

Gujarat Panchayats (Second Amendment) Act, 1976

GUJARAT

India

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Act 44 of 1976

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Enacted by the President in the Twenty-seventh Year of the Republic of IndiaAn Act further to amend the Gujarat Panchayats Act, 1961.In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976 (44 of 1976.), the President is pleased to enact as follows:-

1. Short title.- This Act may be called the Gujarat Panchayats (Second Amendment) Act, 1976.

2. Amendment of section 14.- In section 14 of the Gujarat Panchayats Act, 1961 (Guj. VI of 1962) (hereinafter referred to as "the principal Act"), in sub-section (5), after clause (i), the following clause Khali be inserted, namely:-

"(ia) the Mamlatdar or, as the case may be, the Mahaikari, of the revenue taluka;"

3. Amendment of section 51.- In section 51 of the principal Act, in sub-section (1), for the words "or who has been detained in a prison during trial under the provisions of any law for the time being in force", the following shall be substituted, namely:-

"or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force"

4. Amendment of section 63.- In section 63 of the principal Act, in sub-section (1), for the words "or who has been detained in a prison during trial under the provisions of any law for the time being in force", the following shall be substituted, namely:-

"or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force".

5. Amendment of section 75.- In section 75 of the principal Act in sub-section (1), for the words "or who has been detained in a prison during trial under the provisions of any law for the time being in force", the following shall be substituted, namely:-

"or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force".

6. Amendment of section 111.- in section 111 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) The Executive Committee shall consist of-(a)five members, if the total number of elected members of the taluka panchayat does not exceed twenty;(b)seven members, if the total number of elected members of the taluka panchayat exceeds twenty, but does not exceed twenty-five;(c)nine members, if the total number of elected members of the taluka panchayat exceeds twenty-five, but does not exceed thirty-one;(d)eleven members, if the total number of elected members of the taluka panchayat exceeds thirty-one."

7. Amendment of section 178.- In section 178 of the principal Act, in sub-section (1),-

(a)after the words "or special order", the brackets and words "(including an order fixing the minimum and maximum rates of a tax or fee)" shall be inserted;(b)the brackets and words "(but subject to the minimum and maximum rates which may be fixed by the State Government)" shall be omitted.

8. Amendment of section 203.- In section 203 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:-

"(6) The promotion of a servant in a cadre in the Panchayat service to a cadre in the State service in accordance with rules made under clause (a) of sub-section (4) shall not affect-(a)any obligation or liability incurred or default committed by such servant during the period of his service in a cadre in the Panchayat service while acting or purporting to act in the discharge of his duties as such servant or(b)any investigation, disciplinary action or remedy in respect of such obligation, liability or default, and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of service by such authority as the State Government may by general or special order specify in this behalf."

9. Insertion of new section 295A.- After section 295 of the principal Act the following new section shall be inserted, namely:-

"295A. Extension by panchayat of its services, etc., to area outside its limits.- (1) If for the purpose of taking immediate steps for protecting life and property in any area affected by an outbreak of fire or epidemic disease or any other natural calamity, the District Development Officer is satisfied that it is necessary to requisition any service, equipment or staff provided or maintained by any panchayat within the area for which it is constituted, such Officer may by order in writing direct the panchayat to supply to the area so affected such service, equipment and staff for such purpose and for such period as may be specified in the order and the panchayat shall be bound to comply with the direction.(2)Where any direction is issued to a panchayat under sub-section (1). the panchayat shall, subject to the provisions of sub-section (3), be entitled to the cost of supplying the service, equipment and staff in pursuance of the direction.(3)(a)The sum payable to the panchayat under sub-section (2) by way of cost shall be determined by the Officer making requisition under sub-section (1).(b)If the area to which the service, equipment and staff are so supplied, is within the local limits of any municipal corporation, municipality, or any other panchayat, such corporation, municipality, or panchayat, as the case may be, shall be liable to pay to the panchayat to which the order under sub-section (1) is directed, the sum determined under clause (a) and shall pay the same to the panchayat within such period as the Officer determining the sum directs and in any other case, the sum determined under clause (a) shall be paid to the panchayat by the State Government.(4)If any area not comprised within the local limits of a municipal corporation, municipality or any panchayat, is affected by an outbreak of fire or epidemic disease or any other natural calamity and a panchayat is satisfied that for protecting life and property in that area it is necessary to take immediate steps to make available any of its services, equipment and staff for that area, then notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), and whether a requisition under sub-section (1) has been made or not, it shall be lawful for the panchayat to do so free of cost."

10. Substitution of new section for section 310A.- For section 310A of the principal Act, the following section shall be substituted, namely:-

"310A. Consequences of alteration of limits of district or taluka.- (1) When, on account of the constitution of a new district or taluka under the Land Revenue Code, or for any other reason, the limits of a district, or as the case may be, a taluka are, during the term of office of the members of

the district panchayat or, as the case may be the taluka panchayat, altered so as to-(a)include any area therein, or(b)exclude any area therefrom,the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the Official Gazette, provide for all or any of the following matters, namely:-(i)in a case falling under clause (a), the interim increase in the number of members of the district panchayat or, as the case may be, the taluka panchayat, and the appointment of such additional members from amongst persons qualified to be elected under the provisions of this Act as such members from the area so included:Provided that where the area so included had been a part of a district or taluka for which a panchayat has been established, the members of such panchayat who are elected from that area shall be appointed as additional members;(ii)in a case falling under clause (b) the interim reduction in the number of members of the district panchayat, or, as the case may be, the taluka panchayat and the termination of office of the elected members of the district panchayat or, as the case may be, taluka panchayat who are elected as such members from the area so excluded;(iii)the term for which additional members so appointed shall hold office and the manner of filling casual vacancies of such members;(iv)allocation of any officer or servant of the panchayat affected by the alteration of the limits;(v)the removal of any difficulty which may arise on account of any change referred to in clause (a) or clause (b).(2)The district panchayat or the taluka panchayat, if any, functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue to function until the expiry of its term under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.(3)If in consequence of the alteration of the limits of any district or taluka, the area excluded therefrom is included in any other district or taluka, then-(a)such portion of the district or taluka fund, and other property of the district or taluka panchayat of the district or taluka from which the area is so excluded shall vest in, and be transferred to, the district panchayat, or as the case may be, the taluka panchayat of the district, or as the case may be, the taluka in which such area is included, as the State Government may, by order in writing, direct;(b)the rights, assets and liabilities of the district or taluka panchayat of the district or taluka from which the area is so excluded in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded, shall vest in, and be transferred to, the district or taluka panchayat of the district or taluka in which the area is included;(c)any notification, notice, tax, fee, cess, rule, bye-law, order, licence or permission issued, imposed, made or granted by the district or taluka panchayat in respect of the area so excluded shall be deemed to have been issued, imposed, made or granted by the district or taluka panchayat of the district or taluka in which the area is so included and shall continue in force until it is superseded in accordance with law;(d)all proceedings relating to the area excluded from the district or taluka and pending before the panchayat on the date of such exclusion shall be transferred to and disposed of by the district or taluka panchayat of the district or taluka in which the area is included."

11. Saving.- Nothing in sub-section (3) of section 111 of the principal Act as amended by section 6 of this Act shall affect the constitution and functioning of the Executive Committee of a taluka panchayat constituted under the principal Act and functioning immediately before the commencement of this Act and every such Committee shall, subject to the provisions of the principal Act, continue to function after such commencement until the expiry

of its term or until it is reconstituted under sub-section (3) of section 111 of the principal Act as amended by the said section 6, whichever is earlier.