



The Maharashtra Local Authority Members Disqualification Act, 1986

Act 20 of 1987

Keyword(s):

Aghadi, Collector, Commissioner, Councillor, Municipal Corporation, Municipal Council, Municipal Party, Original Political Party, Panchayat Samiti, Zilla Parishad

Amendment appended: 50 of 2006

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MAHARASHTRA ACT No. XX OF 1987¹

[THE MAHARASHTRA LOCAL AUTHORITY MEMBERS' DISQUALIFICATION
ACT, 1986.]

(This Act received assent of the Governor on the 28th July 1987; assent first published in the *Maharashtra Government Gazette*, Part IV, Extraordinary, on the 29th April 1987.)

Amended by Mah. 8 of 1997 (29-4-1996)*

An Act to provide for disqualification of members of certain local authorities on ground of defection and for matters incidental and connected therewith.

WHEREAS, it is expedient to provide for disqualification of members of certain local authorities on the ground of defection and for matters incidental and connected therewith; It is hereby enacted in the Thirtieth-seventh Year of the Republic of India, as follows :—

1. (1) This Act may be called the Maharashtra Local Authority Members' Short title and commencement.
Disqualification Act, 1986.

(2) It shall come into force on such date² as the State Government may, by notification in the *Official Gazette*, appoint.

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

(a) "aghadi" or "front" means a group of persons who have formed themselves into party for the purpose of setting up candidates for election to a local authority; Definitions.

(b) "Collector" means the Collector of a district;

(c) "Commissioner" means the Commissioner of a revenue division appointed under section 6 of the Maharashtra Land Revenue Code, 1966;

Mah.
XLI
of
1966.

(d) "councillor" means a councillor of a Municipal Corporation, or a Municipal Council, or a *Zilla Parishad*.

(e) "local authority" means—

(i) a Municipal Corporation,

(ii) a Municipal Council,

(iii) a *Zilla Parishad*, or

(iv) a *Panchayat Samiti*;

(f) "member" means a member of a *Panchayat Samiti*;

(g) "Municipal Corporation" means a Municipal Corporation constituted under a relevant municipal law;

(h) "Municipal Council" means a Municipal Council constituted under the Maharashtra Municipalities Act, 1965;

Mah.
XL of
1965.

(i) "municipal party" in relation to the councillor belonging to any political party or *aghadi* or front in accordance with the *Explanation* to section 3, means—

(i) in the case of a councillor of a Municipal Corporation, the group consisting of all councillors of the Municipal Corporation for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation*;

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1987, Extraordinary, Part V, Page 585.

² 1st November 1987 (*vide* G.N., R. D. D. No. ZPA. 1086/CR-875/04, dated the 29th October 1987.).

* This indicates the date of commencement of Act.

(ii) in the case of a councillor of a Municipal Council, the group consisting of all the councillors of the Municipal Council for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation*;

(j) "original political party", in relation to a councillor or a member, means the political party to which he belongs for the purposes of sub-section (1) of section 3;

(k) "*Panchayat Samiti*" means a *Panchayat Samiti* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961: Mah. V of 1962.

(l) "*Panchayat Samiti party*", in relation to a member belonging to any political party or *aghadi* or front in accordance with the *Explanation* to section 3, means the group consisting of all the members of the *Panchayat Samiti* for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation*;

(m) "relevant municipal law"—

(i) in relation to the Municipal Corporation of Greater Bombay, means the Bombay Municipal Corporation Act, Bom. III of 1888.

(ii) in relation to the Corporation of the City of Nagpur, means the City of Nagpur Corporation Act, 1948; C. P. and Berar II of 1950.

(iii) in relation to the Municipal Corporation of any other City, means the Bombay Provincial Municipal Corporations Act, 1949; Bom. LIX of 1949.

(n) "Schedule" means the Schedule appended to this Act;

(o) "*Zilla Parishad*" means a *Zilla Parishad* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961; Mah. V of 1962.

(p) "*Zilla Parishad party*", in relation to a councillor of a *Zilla Parishad* belonging to any political party or *aghadi* or front in accordance with the *Explanation* to section 3, means the group consisting of all the members of the *Zilla Parishad* for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation*.

Disqualifica- 3. (1) Subject to the provisions of sections 4 and 5, a councillor or a member
tion on ground of belonging to any political party or *aghadi* or front shall be disqualified for being
a councillor or a member—
defection.

(a) if he has voluntarily given up his membership of such political party or *aghadi*; or front: or

(b) if he votes or abstains from voting in any meeting of a Municipal Corporation, Municipal Council, *Zilla Parishad* or, as the case may be, *Panchayat Samiti* contrary to any direction issued by the political party or *aghadi* or front to which he belongs or by any person or authority authorised by any of them in this behalf, without obtaining, in either case, the prior permission of such political party or *aghadi* or front, person or authority and such voting or abstention has not been condoned by such political party or *aghadi* or front, person or authority within fifteen days from the date of such voting or abstention:

Provided that, such voting or abstention without prior permission from such party or *aghadi* or front, at election of any office, authority or committee under any relevant municipal law or the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961 shall not be condoned under this clause.

Explanation.—For the purposes of this section—

(a) a person elected as a councillor, or as the case may be, a member shall be deemed to belong to the political party or *aghadi* or front, if any, by which he was set up as candidate for election as such councillor or member;

(b) a nominated or co-opted councillor or member shall—

(i) where he is a member of any political party or *aghadi* or front on the date of his nomination, or as the case may be, co-opted as such councillor, or as the case may be, member be deemed to belong to such political party or *aghadi* or front.

(ii) in any other case, be deemed to belong to the political party or *aghadi* or front of which he becomes, or as the case may be, first becomes a member of such party or *aghadi* or front before the expiry of six months from the date on which he is nominated or co-opted as such councillor, or as the case may be member;

(c) a “nominated member”, in relation to a *Panchayat Samiti*, includes an associate member, referred to in clause (c) of sub-section (1) of section 57 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

Mah.
V of
1962.

(2) An elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by any political party or *aghadi* or front shall be disqualified for being a councillor, or as the case may be, a member if he joins any political party or *aghadi* or front after such election.

(3) A nominated or co-opted councillor, or as the case may be, member shall be disqualified for being a councillor, or as the case may be, a member, if he joins any political party or *aghadi* or front after the expiry of six months from the date on which he is nominated or co-opted as such councillor, or as the case may be, member.

(4) Notwithstanding anything contained in the foregoing provisions of this section a person who on the commencement of this Act, is a councillor, or as the case may be, a member (whether elected or nominated or co-opted as such councillor or member) shall—

(a) where he was a member of a political party or *aghadi* or front immediately before such commencement, be deemed, for the purposes of sub-section (1), to have been elected as a councillor, or as the case may be, a member as a candidate set up by such political party or *aghadi* or front;

(b) in any other case, be deemed to be an elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by any political party or *aghadi* or front for the purpose of sub-section (2), or as the case may be, be deemed to be a nominated or co-opted councillor, or as the case may be, a member for the purposes of sub-section (3).

4. (1) Where a councillor, or as the case may be, a member makes a claim that he and any other member of the municipal party, *Zilla Parishad* party, or as the case may be, the *Panchayat Samiti* party constitute the group representing a faction which has arisen as a result of a split in his original political party or *aghadi* or front and where the total strength of the councillors or, as the case may be members—

Disqualification on ground of defection not to apply in case of split.

(A) does not exceed twenty and such group consists of one-half, or

(B) exceeds twenty and such group consists of one-third, of the councillors of such municipal party, *Zilla Parishad* party, or as the case may be, the members of such *Panchayat Samiti* party—

(a) he shall not be disqualified under sub-section (1) of section 3 on the ground—

(i) that he has voluntarily given up membership of his original political party or *aghadi* or front or;

(ii) that he has voted or abstained from voting in the meeting of such Municipal Corporation, Municipal Council, *Zilla Parishad*, or as the case may be, *Panchayat Samiti*, contrary to any direction issued by such party or *aghadi* or front or by any person or authority authorized by any of them in that behalf without obtaining the prior permission of such party, *aghadi*, front, person or authority and such voting or abstention has not been condoned by such party, *aghadi*, front person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party or *aghadi* or front to which he belongs for the purposes of sub-section (1) of section 3 and to be his original political party or *aghadi* or front for the purposes of this section.

(2) Notwithstanding anything contained in sub-section (1), a councillor or, as the case may be, member shall be precluded from making such a claim as referred to in sub-section (1) for more than once during his term of office under the relevant municipal law or, as the case may be, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

Mah.
V of
1962.

Disqualifica-
tion on
ground of
defection
not to apply
in case of
merger.

5. (1) A councillor or a member shall not be disqualified under sub-section (1) of section 3 where his original political party or *aghadi* or front merges with another political party or *aghadi* or front and he claims that he and any other members of his original political party or *aghadi* or front—

(a) have become members of such other political party, or *aghadi* or front, or as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or *aghadi* or front or group, as the case may be, shall be deemed to be the political party or *aghadi* or front or group, as the case may be, shall be deemed to be the political party or *aghadi* or front to which he belongs for the purpose of sub-section (1) of section 3 and to be original political party or *aghadi* or front for the purpose of this sub-section.

(2) For the purpose of sub-section (1), the merger of the original political party or *aghadi* or front of a councillor, or as the case may be, a member shall be deemed to have taken place if, and only if, not less than two-thirds of the members of municipal party, *Zilla Parishad* party, or as the case may be, *Panchayat Samiti* party, concerned, have agreed to such merger.

Councillor
or member
to vacate
office or
not to hold
office after
split or
merger.

6. A councillor, or as the case may be, member claiming such split or merger as referred to in section 4 or 5, as the case may be, shall,—

(a) if holding any office other than such councillor or member under any relevant municipal law, or as the case may be, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 shall be deemed to vacate such office on the date of such split or merger and shall, on and from that date, cease to hold such office.

Mah.
V of
1962.

1[* * * * *]

¹ Clause (b) was deleted by Mah. 8 of 1997, s. 2 with effect from the 29th April 1996.



महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

शुक्रवार, डिसेंबर २९, २००६/पौष ८, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Local Authority Members' Disqualification (Amendment) Act, 2006 (Mah. Act No. L of 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. L of 2006.

(First published, after having received the assent of the Governor, in the "Maharashtra Government Gazette", on the 29th December 2006).

An act further to amend the Maharashtra Local Authority Members' Disqualification Act, 1986.

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 further to amend the Maharashtra Local Authority Members' Disqualification Act, 1986, for the purposes hereinafter appearing; and therefore, promulgated the Maharashtra Local Authority Members' Disqualification (Amendment) Ordinance, 2006, on the 19th October 2006 ;

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

Short title
and
commence-
ment.

1. (1) This Act may be called the Maharashtra Local Authority Members' Disqualification (Amendment) Act, 2006.

(2) It shall be deemed to have come into force on the 19th October 2006.

Amendment
of section 3
of Mah. XX
of 1987.

2. In section 3 of the Maharashtra Local Authority Members' Disqualification Act, 1986 (hereinafter referred to as "the principal Act"),—

Mah. XX of 1987.

(a) in sub-section (1),—

(1) for the words and figures "section 4 and 5" the word and figure "section 5" shall be substituted ;

(2) in the *Explanation*,—

(A) in clause (b),—

(i) for the words "or co-opted councillor or member" the word "councillor" shall be substituted ;

(ii) in sub-clause (i), the words "or as the case may be, co-option as such councillor, or as the case may be, member" shall be deleted ;

(iii) in sub-clause (ii), the words "or co-opted as such councillor, or as the case may be, member" shall be deleted ;

(B) clause (c) shall be deleted ;

(b) sub-section (3) shall be deleted ;

(c) in sub-section (4),—

(1) the word "or co-opted" shall be deleted ;

(2) in sub-clause (b), for the words "or as the case may be, be deemed to be a nominated or co-opted councillor, or as the case may be, a member for the purposes of sub-section (3)" shall be deleted.

Insertion of
section 3A in
Mah. XX of
1987.

3. After section 3 of the principal Act, the following section shall be inserted, namely :—

Disqualifica-
tion for
appointment
on
remunerative
political post.

"3A. A councillor or, as the case may be, a member belonging to any political party, *aghadi* or front who is disqualified for being a councillor or, as the case may be, a member, under section 3 shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such councillor or, as the case may be, a member expires or till the date on which he contests an election to a local authority and is declared elected, whichever is earlier.

Explanation.—For the purpose of this section, the expression “ remunerative political post ” means any office,—

(i) under the State Government where the salary or remuneration for such office is paid out of the public revenue of the State Government or Consolidated Fund of the State ; or

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the State Government and the salary or remuneration for such office is paid by such body ; or

(iii) under a local authority, where the salary or remuneration for such office is paid by the local authority out of such local authority's fund,

except where such salary or remuneration paid is compensatory in nature.”

4. Section 4 of the principal Act shall be deleted.

Deletion of section 4 of Mah. XX of 1987.

5. In section 6 of the principal Act,—

Amendment of section 6 of Mah. XX of 1987.

(a) for the words and figures “ such split or merger as referred to in section 4 or 5 as the case may be ” the words and figure “ merger referred to in section 5 ” shall be substituted ;

(b) in sub-clause (a), the words “ split or ” shall be deleted ;

(c) in the marginal note, the words “ split or ” shall be deleted ;

Mah.
Ord.
XI of
2006.

6. (1) The Maharashtra Local Authority Members' Disqualification (Amendment) Ordinance, 2006, is hereby repealed.

Repeal of Mah. Ord. XI of 2006 and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

