



## The State Election Commissioner (Qualifications and Appointment) Act, 1994

Act 22 of 1994

Keyword(s):

Government, State Election Commissioner

Amendment appended: 27 of 2012

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CONTENTS

PREAMBLE

SECTIONS.

1. Short title.
2. Definitions.
3. Qualifications for appointment.
4. Salary.
5. State Election Commissioner to hold no other office.
6. Term of office.
7. Leave.
8. Pension payable to the State Election Commissioner.
9. Right to subscribe to General Provident Fund.
10. Other conditions of service.

**MAHARASHTRA ACT No. XXII OF 1994<sup>1</sup>**

[THE STATE ELECTION COMMISSIONER (QUALIFICATIONS AND APPOINTMENT)  
ACT, 1994.]

(This Act received the assent of the Governor on the 22nd April 1994; assent was published in the *Maharashtra Government Gazette*, Part IV, on the 22nd April 1994.)

Amended by Mah. 37 of 2000 (23-6-2000)†@

**An Act to provide for the qualifications for and the appointment of the State Election Commissioner and for matters connected therewith or incidental thereto.**

WHEREAS it is expedient to provide for the qualifications for and the appointment of the State Election Commissioner and for matters connected therewith or incidental thereto ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1. This Act may be called the State Election Commissioner (Qualifications and Appointment) Act, 1994. Short title.

2. In this Act,—

Definitions.

(1) "Government" means the Government of Maharashtra ;

(2) "State Election Commissioner" means the State Election Commissioner appointed under article 243-K of the Constitution of India.

3. The State Election Commissioner shall be appointed from amongst persons who are holding, or have held a post not lower in rank than that of a Principal Secretary to Government. Qualifications for appointment.

<sup>2</sup>4. There shall be paid to the State Election Commissioner,— Salary.

(a) during the period from the 1st day of January 1996 to the 31st day of May 2000, a salary of Rs. 24,050 per month, in the scale of Rs. 24,050—650—26,000; and

(b) with effect from the 1st day of June 2000, a salary of Rs. 26,000 (fixed) per month :

Provided that, if a person who, immediately before the date of assuming office as the State Election Commissioner was in receipt of or being eligible so to do, had elected to draw, a pension (other than disability or wound pension), in respect of any previous service under the Government of the Union or under the Government of the State, his salary in respect of service as the State Election Commissioner shall be reduced, by the amount of such pension.]

5. The State Election Commissioner shall not be a member of Parliament or a member of the State Legislature or a member (or Councillor) of any Panchayat or Municipality in the State and shall not hold any office of trust or profit (other than his office as the State Election Commissioner) to hold no other office. State Election Commissioner to hold no other office.

<sup>1</sup> For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1994, Part V, page 184.

† This indicates the date of commencement of the Act.

@ Mah. Ord. 10 of 2000 was repealed by Mah. 37 of 2000, s. 3.

<sup>2</sup> Section 4 was substituted by Mah. 37 of 2000, s. 2.

Commissioner), or be connected with any political party or carry on any business or practice any profession, and accordingly before he enters upon his office, a person appointed as the State Election Commissioner shall,—

(a) if he is a Member of Parliament or of the Legislature of the State or of the Panchayat or the Municipality resign such membership ; or

(b) if he holds any office of trust or profit resign from such office ; or

(c) if he is connected with any political party sever connection with it ; or

(d) if he is carrying on any business sever his connection (short of divesting himself of ownership) with the conduct and management of such business ; or

(e) if he is practising any profession, suspend practice of such profession.

**Term of office.** 6. (1) The State Election Commissioner shall hold office ; for a term not exceeding five years from the date on which he enters upon his office ; and he shall not be eligible for re-appointment :

Provided that, the State Commissioner may, at any time, by writing under his hand addressed to the Governor, resign his office.

(2) The State Election Commissioner shall not be removed from office except in the manner specified in the proviso to clause (2) of Article 243K of the Constitution of India.

**Leave.** 7. (1) The State Election Commissioner shall be entitled to 30 days earned leave in a calendar year and it shall be credited to his leave account, in advance in two instalments of 15 days each on the first day of January and July of every calendar year.

(2) (a) The State Election Commissioner shall be entitled half pay leave on medical certificates or on private affairs at the rate of twenty days in respect of each completed year of service and the leave salary for half pay leave shall be equivalent to half of the leave salary admissible during the earned leave.

(b) Leave on half pay can be commuted to full pay leave at the discretion of the State Election Commissioner, provided it is taken on medical grounds and, supported by a medical certificate from the competent medical authority.

(3) The State Election Commissioner shall be entitled to extraordinary leave without pay and allowance upto a maximum period of one hundred and eighty days in one term of office.

(4) On the expiry of his term of office, the State Election Commissioner shall be entitled to receive cash equivalent of leave salary in respect of the earned leave, standing to his credit.

(5) The State Election Commissioner shall be entitled to receive dearness allowance, as admissible on the leave salary under sub-section (4) at the rates admissible on the date of the relinquishment of the office in the State Election Commission :

Provided that he shall not be entitled for the city compensatory allowance or any other allowance on such leave salary.

(6) The power to grant or refuse leave to the State Election Commissioner and to revoke or curtail leave granted to him, shall vest in the Governor.

8. (1) A person, who immediately before the date of assuming office as the State Election Commissioner was in service of Government of India or the State Government, shall be deemed to have retired from service on the date on which he enters upon office as the State Election Commissioner but his subsequent service as the State Election Commissioner shall be reckoned as continuing approved service counting for pension in service to which he belonged.

Pension payable to the State Election Commissioner.

(2) Where the State Election Commissioner demits office [whether in any manner specified in sub-section (3) or by resignation], he shall, on such demission, be paid in addition to any other pension if any, he may be drawing, a pension at the rate of rupees seven hundred per annum for each completed year of service or a part thereof and irrespective of the number of years of service in the Commission the maximum amount of pension shall not exceed rupees three thousand five hundred per annum :

Provided that, no such pension shall be payable to the State Election Commissioner if he has put in less than two years of service with the State Election Commission.

(3) Except where the State Election Commissioner demits office by resignation, he shall be deemed, for the purpose of this Act, to have demitted his office if, and only if,—

(a) he has completed the term of office specified in section 6, or

(b) his demission of office is medically certified to be necessitated by ill-health.

9. The State Election Commissioner shall be entitled to subscribe to the General Provident Fund at his option, and in case of his so opting shall be governed by the provisions of the Maharashtra General Provident Fund Rules :

Right to  
subscribe to  
General  
Provident  
Fund.

Provided that, if the State Election Commissioner, was a member of an All India Service or was holding a post under the Central or a State Government immediately before the date of assuming office as the State Election Commissioner, he shall be governed by the rules which were applicable to him immediately before the date of assuming office as the State Election Commissioner.

10. Save as otherwise provided in this Act, the conditions of service relating to the dearness allowance (including on pension), compensatory local allowance and all other allowances including travelling allowance, provision for rent free accommodation, conveyance facilities, medical facilities and such other conditions of service as are for the time being applicable to a member of the Maharashtra Administrative Tribunal under the relevant rules shall, as far as may be, apply to the State Election Commissioner.

Other  
conditions  
of service.



RNI No. MAHENG/2009/35528  
Reg. No. MH/MR/South-344/2011-13

# महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक ४२(२)]

गुरुवार, डिसेंबर २०, २०१२/अग्रहायण २९, शके १९३४

[पृष्ठे २, किंमत : रुपये १८.००

असाधारण क्रमांक ६८

प्राधिकृत प्रकाशन

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 State Election Commissioner (Qualifications and Appointment) (Amendment) Act, 2012 (Mah Act No. XXVII of 2012), is hereby published under the authority of the Governor.

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

**H. B. PATEL,**  
Secretary to Government,  
Law and Judiciary Department.

## MAHARASHTRA ACT No. XXVII OF 2012.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 20th December 2012).

An Act further to amend the State Election Commissioner (Qualifications and Appointment) Act, 1994.

Mah.  
XXII of  
1994.

WHEREAS it is expedient further to amend the State Election Commissioner (Qualifications and Appointment) Act, 1994, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-second Year of the Republic of India as follows :—

1. This Act may be called the State Election Commissioner (Qualifications and Appointment) (Amendment) Act, 2011.

भाग आठ-६८-१.

(१)

Amendment  
of section  
8 of Mah.  
XXII of  
1994.

2. In section 8 of the State Election Commissioner (Qualifications and Appointment) Act, 1994, in sub-section (2), for the portion beginning with the words "a pension at the rate of " and ending with the words " rupees three thousand five hundred per annum " the following shall be substituted, namely :—

Mah.  
XXII of  
1994.

" a pension at the rate of rupees four thousand seven hundred and sixteen per annum with effect from the 1st day of June 2000, for each completed year of service or a part thereof in the State Election Commission and irrespective of the number of years of service in the State Election Commission, the maximum amount of pension he may be drawing together with the additional pension payable under this sub-section shall not exceed rupees one lakh fifty six thousand per annum during the period from the 1st day of June 2000 to the 31st day of March 2004; and rupees two lakh thirty four thousand per annum from the 1st day of April 2004 ".





# महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक ३९]

गुरुवार, जानेवारी १७, २०१३/पोष २७, शके १९३४

[ पृष्ठ १, किंमत : रुपये १८.००

असाधारण क्रमांक २

प्राधिकृत प्रकाशन

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

## ERRATA

In the English Translation of the State Election Commissioner (Qualifications and Appointment) (Amendment) Act, 2011 (Mah. XXVII of 2012) published in the *Maharashtra Government Gazette*, Extraordinary No. 68, Part VIII, dated the 20th December 2012, at pages 1-2, on page 1, in line No. 10, for "Act, 2012", read "Act, 2011".

(१)

भाग आठ—२-१