

CHAPTER II MUNICIPALITIES

1[2A. Classification and constitution of municipalities.-- (1) There shall be constituted three classes of municipalities in accordance with the provisions of this section as specified below :-

- (i) "Municipal Committee" for a transitional area with population ²[of not more than fifty thousand];
- (ii) "Municipal Council" for a smaller urban area with population ³[of more than fifty thousand but less than three lacs]; and
- (iii) "Municipal Corporation" for a larger urban area with population ⁴[of three lacs or more], to be governed by a separate Act:

Provided that a municipality under this section may not be constituted in such urban areas or part thereof as the State Government 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 it may deem fit, by notification, specify to be an industrial township:

Provided further that no military cantonment or part of a military cantonment shall form part of a municipality.

Explanation.—In this sub-section, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the State

1. Section 2-A inserted by Haryana Act No. 12 of 1979 and later on substituted by Haryana Act 3 of 1994.

2. Substituted for the words "not exceeding fifty thousand" by Haryana Act 11 of 2002.

3. Substituted for the words "exceeding fifty thousand but not exceeding five lacs" by Haryana Act 11 of 2002.

4. Substituted for the words "exceeding five lacs" by Haryana Act 11 of 2002.

Government may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as the State Government may deem fit, specify by notification for the purpose of this section.

(2) The State Government shall, by notification, constitute the municipalities and specify the class to which a municipality shall belong in accordance with the provisions of this section after observing the procedure as laid down in section 3:

Provided that the municipalities existing at the commencement of the Haryana Municipal (Amendment) Act, 1994 and listed as Municipal Committee or as Municipal Council in the Schedule to this Act, would be deemed to have been constituted and notified as such, under and in accordance with the provisions of this section:

Provided further that the State Government may, after giving a reasonable notice of not less than thirty days of its intention to do so, amend the Schedule, by notification and declare any Municipal Committee as a Municipal Council or any Municipal Council as a Municipal Committee.]

Corporation – Declaration of – Gram Panchayat area – Inclusion of 42 Gram Panchayats to declare the Municipal Corporation is, in fact, against the intent of the Constitution itself -- Article 243 (Q) provides for transitional area i.e. from rural to urban area; therefore, the first step for taking the rural area into urban area is by constituting Nagar Panchayat -- State of Haryana, has defined urban area as Municipal Committee -- For the purpose of 73rd as well as 74th amendment in the Constitution was to bring maximum participation of the people in the local self government by the rural or semi urban population -- State instead of decentralizing the powers is amalgamating the same in the hands of a few which body would certainly not take so close care which the smaller bodies were doing -- The purpose to introduce the 73rd and 74th amendment was that once the village attains the character which is more urban in nature then the said rural area is to be put in to transitional area i.e. in the present case as a Municipal Committee and the urban character of the said rural area is to be seen from last preceding census wherein non agricultural activities, revenue generated in the local administration etc. are determined -- It is only after a period and after seeing the population of that particular area on the basis of last preceding census that the transitional area is given the second step of being converted into a Municipal Council and then into a Municipal Corporation -- None of the above mandatory provisions of the Constitution as well as the 1973 Act and the 1994 Act have been followed -- Notifications are held to be in clear cut contravention of 73rd and 74th amendment of the Constitution -- Notifications quashed. V.K. Kapoor and others v. State of Haryana and others, 2011(1) L.A.R. 524 (P&H DB).

3. Procedure for declaring municipality.-- (1) The State Government may, by notification, propose any local area to be a municipality under this Act:

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(2) Every such notification shall define the limits of the local area to which it relates.

(3) A copy of every notification under this section, with a translation thereof in such language as the State Government may direct, shall be affixed in some conspicuous place in the court-house of the Deputy Commissioner within whose jurisdiction the local area to which the notification relates lies, and in one or more conspicuous places in that local area.

(4) The Deputy Commissioner shall certify to the State Government the date on which the copy and translation were so affixed and the date so certified shall be deemed to be the date of publication of the notification.

(5) Should any inhabitant desire to object to a notification issued under sub-section (1), he may, within six weeks from the date of its publication, submit his objection in writing through the Deputy Commissioner to the State Government and the State Government shall take his objection into consideration.

(6) When six weeks from the date of the publication have expired, and the State Government has considered and passed orders on such objections as may have been submitted to it, the State Government may,

1. Proviso omitted by Haryana Act No.3 of 1994.

by notification, declare ¹[the local area, for the purposes of this Act, to be a municipality].

(7) The State Government may, by notification, direct that all or any of the rules which are in force in any municipality shall, with such exceptions and adaptations as may be considered necessary, apply to the local area declared to be a municipality under this section, and such rules shall forthwith apply to such municipality without further publication.

(8) ²[---]

(9) ³[---]

(10) A committee shall come into existence at such time as the State Government may, by notification, appoint in this behalf.

⁴[3A. State Election Commission.-- The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the municipalities shall be vested in the State Election Commission constituted under articles 243 K and 243 ZA of the Constitution of India in the manner as may be prescribed by rules.]

⁵[Provided that the State Election Commission shall consult the State Government before announcing the date of elections so that the State Government may, if so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission under article 243K and 243ZA of the Constitution of India and this Act⁶{;}]

⁷[Provided further that—

- (i) in case of reconstitution of the municipality on account of the expiry of its duration of five years, such date shall not be earlier than 120 days before the expiry of duration;
- (ii) in case of reconstitution of the municipality on account of dissolution of the municipality where the remainder of the period for which the dissolved municipality would have continued is six months or more than six months, such date shall not be later than two months after the date of dissolution of the municipality;
- (iii) in case of filling up of casual vacancy, as specified in

1. Substituted for the words "the local area to be, for the purposes of this Act, a municipality of the first or second class" by Haryana Act No. 12 of 1979.

2. Omitted by Haryana Act 12 of 1979.

3. Omitted by Haryana Act 12 of 1979.

4. Inserted by Haryana Act No.3 of 1994.

5. Proviso added by Haryana Act No. 16 of 2003.

6. Substituted for sign "." by Haryana Act No. 25 of 2004.

7. Added by by Haryana Act No. 25 of 2004.

section 15, where the remainder of the period for which the casual vacancy to be filled up is six months or more than six months, such date shall not be later than two months after the date of the occurrence of such vacancy;

- (iv) such election shall be conducted in the manner as may be prescribed.]

4. Notification of intention to alter limits of municipality.— (1) The State Government may, by notification, and in such other manner as it may determine, declare its intention to include within a municipality any local area in the vicinity of the same and defined in the notification.

(2) Any inhabitant of a municipality or local area in respect of which a notification has been published under sub-section (1), may, should he object to the alteration proposed, submit his objection in writing through the Deputy Commissioner to the State Government within six weeks from the publication of the notification; and the State Government shall take such objection into consideration.

(3) When six weeks from the publication of the notification have expired, and the State Government has considered the objections, if any, which have been submitted under sub-section (2), the State Government may, by notification, include the local area in the municipality.

(4) When any local area has been included in a municipality under sub-section (3), this Act, and, except as the State Government may, by notification, direct otherwise, all notifications, rules, bye-laws, orders, directions and powers issued, made, or conferred under this Act and in force throughout whole of the municipality at the time, shall apply to such area.

5. Notification of intention to exclude local area from municipality.—

The State Government may, by notification, and in such other manner as it may deem fit, declare its intention to exclude from a municipality any local area compared therein and defined in the notification.

6. Exclusion of local area from municipality.-- (1) Any inhabitant of a municipality or local area in respect of which a notification has been published under section 5 may, if he objects to the exclusion proposed, submit his objection in writing through the Deputy Commissioner to the State Government within six weeks from the publication of the notification and the State Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired and the State Government has considered the objections, if any, which have been submitted under sub-section (1), the State Government may, by notification, exclude the local area from the municipality.

7. Effect of exclusion of local area from municipality.-- When a local area is excluded from a municipality under section 6 –

(a) this Act, and all notifications, rules, bye-laws, orders, directions and powers issued, made or conferred under this Act, shall cease to apply thereto; and

(b) the State Government shall after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vesting in the municipal committee shall vest in the State Government and in what manner the liabilities of the committee shall be apportioned between the committee and the State Government, and, on the scheme being notified, the property and liabilities shall vest and be apportioned accordingly.

8. Power to abolish municipality.-- (1) The State Government may, by notification, abolish any municipality declared under section 3.

(2) When a notification is issued under this section in respect of any municipality, this Act, and all notifications, rules, bye-laws, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the said municipality; the balance of the municipal fund and all other property at the time of the issue of the notification vested in the committee shall vest in the State Government and the liabilities of the committee shall be transferred to the State Government.

¹(3) Where any municipality is abolished under sub-section (1) and subsequently the area comprising the municipality so abolished is declared to be a Sabha area under sub-section (1) of Section 4 of the Punjab Gram Panchayat Act, 1952, the assets and liabilities referred to in sub-section (2) shall vest in the Gram Panchayat of the Sabha area from

1. Inserted by Haryana Act 12 of 1979.

the date of its establishment under section 5 of the Punjab Gram Panchayat Act, 1952.

Explanation.- For the purposes of this sub-section, the assets shall include all arrears of taxes, tolls, cesses, rates, dues and fees imposed under this Act or any rule or bye-law which fell due to the committee of the municipality immediately before the date of its abolition and the same shall be recoverable by the Gram Panchayat as if these were arrears due to the Gram Panchayat.]

