, as the case may be, his nomination, shall be deemed to have vacated his seat :

Provided that the period during which such member was in jail as an under trial prisoner or as a detenué or as a political prisoner shall not be taken into account.

38. Resignation.—A member may resign his membership by giving notice in writing to that effect duly attested by an Executive Magistrate to the Chairperson and such resignation shall take effect after the expiry of fifteen days from the date of the notice or from the date of the acceptance of the resignation by the Chairperson, whichever is earlier.

39. Removal of member.—(1) The State Government may, subject to the provisions of sub-sections (3) and (4), remove a member of a Municipality on any of the following grounds, namely:—

- (a) that he has absented himself for more than three consecutive general meetings, without leave of the Municipality :

Provided that the period during which such member was in jail as an under trial prisoner or as a detenué or as a political prisoner shall not be taken into account,

- (b) that he has failed to comply with the provisions of section 37,

- (c) that after his election he has incurred any of the disqualification mentioned in section 14 or section 24 or has ceased to fulfill the requirements of section 21,
- (d) that he has—
 - (i) deliberately neglected or avoided performance of his duties as a member, or
 - (ii) been guilty of misconduct in the discharge of his duties, or
 - (iii) been guilty of any disgraceful conduct, or
 - (iv) become incapable of performing his duties as a member, or
 - (v) been disqualified for being chosen as member under the provisions of this Act, or
 - (vi) otherwise abused in any manner his position as such member :

Provided that an order of removal shall be passed by the State Government after such inquiry as it considers necessary to make either itself or through such existing or retired officer not below the rank of State level services or authority as it may direct and after the member concerned has been afforded an opportunity of explanation.

(2) The power conferred by sub-section (1) may be exercised by the State Government of its own motion or upon the receipt of a report from the Municipality in that behalf or upon the facts otherwise coming to the knowledge of the State Government :

Provided that, until a member is removed from office by an order of the State Government under this section, he shall not vacate his office and shall, subject to the provisions contained in sub-section (6), continue to act as, and exercise all the powers and perform all the duties of, a member and shall as such be entitled to all the rights and be subject to all the liabilities, of a member under this Act.

(3) Notwithstanding anything contained in sub-section (1) where it is proposed to remove a member on any of the grounds specified in clause (c) or clause (d) of sub-section (1), as a result of the inquiry referred to in the proviso to that sub-section and after hearing the explanation of the member concerned, the State Government shall draw up a statement setting out distinctly the charge against the member and shall send the same for enquiry and findings by Judicial Officer of the rank of a District Judge to be appointed by the State Government for the purpose.

(4) The Judicial Officer so appointed shall proceed to inquire into the charge, hear the member concerned, if he makes appearance, record his findings on each matter embodied in the statement as well as on every other matter he considers relevant to the charge and send the record along with such findings to the State Government, which shall thereupon either order for re-inquiry, for reasons to be recorded in writing, or pass final order.

(5) While hearing an inquiry under sub-section (4), the Judicial Officer shall observe such rules of procedure as may be prescribed by the State Government and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908) while trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any such document or any other material as may be predicable in evidence;
- (c) requisitioning any public record; and
- (d) any other matter which may be prescribed.

(6) Notwithstanding the foregoing provisions of this section, the State Government may place under suspension a member against whom proceedings have been commenced under this section until the conclusion of the inquiry and the passing of the final order and the member so suspended shall not be entitled to take part in any proceedings of the Municipality or otherwise perform the duties of a member thereof.

(7) Every final order of the State Government passed under this section shall be published in the Official Gazette and shall be final and no such order shall be liable to be called in question in any court.

40. Inquiry into certain allegations after expiry of term of office.—(1) In respect of any allegations of the nature specified in clause (d) of sub-section (1) of section 39 against any member or the Chairperson or Vice-Chairperson of a Municipality, the inquiry referred to in the proviso to the said sub-section, and in sub-sections (3) and (4) of that section may be initiated against such member, Chairperson or Vice-Chairperson even after the expiry of the term of office of that Municipality or after he has ceased to be such member or Chairperson or Vice-Chairperson or, if already initiated before such expiry may be continued thereafter and in each such case except in the cases covered under sub-section (3), the State Government shall, by order in writing, only record its findings in conformity with those of the Judicial Officer recorded under sub-section (4) of section 39.

(2) The provisions of sub-section (6) of section 39 shall apply to the findings of the State Government so recorded.

(3) In case of a member, Chairperson or Vice-Chairperson, who is re-elected for the new term of the Municipality and against whom any inquiry referred to in sub-section (1) is initiated or, if it has already been initiated, is continued, in respect of his previous term in the Municipality, the provisions of section 39 shall *mutatis mutandis* apply.

41. Disability of members removed under section 39.—A member who has been removed under clause (d) of sub-section (1) of section 39 or against whom adverse findings have been recorded under section 40 shall not be eligible for re-election for a period of six

years from the date of the order of his removal or of recording adverse findings as the case may be.

42. Restriction on simultaneous holding of the office of a member in Municipality and the membership of Parliament or State Legislative Assembly or a Panchayati Raj Institution.—No person shall remain both the elected or nominated member of a Municipality and a member of Parliament or State Legislative Assembly or a Panchayati Raj Institution and if a person who is already a member of Parliament or State Legislative Assembly or a Panchayati Raj Institution is elected as a member of a Municipality, then, at the expiration of fourteen days from the date of his being elected or nominated as such member, he shall cease to be such member unless he has previously resigned his seat in the Parliament or the State Legislative Assembly or the Panchayati Raj Institution, as the case may be :

Provided that if a person, who is already an elected or nominated member of a Municipality, is elected as a member of Parliament or the State Legislative Assembly or a Panchayati Raj Institution, then, at the expiration of fourteen days from the date of his being elected as a member of a Parliament or the State Legislative Assembly or a Panchayat Raj Institution, as the case may be, he shall cease to be such member unless he has previously resigned his seat in the Parliament or the State Legislative Assembly or the Panchayati Raj Institution, as the case may be.

43. Every Municipality to have a Chairperson and a Vice-Chairperson.—(1) There shall be a Mayor for every Municipal Corporation, a President for every Municipal Council and a Chairman for every Municipal Board, who shall be elected in the prescribed manner.

(2) There shall be a Deputy Mayor for every Municipal Corporation, a Vice-President for a Municipal Council and a Vice-Chairman for every Municipal Board who shall be elected in the prescribed manner.

(3) The offices of Chairpersons of Municipalities shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes as also for women in such manner as may be prescribed.

(4) The State Government shall allocate the offices of Chairpersons reserved under sub-section (3) to different Municipalities in the State and in allocating such offices regard shall be had to the following provisions, namely:—

- (i) Municipalities in which office is reserved for the Scheduled Castes or Scheduled Tribes shall be distributed throughout the State and located as far as practicable in those areas where the proportion of their population to the total population is comparatively large;
- (ii) the Municipalities in which office is reserved for women shall be distributed throughout the State.

(5) The reservation of the office of the Chairpersons for the members of Scheduled Castes or Scheduled Tribes or the Backward Classes under this section shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.

(6) Every Chairperson or Vice-Chairperson who, for a period exceeding one month, remains absent from the Municipality so as to be unable to perform his duties as such Chairperson or Vice-Chairperson shall cease to be Chairperson or Vice-Chairperson unless leave so to absent has been granted by the Municipality.

(7) Leave under sub-section (6) shall not be granted for a period exceeding six months. Whenever leave is granted to a Chairperson and the office of the Vice-Chairperson is vacant the vacancy shall be filled up by election from amongst the members within such period and in such manner as may be prescribed. When leave is granted to a Vice-Chairperson or when the Vice-Chairperson is acting for the Chairperson, the vacancy in the office of the Vice-Chairperson may be filled up by election of some other member thereto.

(8) If the Vice-Chairperson of a Municipality is elected as Chairperson of the Municipality, he shall be deemed to have vacated his office as Vice-Chairperson.

(9) Every Chairperson and every Vice-Chairperson of a Municipality shall forthwith be deemed to have vacated his office, if a resolution expressing want of confidence in him is passed in accordance with the procedure prescribed.

(10) Every Chairperson and every Vice-Chairperson shall be removable from his office as such Chairperson and Vice-Chairperson on any of the grounds specified in clause (d) of sub-section (1) of section 39, and the provisions of sub-sections (2) to (6) of that section shall apply.

(11) The term of office of every Chairperson and every Vice-Chairperson shall, save as otherwise provided in this Act, correspond with the term of the Municipality.

(12) A Vice-Chairperson may resign his office by giving notice in writing to the Chairperson, and a Chairperson may resign by personally giving a like notice to such officer as may be appointed or authorized by the State Government in this behalf. Every such resignation shall take effect on its acceptance or as the case may be, the expiry of thirty days from the delivery of the notice to the Chairperson or such officer as the case may be whichever is earlier.

(13) (i) A vacancy in the office of a Chairperson occurring otherwise than efflux of time shall be filled within a period of six months from the occurrence of such vacancy and the person elected to fill up the vacancy shall hold office for the residue of the term for which the Chairperson in whose place he is so elected would have held, if the vacancy had not occurred:

Provided that in case of unavoidable circumstances the State Government may extend the date of such election up-to maximum period of three months beyond the aforesaid period.

(ii) A vacancy in the office of a Vice-Chairperson occurring otherwise than by efflux of time shall be filled in accordance with the provisions of the foregoing sub-sections and the person elected to fill up the vacancy shall hold office for the residue of the term for which the Vice-Chairperson in whose place he is so elected would have held, if the vacancy had not occurred.

(14) The names of the Chairperson and Vice-Chairperson elected in accordance with the provisions of this section shall be published, as soon as may be, in the Official Gazette.

(15) The Chairperson of a Municipality may receive out of the municipal fund such monthly allowances and facilities as may be prescribed.

44. Determination of validity of election of Chairperson or Vice-Chairperson.—(1) The election of a Chairperson or Vice-Chairperson under section 43 shall not be called in question except by an election petition presented to the District Judge having territorial jurisdiction, over the municipal area :

Provided that where an election petition is presented as aforesaid to a District Judge, he may, for the reasons to be recorded in writing, transfer the same for hearing and disposal to a Judge subordinate to him.

Explanation.—The District Judge or any other Judge to whom an election petition is or transferred and by whom it is heard in accordance with the provisions of this section is hereinafter referred to as the Judge.

(2) Such petition may be presented by a candidate who has been defeated or whose nomination has been rejected in such manner, on such grounds and within such period as may be prescribed, along with a deposit of one thousand rupees.

(3) In hearing the petition, the Judge shall follow such procedure and exercise such powers as may be prescribed.

(4) Without prejudice to the generality of the provision contained in sub-section (3), the Judge may, if the petition is found to be frivolous, direct that the deposit mentioned in sub-section (2) shall be forfeited to the State Government.

* * * * *

50. Handing over charge.—(1) Whenever-

(i) a Chairperson resigns or ceases to be such or is removed from or vacates the office of Chairperson, or is placed under suspension or his election as a member or Chairperson is declared to be void;

- (ii) a Vice-Chairperson resigns or ceases to be such or is removed from, or vacates the office of Vice-Chairperson or is placed under suspension or his election as a member or Vice-Chairperson is declared to be void;
- (iii) a member resigns or is removed or placed under suspension or his election is declared to be void;
- (iv) a Municipality is dissolved or it otherwise becomes defunct,

such Chairperson, Vice-Chairperson or member or the Chairperson, Vice-Chairperson and members of such Municipality, as the case may be, shall forthwith hand over charge in the prescribed manner of his or their office including all papers and properties pertaining to such office, in his or their actual possession or occupation-

- (a) in the case of a Chairperson, to the Vice-Chairperson and if there be no Vice-Chairperson, to such member as the State Government may direct:

Provided that charge of office of any Chairperson who was elected to an office reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes, Backward Classes, or for Women, shall be handed over to the Vice-Chairman if he belongs to the same category and if there be no such Vice-Chairperson as per directions of the State Government, to a member, if any, of the said Castes, Tribes or Classes or a woman member, as the case may be, in the manner as may be prescribed and where there is no such member belonging to said Castes, Tribes, Classes or a woman member to whom charge can be given as aforesaid, the charge shall be handed over in the manner as may be prescribed, to any other member not belonging to the aforesaid categories;

- (b) in the case of a Vice-Chairperson, to the Chairperson, and if there be no Chairperson, to such member as the State Government may direct;
- (c) in the case of a member, to a Chairperson, and in his absence, to the Vice-Chairperson; and
- (d) in the case of a Municipality dissolved or otherwise becoming defunct, to the newly constituted Municipality or, as the case may be, to the officer appointed under section 322:

Provided that a member to whom charge has been handed over under clauses (a) and (b) shall hold charge for a period, not exceeding sixty days, or till the taking over of

charge by the Chairperson or, the Vice-Chairperson, as the case may be, whichever may be earlier.

(2) If any person fails or refuses or is not available to hand over the charge of office as required under sub-section (1), the person who is entitled to take over the charge of office shall assume charge and thereupon he shall be deemed to have taken over the charge of such office in accordance with the provisions of this Act.

CHAPTER III

Conduct of Business and Ward Committee

* * * * *

53. Motion of non-confidence against Chairperson.-(1) Motion expressing no confidence in the Chairperson or the Vice-Chairperson shall be made and considered in the prescribed manner.

(2) No notice of motion under this section shall be made within one year of the assumption of office by a Chairperson or a Vice-Chairperson.

(3) If a motion under sub-section (1) is not carried, no notice of a subsequent motion expressing no confidence in the same Chairperson or Vice-Chairperson shall be made until after the expiration of two years from the date of the meeting in which the motion was considered.

* * * * *

CHAPTER XVI

Rules, Regulations and Bye-Laws

337. Power of State Government to make rules and orders.-(1) The State Government may make rules or orders generally for the purpose of carrying into effect the provisions of this Act and prescribe forms for any proceeding for which it considers that a form should be provided.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government shall make rules –

- (i) with reference to all matters expressly allowed by this Act to be prescribed;
- (ii) for prescribing the manner of allotment of seats reserved for members of Scheduled Castes, Scheduled Tribes, the Backward Classes or for women;
- (iii) with regard to all matters relating to the preparation, revision, modification, updating and publication of electoral rolls;
- (iv) for prescribing particulars which shall contain in the notice given for withdrawal of candidature from election on more than one seat;
- (v) for prescribing the manner in which votes shall be given in an election and the manner in which votes shall be given and recorded by the voting machines;
- (vi) with regard to all matters relating to presentation of an election petition, procedure to be followed and powers to be exercised by the District Judge in disposing the election petition;
- (vii) for prescribing the form in which oath or affirmation shall be made by a member before entering upon his duties;
- (viii) for prescribing the manner in which the Judicial Officer shall enquire into the charge against a member and for prescribing the matters, other than those specified in clauses (a) to (c) of sub-section (5) of section 39, regarding which the judicial Officer shall have power of a civil court while inquiring into the said charges;
- (ix) for prescribing the manner of election of Chairperson and Vice-Chairperson and the manner of reserving the offices of the Chairpersons and for prescribing the monthly allowances and facilities which may be allowed to the Chairperson out of the municipal fund;
- (x) for prescribing the executive functions other than those specified in clauses (a) to (d) of sub-section (1) of section 48;
- (xi) for prescribing the powers of the Chief Municipal Office;
- (xii) for prescribing the manner in which charge of the office a Chairperson or a Vice-Chairperson shall be handed over;

- (xiii) for prescribing the procedure for conducting the business of the meeting of the Municipality;
- (xiv) for prescribing the manner, of putting question by a member to the Chairperson, and of moving resolutions on the matters connected with the administration of the Municipality;
- (xv) for prescribing the manner of making and considering the motion expressing no confidence in the Chairperson or the Vice-Chairperson;
- (xvi) for prescribing the powers, duties and functions, and the procedure for conducting the meetings, of the committees constituted under section 55;
- (xvii) for prescribing the restrictions, limitations and conditions subject to which any powers, duties or executive functions, which may be exercised, discharged or performed by or on behalf of the Municipality, may be delegated to the committees and for prescribing the manner of calling the meeting of the Municipality for delegating the powers, duties and functions of the Chairperson to a member;
- (xviii) for prescribing the terms and conditions on which, and the charges or premium subject to the payment of which, the land deemed to have been placed at the disposal of the Municipality under section 90-B of the Rajasthan Land Revenue Act, 1956 may be allotted or regularized by the Municipality;
- (xix) for regulating the sale or disposal of immovable property and land;
- (xx) for prescribing the manner of preparing and maintaining records of urban land situated in the municipal limits;
- (xxi) for prescribing heads of accounts other than those specified in sub-section (2) of section 79 and for prescribing manner and form in which accounts shall be kept;
- (xxii) for prescribing the manner in which payments from Municipal funds shall be made;
- (xxiii) for transfer of surplus money from one head to another head with regard to all matter relating to preparation, presentation, adoption of budget estimates, preparation and maintenance of accounts and balance sheet etc;
- (xxiv) for prescribing the rate, date, and manner for imposing and levying the taxes under section 102;
- (xxv) for prescribing the manner in which internal audit of the day-to-day accounts of the Municipality may be carried out;

- (xxvi) for prescribing the form in which return shall be furnished by the owner or occupier on the requisition of the assessor;
- (xxvii) for prescribing the form of warrant for attachment and sale of property of the defaulter and for prescribing the manner in which the attached property may be sold;
- (xxviii) for prescribing the manner in which repaying capacity of a Municipality shall be ascertained for the purposes of granting loan or giving grantee for a loan raised by the Municipality;
- (xxix) for prescribing the types of private sector participation agreements for the purpose of this Act;
- (xxx) for prescribing the Chapters, material and schemes to be incorporated in the City Development Plan;
- (xxxi) for prescribing the manner in which the elected members of Committee for Metropolitan Planning shall be chosen;
- (xxxii) for prescribing the extent to which land in any scheme may be reserved for the purpose of providing housing accommodation to the members of Scheduled Castes, Scheduled Tribes, the Backward Classes and weaker sections of the society, including disabled, handicapped and mentally retarded persons and unassisted elderly persons;
- (xxxiii) for regulating the sanction of specific rights of way in the sub-soil of public and private streets for different public utilities;
- (xxxiv) for prescribing rates of the conversion charges for change of use of land and for prescribing the manner in which objections shall be invited and heard with respects to change of use of land;
- (xxxv) for prescribing the manner and the time in which water harvesting structure shall be provided in the buildings owned or occupied by the Government or statutory body or a company or a institution owned or controlled by the Government;
- (xxxvi) for prescribing limitations, restrictions and conditions subject to which the Municipality may exercise powers in respect of prevention of dangerous diseases;
- (xxxvii) for prescribing limitations, restrictions and conditions subject to which the Municipality may exercise powers conferred on it under section 274;
- (xxxviii) for prescribing the functions of the State Municipalities Union;
- (xxxix) for prescribing the manner of sending the statement of charges against a Municipality to the Tribunal for enquiry and findings; and for prescribing the manner of constitution of the Tribunal;

- (xl) for prescribing the special or technical duties which shall be performed by the officers appointed in the Rajasthan Municipal Technical Service; and
- (xli) for prescribing term and conditions of service in respect of the Rajasthan Municipal Services.

(3) A rule may be general for all Municipalities or for all Municipalities not expressly exempted from its operation or may be special for the whole or any part of anyone or more Municipalities as the State Government may direct.

(4) Notwithstanding anything contained in sections 339 and 340, in case the Municipality fails to make any rules or bye-laws as prescribed and the State Government considers it necessary for the purposes of carrying into effect the provisions of this Act, it may also make the rules and bye-laws for the matters enumerated in sections 339 and 340.

(5) All rules and orders made by the State Government under this section shall come into effect on or from the date of their publication in the Official Gazette.

(6) All rules made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rules shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder..-

338. Power of State Government to make regulations.-(1) Notwithstanding anything contained in section 337 or any other provision of this Act or any other law for the time being in force, the State Government may, for the purpose of preservation of human health or the safety or convenience of the public in public places and streets or the amelioration of rickshaw pullers, by regulation provide for regulating (with a view to gradually abolishing) or prohibiting, the plying, use of drawing of rickshaw in streets and public places and to regulate the hours of work of rickshaw pullers-

(2) In particular and without prejudice to the generality of the foregoing power, such regulation may-

- (a) prescribe the date on and after which rickshaw shall not be plied, driven or used in streets and public places;
- (b) provide that no new licences shall be granted to rickshaw and rickshaw pullers;
- (c) provide for the grant and renewal of licences of rickshaw and rickshaw pullers subject to condition that a licence of a rickshaw shall be granted or renewed only in the name of the puller;

- (d) provide for authorising any officer or authority to limit, from time to time, the number of rickshaws for which licences may be granted or renewed in any area having regard to the adequacy of public conveyance of the same or any other class operating or likely to operate in the area in near future, or to the safety or convenience of the puller in the light of traffic conditions in the area;
- (e) prescribe the maximum life period of a rickshaw after expiry whereof it shall not be permitted to be plied;
- (f) prescribe the manner in which the number of rickshaws or rickshaw pullers may be gradually reduced and the principles to be followed in effecting such reduction;
- (g) prescribe the terms of the grant and renewal of licence of rickshaw and rickshaw pullers;
- (h) prescribe the fee, payable for licences to be granted or renewed under this section;
- (i) prescribe the size and design of the rickshaw and the condition for grant or renewal of licences;
- (j) prescribe the standard or physical fitness, with special reference to permissible age limits for rickshaw pullers;
- (k) prescribe the fees to be paid by rickshaw pullers for medical examination;
- (l) prescribe the office or authority to which and the matter in respect of which appeals shall lie;
- (m) provide for disinfections of rickshaws;
- (n) prescribe the penalties for the violation of any of the rules by the owner of the rickshaw or the puller or driver of the rickshaw;
- (o) prescribe the maximum number of passengers or load or both which can be carried at any one time in a rickshaw;
- (p) specify the offence for contravening any regulations and the class of Magistrate by whom the offences against the regulations shall be taken cognizance of; and
- (q) prescribe supplementary and incidental provisions including seizure of a rickshaw in respect of which an offence under this Act has been or is being committed.

(3) The power to make regulations under this section is subject to the condition of the regulation being made after previous publication.

Explanation-I.- For the purpose of this section, a rickshaw means a cycle- rickshaw commonly so-called, or a wheeled vehicle which is fixed or attached to a cycle drawn or pulled by human force and used as a conveyance for passengers and goods and includes a cycle-rickshaw cart but does not include-

- (a) a perambulator,
- (b) a wheeled vehicle used for the carriage of an invalid person, and
- (c) such classes of wheeled vehicles used for the carriage of goods as may be prescribed.

Explanation-II.- For the purpose of clause (c) of sub-section (2), the expression "puller" shall mean a person who earns his livelihood mainly by personally driving rickshaw.

(4) All regulations made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such regulations or resolves that any such regulations should not be made, such regulations shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

* * * * *

340. Power of Municipality to make bye-laws.- (1) Every Municipality may, from time to time, make bye-laws not inconsistent with this Act and the rules made thereunder -

* * * * *

- (zg) regulating the posting of bills and advertisements, and the position, size, shape and style of sign-posts;

* * * * *

(2) Every Municipality shall, before making any bye-laws under this section, publish, in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a draft of the proposed bye-laws together with a notice specifying a date on or after which the draft will be taken into consideration and shall, before making the bye-laws, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

341. Rules and bye-laws to be printed and sold.-The rules and bye-laws for the time being in force shall be kept open for public inspection at the municipal office during office hours, and printed copies thereof shall be kept for sale at cost price or may be provided in electronic form on the web site, if any, of the Municipality.

CHAPTER XVII

Miscellaneous

342. Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. – For the purpose of this section,-

- (a) "company" means a body corporate, and includes a firm or other association of individuals, and
- (b) "director", in relation to a firm, means a partner in the firm.

343. Power to remove difficulties.-If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as the occasion requires, but not later than two years from the date of commencement of this Act, by order, do anything, not inconsistent with the objects and purposes of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty.

344. Repeal and Savings.-(1) On and from the commencement of this Act, the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959) shall stand repealed.

(2) Without prejudice to the provisions of the Rajasthan General Clauses Act, 1955 (Act No. 8 of 1955),-

- (a) such repeal shall not affect the validity or invalidity of anything already done or suffered or any action already taken under the repealed enactment or the rules, regulations and bye-laws made thereunder; and
- (b) all Municipal Corporations, Councils, Boards or other municipal authorities established under the Rajasthan Municipalities Act, 1959 (Act No. 38 of

1959) shall, notwithstanding such repeal, be deemed to have been established under this Act and all Municipalities constituted, members nominated, appointed or elected, committees formed, limits defined, appointments, rules, orders and bye-laws made, notifications and notices issued, taxes imposed, contracts entered into and suits and other proceedings instituted under the repealed enactment shall so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively constituted, nominated, appointed or elected, formed, defined, made, issued, imposed, entered into and instituted under this Act.

* * * * *

=====

PART – II

MISCELLANEOUS



राजस्थान राज-पत्र
विशेषांक

RAJASTHAN GAZETTE
Extraordinary

साधिकार प्रकाशित

Published by Authority

भाद्र 24, मंगलवार, शाके 1931-सितम्बर 15, 2009
Bhadra 24, Tuesday, Saka 1931-September 15, 2009

भाग 4 (ग)

उप-खण्ड (II)

राज्य सरकार तथा अन्य राज्य-प्राधिकारियों द्वारा जारी किये गये
कानूनी आदेश तथा अधिसूचनाएं।

**LOCAL SELF GOVERNMENT DEPARTMENT
NOTIFICATION**

Jaipur, September 15, 2009

S.O. 228.—In exercise of the powers conferred by sub-section (3) of section 1 of the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009), the State Government hereby appoints the 15-09-2009 as the date on which the said Act shall come into force.

[No. F.10 (Ka) Elec./L.S.G./09/1871]

By Order of the Governor,
के. सी. अग्रवाल,
Deputy Secretary.

225

Government Central Press, Jaipur.

**Government of Rajasthan
Local Self Government Department**

No F10 (Ka) Elec./L.S.G/09 / 1444

Date 15-9-2009

NOTIFICATION

In exercise of powers conferred by section 337 of the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009), the State Government hereby makes the following rules further to amend the Rajasthan Municipalities (Election) Rules, 1994, namely:-

1. **Short title and commencement.** - (1) These rules may be called the Rajasthan Municipalities (Election) (Amendment) Rules, 2009.
(2) They shall come into force with immediate effect.
2. **Amendment of rule 5.**- In rule 5 of the Rajasthan Municipalities (Election) Rules, 1994, hereinafter referred as the said rules,-
 - (i) in sub-rule (4) for the existing expression "one-third", the expression "one-half" shall be substituted.
 - (ii) in sub-rule (7) for the existing expression "one-third", the expression "one-half" shall be substituted.
 - (iii) in sub-rule (10) for the existing expression "one-third", the expression "one-half" shall be substituted.
 - (iv) in sub-rule (11) for the existing expression "one-third", the expression "one-half" shall be substituted.
3. **Amendment of rule 6.**- In rule 6 of the said rules,-
 - (i) in sub-rule (2) for the existing expression "one third" the expression "one half" shall be substituted.
 - (ii) in sub-rule (3) for the existing expression "one third" the expression "one half" shall be substituted.
4. **Insertion of new rule 7A.**- After the existing rule 7 of the said rules, the following new rule 7A shall be inserted, namely:-

"7A. Determination of seats under section 21A.- The officer, after having determined the seats for Scheduled Casts, Scheduled

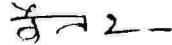


-2-

Tribes, Backward Classes and Women, shall determine the seats for the persons having qualification as specified in section 21A of the Act, by draw of lots.

5. **Amendment of Form 1:** - In Form 1 of the said rules, in third column of table given in clause 1 for the existing expression "or Women", the expression ", Women or person having special qualification specified under section 21A "shall be substituted.
6. **Amendment of Form 2:-** In Form 2 of the said rules, in third column of table given in clause 1 for the existing expression " or Women", the expression ",Women or person having special qualification specified under section 21A " shall be substituted.

By order of the Governor.



(K.C. Agrawal)

Deputy Secretary

**LAW (LEGISLATIVE DRAFTING) DEPARTMENT
(GROUP-II)**

NOTIFICATION

Jaipur, May 3, 2006

No. F.2(7) Vidhi-2/2006.— In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of the Rajasthan Sampatti Viroopan Nivaran Adhiniyam, 2006 (2006 Ka Adhiniyam Sankhyank 13):—

(Authorised English Translation)

**THE RAJASTHAN PREVENTION OF DEFACEMENT OF
PROPERTY ACT, 2006**

(Act No. 13 of 2006)

[Received the assent of the President on the 25th day of April, 2006]

*An
Act*

to provide for the prevention of defacement of property and for matters connected therewith or incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Fifty-seventh Year of the Republic of India, as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Rajasthan Prevention of Defacement of Property Act, 2006.

(2) It shall extend to the municipal areas of the State of Rajasthan.

(3) It shall be deemed to have come into force on and from 17th January, 2006.

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

- (a) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any way whatsoever and the word "deface" shall be construed accordingly;
- (b) "municipal area" and "municipality" shall have the same meanings as assigned to them in the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959);
- (c) "property" includes any building, hut, monument, statue, water pipe line, public road, structure, wall including compound wall, tree, fence, post, pole or any other erection as may be notified by the State Government from time to time;
- (d) "public place" means any place (including a road, street or way whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort or over which they have a right to pass;
- (e) "public view" means anything which is visible to public while they are in or passing along any public place; and
- (f) "writing" includes decoration, lettering, ornamentation, etc., produced by stencil.

3. Penalty for defacement of property.—(1) Whoever defaces any property in public view by defacing or spitting or urinating or pasting pamphlets, posters etc. or writing or marking with ink, chalk, paint or any other material or method except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable, in case of first offence, with imprisonment for a term which may extend to one month or with fine which shall not be less than one hundred rupees but which may extend to one thousand rupees or with both, and in

case of each subsequent offence, with imprisonment for a term which may extend to one month or with fine which shall not be less than two hundred rupees but which may extend to two thousand rupees or with both.

(2) Where any offence committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons (whether incorporated or not) then, such other person and every President, Chairman, Director, Partner, Manager, Secretary, Agent or any other officer or person concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

4. Punishment for attempt to commit offence.—Whoever attempts to commit any offence punishable under this Act or causes such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with the punishment provided for the offence.

5. Punishment for abettor.—Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

6. Offence to be cognizable.—An offence punishable under this Act shall be cognizable.

7. Power to erase writing etc.—Without prejudice to the provisions of section 3, it shall be competent for the municipality or any officer authorised by it in this behalf, to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property.

8. Power to compound offence.—It shall be competent for the municipality or any officer authorised by it in this behalf to withdraw any prosecution, or to compound any offence committed, under this Act on such terms and conditions as may be prescribed.

9. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Government, any local authority or person for anything which is in good faith or in public interest done or intended to be done under this Act.

10. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

11. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) All rules made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

12. Repeal and savings.—(1) The Rajasthan Prevention of Defacement of Property Ordinance, 2006. (Ordinance No. 2 of 2006) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the said Ordinance shall be deemed to have been done, taken or made under this Act.

गुमान सिंह,

Secretary to the Government.