



The Andhra Pradesh Local Bodies Electoral Reforms Act, 1989

Act 28 of 1989

Keyword(s):

District Election, Election Expenses, Eligible Political Party, Political Party

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THE ANDHRA PRADESH LOCAL BODIES
ELECTORAL REFORMS ACT, 1989.*

ACT NO. 28 OF 1989.

[17th November, 1989.]

An Act to provide for certain reforms in the Elections to the Local bodies in the State of Andhra Pradesh and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fortieth Year of the Republic of India, as follows:-

CHAPTER-I

PRELIMINARY

1. (1) This Act may be called the Andhra Pradesh Local Bodies Electoral Reforms Act, 1989. Short title
extent and
commence-
ment.

(2) It extends to the whole of the State of Andhra Pradesh.

*Received the assent of the Governor on the 16th November 1989. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Extraordinary, Part IV-A, dated the at Page

(3) It shall come into force on such date and in such area or in respect of such local body or bodies as the Government may by notification, appoint and they may appoint different dates for different areas and for different local bodies.

Definitions.

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

(a) "district election authority" means the Collector of the District;

(b) "election" means an election,—

(i) to the Office of Mayor or Councillor held under any law for the time being in force relating to Municipal Corporations in the State; or

(ii) to the Office of Chairman or Councillor held under the Andhra Pradesh Municipalities Act, 1965; or

(iii) to the office of President, Mandala Praja Parishad or Chairman, Zilla Praja Parishad held under the Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads and Zilla Pranalika and Abhivrudhi Sameeksha Mandals Act, 1986; or

(iv) to the office of member or sarpanch held under the Andhra Pradesh Gram Panchayat's Act, 1964.

(c) 'election authority' means the election authority appointed under section 3;

(d) 'election expenses' in relation to an election means expenses incurred between the date of publication of the final list of nominations and the date of poll both dates inclusive ;

Act 6 of
1965

Act 31 of
1986

Act 2 of
1964

(j) 'eligible political party' means a political party which is a recognised political party under the Election Symbols (Reservation and Allotment) Order, 1968 issued under article 324 of the Constitution of India ;

(f) 'Government' means the State Government;

(g) 'notification' means a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;

(h) 'political party' shall have the same meaning assigned to it in the Election Symbols (Reservation and allotment) Order, 1968 issued under article 324 of the Constitution of India;

(i) "prescribed" means prescribed by rules made by the Government under this Act;

(j) 'regulations' means regulations made by the election Authority under section 48;

(k) 'Schedule' means the Schedule appended to this Act.

CHAPTER-II

ELECTION AUTHORITY.

3. There shall be an election authority who shall be appointed by the Governor by warrant under his/her hand and seal, on the recommendation of the Council of Ministers: Appointment of Election Authority.

Provided that the person to be appointed as the Election Authority shall be a sitting or retired Judge of a High Court who shall be appointed after consultation with the Chief Justice of the High Court concerned in the case of a sitting Judge or a person who is or has held an office not below the rank of a Secretary to Government, or any person having experience of not less than ten years in the administration of election laws.

Term of Office and other conditions of service of Election Authority.

4. (1) Every person appointed to be the Election Authority shall hold office for a term of five years from the date on which he enters upon his office:

Provided that the person holding office of the Election Authority:—

(a) may by writing under his hand addressed to the Governor, resign his office;

(b) shall not be removed from his office except by an order of the Governor passed on the basis of a resolution of the Andhra Pradesh Legislative Assembly supported by a majority of not less than two-thirds of the members of the House present and voting on the ground of proved misbehaviour or incapacity.

(2) The pay and allowances payable to and other conditions of service of the Election Authority shall be the same as those of a Judge of the High Court of Andhra Pradesh or a Senior Secretary to Government as the case may be:

Provided that the pay and allowances payable to, and other conditions of service of the Election Authority shall not be varied to his disadvantage after his appointment.

Powers and functions of the Election Authority.

5. (1) The Superintendence, direction and control of conduct of elections shall be vested in the Election Authority.

(2) It shall be competent for the Election Authority to issue such directions as it may deem fit from time to time to the political parties and candidates contesting elections in regard to code of conduct of the elections and the political parties and the candidates shall comply with such directions and failure to comply

with any such direction, shall be an offence punishable under section 39;

(3) It shall be the duty of the Election Authority to prepare the electoral rolls for the local bodies referred to in clause (b) of section 2 and to conduct elections to the members and office-bearers of the local bodies as specified in the said clause (b).

(4) The Election Authority may appoint such officers and other employees as may be prescribed to assist it in the performance of its functions under this Act. The salaries, allowances and other conditions of service of the officers and other employees shall be such as may be prescribed.

6. (1) Any officer or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of all elections shall be deemed to be on deputation to the Election Authority for the period during which they are so employed and such Officers and Staff shall during that period, be subject to the control, superintendence and discipline of the Election Authority.

Electoral
Officers and
election staff
etc., deemed
to be on
deputation.

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

CHAPTER-III

ELECTION EXPENSES.

Limitation
of election
expenses.

7. (1) The election expenses to be incurred by any political party or a candidate set up by it, or an independent candidate shall not exceed the maximum amount specified in the Schedule against each office.

(2) Any candidate set up by any political party or an independent candidate or any of their supporters acting in the contravention of sub-section (1) shall be punishable with fine which may extend to five thousand rupees.

Exclusive
State funding
of election
expenses.

8. (1) The election expenses to be incurred by any eligible political party or the candidate set up by it shall be met only from the election fund constituted under section 10.

(2) A political party or a candidate other than those referred to in sub-section (1) shall, subject to the lodging of election expenses in accordance with and within the time specified in section 16, be entitled for reimbursement of the election expenses incurred by it or his subject to the maximum specified in schedule against the office concerned and subject to the condition that such political party or candidate secures not less than one-sixth of the total number of valid votes polled in the constituency. The application for reimbursement of election expenses shall be made to the District Election Authority in such form and in such manner as may be prescribed.

(3) Each eligible political party shall be entitled to receive sixty percent, of the amount specified in the Schedule in respect of the concerned office by way of an advance and the balance thereof shall be payable

after the declaration of the results of the election subject to the provisions of section 9.

(4) An eligible political party may make an application to the District Election Authority in such form and in such manner as may be prescribed for the sanction of advance payable under sub-section (3) with an undertaking that in case the candidate setup by such political party fails to secure not less than one-sixth of the total number of valid votes polled in the constituency, such political party shall refund the advance received under this section within the prescribed period. The District Election Authority shall after satisfying itself of the correctness and genuineness of the application sanction the advance within four days of the receipt of the application therefor.

(5) Where an eligible political party sets up the same person as a candidate for more than one office specified in the Schedule, such political party shall be eligible for advance under this section only in respect of one such office of its choice.

9. Where a candidate set up by an eligible political party fails to secure not less than onesixth of the total number of valid votes polled in the election such eligible political party shall within the period of three months from the date of payment of advance, refund the advance, referred to in sub-section (3) of section 8 to the District Election Authority failing which the said amount of advance shall be recovered in the same manner as arrears of land revenue.

Refund of
advances

10 (1) There shall be constituted for the purposes of this Act a fund called "the Local Bodies Election Fund" consisting of the grants made by the Government voted by the Legislative Assembly of the State

Election fund

towards election expenses to be met by the political parties or candidates contesting elections and entitled for such expenses under this Act.

(2) The fund constituted under sub-section (1) shall be under the control of the Election Authority and any expenditure there from shall be authorised by it in accordance with the provisions of this Act and the rules made thereunder.

CHAPTER-IV

ELECTION CAMPAIGN

Restrictions
on election
campaign.

11. (1) No political party or a candidate contesting elections shall, conduct the election campaign except in accordance with such regulations as may be made in this behalf.

(2) No political party or a candidate contesting elections shall in connection with election,—

(a) in any way disfigure the walls of any building with election slogans or other writings;

(b) erect hoarding or cut-outs *except the cut-out or hoarding of the election symbol* ;

(c) take out any procession during the period of sixty hours prior to the hour fixed for the commencement of the poll ;

(d) use microphones or amplifiers.

(i) except in accordance with the rules made in this behalf ; and

(ii) during the period of sixty hours prior to the hour fixed for the commencement of the poll ;

(e) supply or cause to be supplied identity slips to any voter; or

(f) ply any vehicle as defined in the explanation to clause (6) of section 22 without an authorisation therefor granted by the District Election Authority in accordance with the regulations made in this behalf.

(3) Notwithstanding anything contained in sub-section (1) of Section 20 of the Andhra Pradesh Excise Act, 1968, the District Magistrate shall by notice in writing to the licensee, require that any shop in which any intoxicant is sold and situate in the polling area shall be closed during the period of forty eight hours before the commencement of the poll and twenty four hours after such commencement for any election in that polling area and thereupon the provisions of sub-section (3) of the said section 20 shall apply to such closure. ^{Act 17 of 1958.}

12. No political party or candidate contesting elections shall use posters, banners, buntings, flags or stickers except in accordance with the regulations made in this behalf. ^{Restrictions on use of posters, etc.}

13. (1) No person shall spend on behalf of, or give any donation to any political party or candidate to meet election expenses after the notification by the concerned election authority under the relevant law calling upon the electorate to elect a person for any one of the offices specified in the Schedule or to the office of a member or Sarpanch of Gram Panchayat is issued. ^{Prohibition on donation.}

(2) Any person contravening the provision of sub-section (1) shall be punished with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

CHAPTER V

ACCOUNTS AND AUDIT

Accounts and
audit.

14. (1) The Election Authority shall cause to be maintained such books of accounts and other books in relation to its account in such form and in such manner as may be prescribed.

(2) The Election Authority shall, as soon as may be after the elections, prepare a statement of accounts in such form as may be prescribed and forward the same to the Government within six months from the date of declaration of the result of election. The Election Authority shall also prepare and submit an annual report to the Government before the 30th June of each year.

(3) The accounts of the Election Authority shall be audited by the Accountant General of Andhra Pradesh at such times and in such manner as may be prescribed.

(4) The annual accounts of the Election Authority together with the audit report thereon shall be forwarded by the Election Authority to the Government and the Government shall cause the same along with the annual report referred to in sub-section (2) to be laid before the Legislative Assembly of the State and shall also forward its observations on the audit report to the Election Authority for taking suitable action on the matters arising out of the audit report.

14. (1) Every candidate at an election shall, either by himself or by his election agent keep a separate and correct account of all expenditure incurred or authorised by him or by his election agent to be incurred in connection with the election between the date of publication of the final list of nominations and the date of poll both dates inclusive. Account of election expenses

Explanation :—For removal of doubts it is hereby declared that any expenditure incurred or authorised to be incurred in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall be deemed to be expenditure in connection with the election incurred or authorised to be incurred by the candidate or by his election agent for the purpose of this sub-section and section 7.

(2) The account shall contain such particulars as may be prescribed.

16. Every contesting candidate at an election shall within thirty days from the date of declaration of the result of the election, lodge with the District Election Authority an account of his election expenses which shall be a true copy of the account kept by his election agent under section 15. Lodging of Account with the District Election Authority.

CHAPTER--VI

DISQUALIFICATIONS

17. Any candidate acting in contravention of section 7 shall be disqualified to contest in any election for a period of six years from the date on which a finding is recorded under sub-section (1) of section 21. Disqualification for excessive election expenses.

Disqualifi-
cation for
failure to
refund
advance.

18. Where an eligible political party fails to refund the advance as required by section 9, the political party concerned shall not be entitled to advance or reimbursement of election expenses under section 8 in respect of any election for a period of six years from the date of declaration of the result of the election.

Disqualifica-
tion for
failure to
lodge
account of
election
expenses.

19. If the Election Authority is satisfied that a candidate—

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

(b) has no good reason or justification for the failure it shall by notification declare him to be disqualified for contesting any election for a period of six years from the date of the notification.

Disqualifica-
tion for con-
travention of
section 11 or
12.

20. Any candidate acting in contravention of section 11 or section 12 shall be disqualified to contest in any election for a period of six years from the date on which a finding is recorded under sub-section (1) of section 21.

Finding of
Disqualifica-
tion etc.

21. (1) The Election authority shall be competent to record a finding that a candidate has incurred disqualification for the contravention of sections 7, 9, 11 or 12.

(2) The Election Authority may, either *suo-motu* or on an application made by the aggrieved person made within the period prescribed and for reasons to be recorded in writing, remove any disqualification recorded under sub-section (1) or reduce the period of any such disqualification.

CHAPTER-VII

ELECTION OFFENCES

22. The following shall be deemed to be corrupt ^{Corrupt} practices for the purposes of this Act:— ^{practices.}

(1) Bribery, that is to say,—

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

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

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

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

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

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

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

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

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

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

Provided that—

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

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

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

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal

right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

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

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

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

(5) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent or any statement of fact which is false, and which he either believes to be false, or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring whether, on payment or otherwise of any vehicle or vessel or by a

candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector other than that the candidate himself the members of his family or his agent to or from any polling station :

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

Provided further that the use of any public transport vehicle or vessel by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation :—In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or a betting or attempting to obtain or procure by a candidate or his agent, or by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the State, Central Government, local authority or a corporation owned or controlled by the State or Central Government:

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

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

(2) For the purposes of clause (7) a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

(3) For the purposes of clause (7) notwithstanding any thing contained in any other law, the publication in the Andhra Pradesh Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government shall be conclusive proof—

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

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

or in the case of resignation, termination of service dismissal or removal from services, such person ceased to be in such service with effect from the said date.

Punishment
for corrupt
practice.

23. If any person is guilty of any such corrupt practices as is specified in section 22 or in connection with an election he shall be punishable with imprisonment for a term, which may extend to *three* years and with fine which may extend to *three* thousand rupees.

Promoting
enmity between
classes
in connection
with
election.

24. Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to three thousand rupees.

Prohibition
of Public
meetings on
the day pre-
ceding the
election day
and on the
election day.

25. (1) No person shall convene hold or attend any public meeting in any polling area during the period of sixty hours prior to the hour fixed for the commencement of the poll for any election in that polling area.

(2) Any person who convenes or holds a public meeting in contravention of the provisions of subsection (1) shall be punishable with imprisonment which may extend to three years and with fine which may extend to three thousand rupees.

Disturbance
at election
meetings.]

26. (1) Any person who at a public meeting to which this section applies acts, or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of notification under this Act calling upon the constituency to elect a member or members or Office bearers of a local authority and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1) he may, if requested to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that Person refuses or fails so to declare his name and address or if the Police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

27. (1) No person shall Print or publish or cause to be printed or published, any election Pamphlet or Poster which does not bear on its face the names and addressess of the printer and the publisher thereof.

Restrictions
on the print-
ing of pam-
phlets pos-
ters etc.

(2) No person shall print or cause to be printed any election pamphlet or poster.

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate ; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document ;

(i) where it is printed in the capital of the State, to the Election Authority ; and

(ii) in any other case, to the District Magistrate of the district in which it is printed.

(3) For the purpose of this section, —

(a) any process for multiplying copies of a document other than copying it by hand, shall be deemed to be printing and the expression 'printer' shall be construed accordingly ; and

(b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose or promoting or prejudicing the election of a candidate or group of a candidates or any playcard or poster having reference to an election, but does not include any hand bill, playcard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section, (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Maintenance
of secrecy of
voting.

28. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

29. (1) No person who is a district election officer or a returning officer, or an assistant returning officer, or a presiding polling officer at an election, or an officer or clerk appointed by the returning officer of the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act other than the giving of vote for the furtherance of the prospects of the election of a candidate.

Officers etc., at elections not to act for candidates or to influence voting.

(2) No such person as aforesaid, and no member of a police force, shall endeavour :—

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

30. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station namely :—

Prohibition of canvassing in or near polling stations.

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; or

(e) exhibiting any notice or signs (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with fine which may extend to two hundred and fifty rupees.

31. (1) No person shall, on the date or dates on which a poll is taken any polling station—

Penalty for disorderly conduct in or near polling stations.

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed, an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

32. (1) Any person who during the hours fixed for the poll at any polling station misconduct himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

Penalty for misconduct at the polling station.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having opportunity of voting at that station.

(3) If any person who has been so removed from polling station re-enters the polling station without the permission of the presiding officer he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

33. (1) If any person to whom this section applies is without reasonable cause guilty of any Act or in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

Breaches of Official duty in connection with elections.

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

(3) The persons to whom this section applies are the district election officers, returning officers assistant returning officers, presiding officers, polling Officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election and the expression official duty shall for the purposes of this section be construed accordingly but shall not include duties imposed other wise than by or under this Act.

Penalty for Government servants etc. for acting as election agent, polling agent or counting agent.

34. If any person in the service of the state or Central Government or a local authority or a Corporation owned or controlled by the State or Central Government acts as an election agent or a polling agent or a counting agent of a candidate at an election he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

Offence of booth capturing.

35. Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

Explanation: For the 'purposes of this section "Booth capturing" includes, among other things, all or any of the following activities, namely :—

(a) seizure of a polling station by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which effects the orderly conduct of elections;

(b) taking possession of a polling station by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;

(c) threatening any elector and preventing him from going to the polling station to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects orderly counting of ballot papers;

(e) taking possession of a place for counting of votes;

(f) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at any such activity in the furtherance of the prospects of the election of a candidate.

36. (1) Any person who at any election fraudulently takes or attempts to take a ballot paper or ballot box out of polling station, or wilfully aids or abets the doing of any such act shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend upto five thousand rupees.

Removal of ballot papers or ballot boxes from polling stations to be an offence.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and such person may cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer or when the search is made by a Police officer, shall be kept by such officer in safe custody.

Impersonation at elections.

37. Whoever at an election applies for a ballot paper or votes in the name of any other person, whether living or dead or in a fictitious name, or who having voted once at such election applies at the same election for a ballot paper in his own name, and who ever abets, procures or attempts to procure the voting by any person in any such way shall be punished with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

Other offences and penalties there under.

38. (1) A person shall be guilty of an electoral offence if at any election he—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark or any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority as the case may be attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts

(2) Any person guilty of an electoral offence under this section shall

(a) if he is a returning officer or an assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section a person shall be deemed to be on official duty if duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

39. Whoever does any act in contravention of any of the provision of this Act, or of any rule, notification or order made, issued or passed, thereunder and not otherwise provided for in this Act shall, on conviction, be punished with imprisonment which may extend to two years and with fine which may extend to two thousand rupees. Penalty for offences not otherwise provided or

40. (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 : Officers by companies.

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

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

Explanation:— for the purpose of this section:—

(a) "company" means any body corporate and include a firm or other association of individuals and

(b) "director" in relation to a firm means a partner in the firm.

Disqualifications of persons convicted of election offences.

41. Every person convicted of an offence punishable under this Chapter shall be disqualified from being elected in any election to which this Act applies for a period of six years from the date of his conviction.

CHAPTER VIII

Identity Cards

Identity cards.

42.(1)The election authority shall, fifteen days before the date of poll in respect of an ordinary election, held after the commencement of this Act, supply to each voter an identify card with his/her photograph together with the specimen signature or the left thumb impression of the voter concerned and such other particulars as may be prescribed. An identity card under this sub-section shall also be supplied to the voter concerned, as and when a name is included in the electoral roll after the said ordinary election .

(2) A duplicate copy of the identity card supplied to the voters under sub-section(1) shall be supplied to the Presiding officer along with the election material and in case the identity of a voter is challenged by the election agents the Presiding officer shall compare the photograph on the identity card brought by the voter with that of the duplicate supplied to him and decide the issue.

(3) Ordinarily every voter shall carry the identity card when he proceeds to the booth for exercising his franchise and in case where he fails to carry the identity card due to its loss or any other reason, a ballot paper shall be issued to him after satisfying about his identity on a verification with the duplicate identity card supplied to the presiding Officer under sub-section (2).

(4) Any identity card supplied under sub-section(1) shall be preserved by the voter until a new identity card is supplied to him, her and in case of loss mutilation or defacement of such card before a new card is supplied to him, her a duplicate card may be obtained by him, her in such manner and on payment of such fees as may be prescribed.

CHAPTER—IX.

MISCELLANEOUS

43. (1) If at any election,

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

Adjournment
of poll or
counter-
manding of
election on
the ground
of booth
capturing.

(b) booth capturing takes place in any place for counting of votes in such a manner that the result of the

counting at that place cannot be ascertained, the returning officer shall forth with report the matter to the Election Authority.

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

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

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

Explanation.—In this section “booth capturing” shall have the same meaning as in section 35.

Power to delegate.

44. The Election Authority may, subject to such conditions and restrictions as the Government may, by general or special order, impose, by order in writing delegate to any officer or authority subordinate to him, either generally or as respects any particular matter or class of matters any of his powers under this Act.

Overriding effect.

Act 6 of 1965.

45. The provisions of this Act shall have effect notwithstanding anything in any law relating to Municipal corporations for the time being in force the Andhra Pradesh Municipalities Act, 1965 the Andhra Pradesh Mandala Praja Parishads, Zilla Praja

Parishads and the Zilla Pranalika and Abhivrudhi Sameeksha Mandals Act, 1986 and the Andhra Pradesh Gram Panchayats Act, 1964. Act 31 of 1986.
Act 2 of 1964.

46. No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Election Authority or the returning officer or by any other person appointed under this Act in connection with an election. Jurisdiction of Civil Courts barred.

47. (1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act. Powers to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) as to all matters relating to electoral rolls or elections, not expressly provided for in this Act including deposits to be made by candidates standing for election and the conditions under which such deposits may be forfeited, and the conduct of inquiries and the decision of disputes relating to electoral rolls or elections ;

(b) as to all matters relating to the conduct of elections under this Act ;

(c) as to the duties of presiding officers and polling officers at polling stations ;

(d) as to the checking of voters by reference to the electoral roll ;

(e) as to the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability :

(f) as to the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote ;

(g) as to the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector ;

(h) as to scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election ,

(i) as to the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers ;

(j) as to any other matter required to be prescribed by this Act.

(3) Every rule made under this Act shall immediately alter it is made, be laid before the Legislative Assembly of the State, if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

48. (1) The Election Authority may, with the previous approval of the Government make regulations not inconsistent with the provisions of this Act or the rules made thereunder for discharging its functions under this Act. ^{Power to make regulations.}

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

(a) the size and the number of banners, posters, buntings, flags and stickers,

(b) to make regulations relating to the conduct of election campaign by the political parties and contesting candidates

(c) restrictions on the use of vehicles in the vicinity of the polling stations on the date of poll.

49. (1) The Government may, by notification, alter add to or cancel any item or entry in the Schedule. ^{Power to amend the Schedule.}

(2) where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of the Legislative Assembly following the date of the issue of notification, a Bill on behalf of the Government to give effect to the alteration, addition or cancellation as the case may be, of the Schedule and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications but without prejudice to the validity of anything previously done thereunder:

Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such Bill shall be introduced in the Legislative Assembly during that session:

Provided further that, where for any reason a Bill, as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

(3) All references made in this Act, to any items or entries of the said Schedule shall be construed as relating to the item of the Schedule as for the time being amended in exercise of the powers conferred by this section.

Transitional
provision.

Act 2 of 64

Act 31 of 86

Act 6 of 65

50. (1) On and from the commencement of this Act, the provisions relating to the conduct of elections in the Andhra Pradesh Gram Panchayats Act, 1964, the Andhra Pradesh Mandala Praja Parishads and Zilla Praja Parishads and Zilla Prarakha and Athivruchi Sameeksha Mandals Act, 1986 Andhra Pradesh Municipalities Act, 1965, or any law for the time being in force relating to Municipal Corporations in the State shall cease to have effect in respect of the matters covered by or under this Act.

(2) Notwithstanding anything contained in any other law for the time being in force, relating to Municipal Corporations, Municipalities, Mandala Praja Parishads and Zilla Praja Parishads and Gram Panchayats, the Government may make rules under this Act for the conduct of elections to the offices referred to in clause (b) of section 2 and until rules are so made, the relevant rules relating to elections to the said offices in force immediately before the commencement of this Act, shall continue to be in force, in so far as they are not inconsistent with the provisions of this Act.

SCHEDULE

(see sections 7 and 8)

CEILING ON ELECTION EXPENSES

(i) Chairman, Zilla Praja Parishad	Rs.	1.50 lakhs
(ii) President, Mandala Praja Parishad	Rs.	15,000
(iii) Mayor of Municipal Corporation	Rs.	1 lakh
(iv) Chairman of,		
(a) Special or Selection Grade Municipality	Rs.	35,000
(b) Grade-I Municipality	Rs.	20,000
(c) Grade-II Municipality	Rs.	15,000
(d) Grade-III Municipality	Rs.	10,000
(v) Councillor of a Municipal Corporation	Rs.	3,000
(vi) Councillor of a Municipality	Rs.	1,500

