



The Maharashtra Village Panchayats (Temporary Postponement of Certain Elections) Act, 1989

Act 38 of 1989

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**THE MAHARASHTRA VILLAGE PANCHAYATS (TEMPORARY
POSTPONEMENT OF CERTAIN ELECTIONS)
ACT, 1989**

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MAHARASHTRA ACT No. XXXVIII OF 1989¹[THE MAHARASHTRA VILLAGE PANCHAYATS (TEMPORARY
POSTPONEMENT OF CERTAIN ELECTIONS) ACT, 1989]

[This Act received the assent of the Governor on the 30th October 1989 ; assent first published in the *Maharashtra Government Gazette*, Part IV, Extra-ordinary on the 2nd November 1989].

Amended by Mah. 19 of 1990* (19-5-1990)†

„ „ 17 of 1991 @ (31-1-1991)†

„ „ 3 of 1992 @@ (27-12-1991)†

An Act to provide for temporary postponement of elections to certain Village Panchayats.

Bom. III of 1959. WHEREAS under section 27 of the Bombay Village Panchayats Act, 1958, the term of office of the members of a *Panchayat* is for a period of five years, which term can be extended for a further period of six months only after consultation with the Standing Committee of the *Zilla Parishad* ;

AND WHEREAS the elections of members of 11,000 *Panchayats*, out of 19,500 *Panchayats*, whose elections are due in 29 districts in the State have already been held since the month of April 1988 ;

AND WHEREAS under section 11 of the said Act, the elections of members of the remaining *Panchayats* were required to be held on such date as the Collectors may appoint in this behalf and in the manner as prescribed by rules ;

AND WHEREAS because of the widespread damage caused by the recent torrential rains, heavy floods and high velocity winds in the various parts of the State, the Collectors of the Districts and their staff who were necessary for holding the elections of the remaining *Panchayats* were required to direct all efforts towards the relief and rehabilitation work, it was not practicable to withdraw the services of such officers and the staff who were fully engaged in the said work ;

AND WHEREAS it would have been inconvenient also to people in general to have such elections held during the critical period as there was possibility that some of the voters might have been rehabilitated away from their normal place of residence and this migration might have ultimately deprived them of their right of franchise ;

AND WHEREAS for these reasons it was expedient to temporarily postpone general elections of the remaining *Panchayats* for a certain period ;

AND WHEREAS in consequence of such postponement it was necessary to extend suitably the term of office of the existing members of certain *Panchayats* and Administrators of certain other *Panchayats* ;

AND WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to provide for the temporary postponement of the elections to certain *Panchayats* and consequent extension of office of members and Administrators as aforesaid and also for matters connected therewith ; and, therefor, promulgated the Maharashtra Village Panchayats (Temporary Postponement of certain Elections due to flood, conditions in the State) Ordinance, 1989, on the 14th September 1989 ;

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1989, Part-V, Extraordinary, p. 416.

*Maharashtra Ordinance No. VIII of 1990 was repealed by Mah. 19 of 1990, s. 9.

†This indicates the date of commencement of the Act.

@Maharashtra Ordinance No. I of 1991 was repealed by Mah. 17 of 1991, s. 4.

@@Maharashtra Ordinance No. XIII of 1991 was repealed by Mah. 3 of 1992, s. 4.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Fortieth Year of the Republic of India as follows :—

Short title, commencement and duration. 1. (1) This Act may be called the Maharashtra Village Panchayat (Temporary Postponement of certain Elections) ^{1*} * * * Act, 1989.

(2) It shall be deemed to have come into force on the 14th September 1989.

(3) It shall remain in operation upto, and inclusive of the ²[30th April 1992] or such earlier date as the State Government may, by notification in the *Official Gazette*, specify and shall then expire. Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act, as if it has been repealed by Maharashtra Act. Bom. I of 1904.

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

(a) “ Administrator ” means an Administrator appointed under clause (b) of sub-section (1) of sections 159 and 160 of the Panchayats Act, and includes any person appointed under clause (b) of sub-section (2) of section 145 of clause (a) of sub-section (1) of section 151 of that Act ;

(b) “ election to a *panchayat* ” means the election of a member of the *panchayat* which is due or likely to be due on or after the date of commencement of this Act, but shall not include the election of a *Sarpanch* or *Upa-Sarpanch* ;

(c) “ Panchayat ” means a *panchayat* established or deemed to have been established under the Panchayat Act ;

(d) “ the Panchayats Act ” means the Bombay Village Panchayats Act, 1958. Bom. III of 1959.

Temporary postponement of certain elections to panchayats and extension of term of office of members and administrators thereof. 3. Notwithstanding anything contained in the Panchayats Act or any rules or bye-laws made thereunder,—

(a) during the period from the date of commencement of this Act upto, and inclusive of, the ³[30th day of April 1992] or such earlier date as the State Government may, by notification in the *Official Gazette*, specify (hereinafter in this Act referred to as “ the said period ”), no general election to a *Panchayat*, and no by-election to fill any casual vacancy in any *panchayat*, excepting the election of such *panchayats*, the dates for various stages of which have been fixed by the Collector, Tahsildar or any other officers, shall be held ;

(b) the term of office (including any extended term of office) of the members (whether elected or appointed) of any *panchayat*, or of the Administrator or Administrators of any *panchayat*, who were in office on the day immediately preceding the date of commencement of this Act (whether their term has expired before or will expire on or after the said date at any time during the said period, shall be deemed to have been extended or to be extended, as the case may be, and every such member or Administrator shall continue to hold office during the said period :

Provided that, after the expiry of the term of office of the members or the Administrators as so extended by this section, they shall continue in office until the first meeting of the re-constituted *panchayat*, at which a quorum is present.

¹ The words “ due to flood conditions in the State ” were deleted by Mah. 19 of 1990, s. 7(a).

² These figures, letters and word were substituted for the figures, letters and word “ 31st December 1991 ” by Mah. 3 of 1992, s. 2.

³ These figures, letters and words were substituted for the figures, letters and words “ 31st day of December 1991 ” *ibid*, s. 3.

4. All members of *panchayats*, and all Administrators of *panchayats*, whose term of office is deemed to have been extended or is extended, as the case may be, under the last preceding section shall throughout the extended period also (whether before or after commencement of this Act), be deemed to have been and be competent to exercise all powers and to perform all duties and functions as such members or Administrators as the case may be and no act done by any such member or Administrator before or during the said period shall be deemed invalid, or shall be called in question in any Court, merely on the ground that the term of office was not extended in time, or was not otherwise duly extended, or that during the extended period the *panchayat*, member or Administrator could not exercise all powers and perform all duties and functions of the *panchayat*, member or Administrator, as the case may be.

Powers of members and Administrators, whose term of office stands extended and validation of certain acts.

5. Notwithstanding anything contained in this Act, after a date (being a date before the expiry of said period) to be notified by the State Government in the *Official Gazette*, arrangements shall be made by the Collector and other officers concerned to constitute new *panchayats* in accordance with the provisions of the Panchayats Act and rules and bye-laws made thereunder, before or as soon as possible after the expiration of the term of office of the existing *panchayats*, members and Administrators, which stands extended under this Act.

Arrangements to be made to reconstitute new Panchayats, at expiry of extended term of existing Panchayats members and Administrators.

6. Except as otherwise provided by or under this Act, the provisions of the Panchayats Act shall in all other respects apply to the *panchayats* concerned.

Application of Bom. III of 1959.

7. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order, do anything which appears to it to be necessary for the purposes of removing the difficulty.

Removal of difficulties.

Mah. Ord. VI of 1989. 8. (1) The Maharashtra Village Panchayats (Temporary Postponement of certain Elections due to flood conditions in the State) Ordinance, 1989, is hereby repealed.

Repeal of Mah. Ord. VI of 1989 and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.