

The Salem City Municipal Corporation Act, 1994

TAMILNADU

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Act 29 of 1994

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The Salem City Municipal Corporation Act, 1994 Tamil Nadu Act 29 of 1994 Statement of Objects and Reasons - Salem City Municipal Corporation Act, 1994 (Tamil Nadu Act 29 of 1994). - The question of constituting a municipal corporation for Salem has been engaging the attention of the Government for some time past. Apart from the numerous requests made on the floor of the Legislative Assembly and representations received from the public; the town has significantly developed industrially and therefore, civic amenities of a high order are the legitimate expectation of the people of this town. In all counts it has reached the status of a corporation of the people of this town, such. The Government, therefore, took a decision to upgrade Salem Municipality into a municipal corporation. Accordingly the limits of Salem Municipality were extended recently by the inclusion of certain adjoining areas.² The Salem Municipality is now being governed by the provisions of The Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920). For full administration, on and from the date of the constitution of a municipal corporation for Salem, a new and separate enactment has become necessary. Hence, proposed to undertake a special legislation adopting the provisions of the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981) with such modifications as are necessary.³ The Bill seeks to achieve the above objects. The Notes of Clauses appended to this Bill explain in detail the provisions of the Bill. Published in Part IV-section 1 of the Tamil Nadu Government Gazette Extraordinary, dated 3rd May 1994. Statement of Objects and Reasons - Tamil Nadu Municipal Laws (Sixth Amendment) Act, 2008 (Tamil Nadu 38 of 2008). - The Government constituted a High Level Committee under the Chairmanship of Honourable Minister for Rural Development and Local Administration, to examine and give recommendations on devolution of more powers and functions upon Urban Local Bodies.² The said High Level Committee has recommended, among others, that the Acts governing urban local bodies of the State may be suitably amended to prescribe Mayors of City Municipal Corporations as an authority under the said Acts. The Committee has also given certain recommendations regarding prerogatives of the Mayor, relating to, access to records of the Corporation, important correspondences between Corporation and Government and also, regarding entrustment of additional functions to Mayor.³ The said High Level Committee has also recommended that the financial power of the Contract Committee of the Municipalities may be enhanced up to Rs. 50,000.⁴ The Government have, therefore, decided to accept the above recommendations of the said High Level Committee and to

amend the Acts governing urban local bodies suitably, for this purpose.⁵ The Bill seeks to give effect to the above decision. Published in Part IV-Section of the Tamil Nadu Government Gazette Extraordinary, dated the 13th May 2008. [Dated 3.5.1994.] An Act to provide for the establishment of a Municipal Corporation for the City of Salem. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-fifth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Salem City Municipal Corporation Act, 1994. (2) It extends to the City of Salem. (3) It shall come into force on such [date] [Came into force on 1st June of 1994 vide G.O.Ms. No. 93, M.A. & W.S., dated 1st April 1994.] as the Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) [xxx] [Clause (a) was omitted by Tamil Nadu Act 17 of 1996.] (b) "Corporation" means the Municipal Corporation of Salem constituted under section 3; (c) "Council" means the Municipal Council of Salem; (d) "date of the commencement of this Act" means the date appointed under sub-section (3) of section 1; (e) "Government" means the State Government; (f) "Municipality" means the Salem Municipality; (g) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings, respectively, assigned to them in clauses (24) and (25) of Article 366 of the Constitution; (h) all words and expressions used in this Act and not defined, but defined in the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981) (hereinafter referred to as the 1981 Act), shall have the meanings, respectively, assigned to them in the 1981 Act.

3. Establishment of Municipal Corporation for the City of Salem.

(1) With effect on and from the date of the commencement of this Act, the local area included in the Salem Municipality shall constitute the City of Salem for the purposes of this Act; and from such date of the commencement, a municipal corporation shall be deemed to have been established for the said City by the name of Salem Municipal Corporation: Provided that the Government may, from time to time, after consultation with the corporation, by notification, alter the limits of the City constituted under this sub-section so as to include therein or to exclude therefrom the areas specified in the notification: Provided further that the power to issue a notification under this sub-section shall be subject to previous publication. (2) The corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued. (3) The Salem Municipality, functioning immediately before the date of the commencement of this Act, shall be deemed to have been abolished from such commencement.

4. Municipal Authorities.

- The municipal authorities charged with carrying out the provisions of the Act shall be, -(1) [a Mayor; [Substituted by Tamil Nadu Act 38 of 2008, dated 13.5.2008.](1-a) a council;](1)a

council;(2)a standing committee;(3)a Commissioner; and(4)a wards committee.

5. Constitution of Council.

(1)Save as otherwise provided in sub-section (2), the council shall consist of such number of councillors elected in the manner laid down in this Act as may be fixed by the Government by notification from time to time, so, however, that the total number of councillors of the council shall not exceed seventy-two at any time.(2)The following persons shall also be represented in the council, namely:-(a)[xxx] [Clause (a) of sub-section (2) was omitted by Tamil Nadu Act 3 of 1997.][xxx] [Proviso to clause (a) of sub-section (2) was omitted by Tamil Nadu Act 22 of 1996.](b)the members of the House of the People representing constituencies which comprise wholly or partly the area of the corporation and the members of the council of States registered as electors within the area of the corporation:(c)[all the members of the Tamil Nadu Legislative Assembly representing constituencies which comprise wholly or partly the area of the corporation.] [Clause (c) of sub-section (2) was substituted by Tamil Nadu Act 22 of 1996.](d)[xxx] [Clause (d) was omitted by Tamil Nadu Act 22 of 1996.][(2-A) The persons referred to in sub-section (2) shall be entitled to take part in the proceedings but shall not have the right to vote in the meetings of the council.] [Sub-section (2-A) was inserted by Tamil Nadu Act 22 of 1996.](3)Seats shall be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in the council and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the council as the population of the Scheduled Castes in the City or of the Scheduled Tribes in the City bears to the total population of the City:Provided that for the first election to be held immediately after the date of the commencement of this Act, the provisional population figures of the City as published in relation to 1991 census shall be deemed to be the population of the City as ascertained in that census.(4)Seats shall be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes, from among the seats reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes, which shall not be less than one-third of the total number of seats reserved for the persons belonging to the Scheduled Cast and the Scheduled Tribes.[xxx] [Subsections (4-A) and (4-B) were inserted by Tamil Nadu Act 14 of 1995 and omitted by Tamil Nadu Act 17 of 1996.](5)Seats shall be reserved for women in the council and the number of seats reserved for women shall not be less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats in the council.(6)The reservation of seats under sub-sections (3) and (4) shall cease to have effect on the expiry of the period specified in Article 334 of the Constitution.

6. Duration of corporation.

(1)The corporation, unless sooner dissolved, shall continue for five years form the date appointed for its first meting and no longer and the said period of five years shall operate as a dissolution of the corporation.(2)An election to constitute the corporation shall be completed, -(a)before the expiry of its duration specified in sub-section (1); or(b)before the expiration of a period of six months from the date of its dissolution:Provided that where the remainder of the period for which the dissolved corporation would have continued, is less than six months, it shall not be necessary to hold any election, under this sub-section for constituting the corporation for such period.

7. Tamil Nadu District Municipalities Act, 1920 not to apply.

(1) Subject to the provisions of sub-sections (2) and (3), the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) (hereafter in this section referred to as the "District Municipalities Act") shall, with the effect on and from the date of the commencement of this Act, cease to apply to the local area comprised within the City of Salem. (2) Such cesser shall not affect, - (a) the previous operation of the District Municipalities Act, in respect of the local area comprised within the City of Salem; (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the District Municipalities Act; or (c) any investigation, legal proceedings or remedy in respect of such penalty, forfeiture or punishment, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed. (3) Notwithstanding anything contained in sub-section (1), all appointments, notifications, notices, rules, bye-laws, regulations, orders, directions, licences, permissions, schemes, forms and powers made or issued or conferred under the District Municipalities Act, and in force on the date of the commencement of this Act, shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force in the local area comprised within the City of Salem until they are replaced by the appointments, notifications, notices, rules, bye-laws, regulations, orders, directions, licences, permissions, schemes, forms and powers to be made or issued or conferred under this Act.

8. Application of the provisions of the 1981 Act to the corporation.

(1) Save as otherwise expressly provided herein, all the provisions of the 1981 Act including the provisions relating to the levy and collection of any tax or fee, are hereby extended to and shall apply mutatis mutandis to the corporation and the 1981 Act shall, in relation to the corporation be read and constituted as if the provisions of this Act had formed part of the 1981 Act. (2) For the purpose of facilitating the application of the provisions of the 1981 Act to the corporation, the Government may, by notification, make such adaptations and modifications of the 1981 Act and the rules and bye-laws made thereunder whether by way of repealing, amending or suspending any provision thereof, as may be necessary or expedient and thereupon, the 1981 Act and the rules made thereunder, shall apply to the corporation subject to the adaptations and modifications so made. (3) Notwithstanding that no provision or insufficient provision has been made under sub-section (2) for the adaptation of the provisions of the 1981 Act, or the rules and bye-laws made thereunder, any Court, tribunal or authority required or empowered to enforce these provisions may, for the purpose of facilitating their application to the corporation, construe these provisions in such manner, without affecting the substance, as may be necessary or proper having regard to the matter before the Court, tribunal or authority. (4) In the 1981 Act as extended and applied to the City of Salem, - (a) any reference to the City of Coimbatore and Coimbatore Municipality, shall by reason of this Act, be construed as a reference to the City of Salem and Salem Municipality, respectively; and (b) any reference to the Coimbatore Corporation, Corporation of Coimbatore and Municipal Corporation of Coimbatore, shall by reason of this Act, be construed as a reference to the Salem Corporation, Corporation of Salem and Municipal Corporation of Salem, respectively.

9. Transitional provisions.

(1) All property, all rights of whatever kind, used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by or for the council, with all rights of whatever kind used, enjoyed or possessed by the said council, as well as all liabilities legally subsisting against the said council, shall, on and from the date of the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, vest with the corporation. (2) All arrears of taxes or other payments by way of composition for a tax, or due for expenses or compensation, or otherwise due to the said council on the date of such commencement may be recovered as if they had accrued to the corporation and may be recovered as if the said arrears or payments had become due, under the provisions of this Act. (3) All taxes, fees and duties, which immediately before the date of the commencement of this Act, were being levied by the said council, shall be deemed to have been levied by the corporation under the provisions of this Act and shall continue to be in force accordingly until such taxes, fees and duties are revised, cancelled or superseded by anything done or any action taken under this Act. (4) All proceedings taken by, or against, the council or authority or any person under the District Municipalities Act, may be continued by, or against, the corporation, authority or person as if the said proceedings had been commenced under the provisions of this Act. (5) Any action taken under the District Municipalities Act, by any authority before the date of such commencement shall be deemed to have been taken by the authority competent to take such action under this Act as if this Act had then been in force. (6) Notwithstanding anything contained in this Act, every officer or employee who, immediately before the date of such commencement was in the service of the municipality shall, on and from the date of the commencement of this Act, be deemed to be an officer or employee of the corporation: Provided that - (a) the terms and conditions applicable to such officers and employees consequent on their absorption in the service of the corporation shall not be less favourable than those applicable to such employees immediately before the date of such commencement, as regards pay and allowances, leave, pension, gratuity, provident fund and age of superannuation; and (b) the service rendered by any such officer or other employee under the municipality up to the date of such commencement shall be deemed to be service under the corporation and he shall be entitled to count that service for the purpose of increments, leave, pension, provident fund and gratuity: Provided further that any officer or other employee serving in the municipality shall be given an option to be exercised within such time and in such manner as may be prescribed either to be absorbed in the service of the corporation or to be retained in the service constituted under section 73-A of the District Municipalities Act, or to be retrenched from the service of the municipality on such retrenchment benefits as may be prescribed. (7) Any division of the Salem Municipality into wards made under the District Municipalities Act, and in force of the date of the commencement of this Act shall be deemed to be a division of the corporation until altered. (8) The electoral roll prepared for the Salem Municipality under the District Municipalities Act, and in force on the date of the commencement of this Act, shall be deemed to be the electoral roll for the corporation until a new electoral roll is prepared and published and the part of the said electoral roll relating to each ward of the municipality shall be deemed to be the list of the electoral roll for the corresponding division of the corporation.

10. Appointment of Special Officer.

(1) There shall be appointed by the Government, by notification, a Special Officer to exercise the powers, perform the duties and discharge the functions of-(1)the council;(2)the standing committee;(3)the Commissioner, and;(4)the wards committee.(2)The Government shall cause elections to be held to the corporation so that the newly elected councillors and the Mayor may come into office, [on or before 31.12.1996.] [Substituted by Tamil Nadu Act 16 of 1996.](3)The Special Officer shall exercise the powers, perform the duties and discharge the functions, -(a)of the corporation, until the elected councillors come into office;(b)of the standing committee, until a standing committee is appointed by the corporation; and(c)of the Commissioner, until a Commissioner is appointed by the Government and such officer may, if the Government so direct, receive remuneration for his services from the municipal fund.(4)Until a new Special Officer is appointed by the Government under subsection (1), the Special Officer of the municipality functioning immediately before the date of the commencement of this Act shall be deemed to be the Special Officer of the corporation and he shall exercise the powers and perform the duties and discharge the functions as those exercised, performed and discharged by the Special Officer appointed under sub-section (1).(5)The Special Officer referred to in sub-section (1) or in sub-section (4) shall hold office [up to the 31st day of December 1996 or for shorter period as the Government may, by notification, specify in this behalf.] [Substituted by Tamil Nadu Act 16 of 1996.]

11. Power to make rules.

(1)The Government may make rules for carrying out the purposes of this Act.(2)(a)All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.(3)Every rule made or notification or order issued under this Act shall as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, 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 or notification or order.

12. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:Provided that no such order shall be made after the expiry of two years from the date of the commencement of this Act.