

The Maharashtra Local Authority Members Disqualification Rules, 1987

MAHARASHTRA

India

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Rule

THE-MAHARASHTRA-LOCAL-AUTHORITY-MEMBERS-DISQUALIFICATION of 1987

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The Maharashtra Local Authority Members Disqualification Rules, 1987 Published vide Notification No. G. N. R. D. No. ZPR. 1086/CR-888/04, dated 1st November, 1987 (M.G.G., Part 4B, page 1059)

1. Short title.

- These rules may be called the Maharashtra Local Authority Members' Disqualification Rules, 1987.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a)"Act" means the Maharashtra Local Authority Members' Disqualification Act, 1986;(b)"Form" means the form appended to these rules;[(b-1) (i) "Leader in relation to a municipal party" means a councillor chosen by each political party or aghadi or front in the Municipal Corporation or as the case may be in the Municipal Council as its leader and includes any other Councillor of such party or aghadi or front authorised by it to act in the absence of the leader as, or discharge the functions of the leader of such party or aghadi or front for the purposes of these rules. [Inserted by G. N. of 16.3.1990.](ii)"Leader in relation to a Panchayat Samiti party" means a member chosen by each political party or aghadi or front in Panchayat Samiti as its leader and includes any other member of such party or aghadi or front authorised by it to act in the absence of the leader as, or discharge the functions of the leader of such party or aghadi or front for purposes of these rules.(iii)"Leader in relation to a Zilla Parishad Party" means a councillor chosen by each political party or aghadi or front in Zilla Parishad as its leader and includes any other councillor of such party or aghadi or front authorised by it to act in the

absence of the leader as, or discharge the functions of the leader of such party or aghadi or front for the purposes of these rules.](c)Words and expressions used in these rules, but not defined, shall have the meanings, respectively assigned to them in the Act.

3. Information to be furnished by a leader of a Party.

(1)The leader of each municipal party or a Zilla Parishad party in relation to a councillor and the leader of Panchayat Samiti party in relation to a member (other than a municipal party or a Zilla Parishad party or a Panchayat Samiti party consisting of only one member) shall, within thirty days from the date of commencement of these rules or, where such party is formed after such date, within thirty days from the date of its formation, or in either case, within such further period as the Commissioner, in the case of a councillor of a Municipal Corporation, or the Collector, in the case of any other councillor or member may for sufficient reason allow, furnish the following information to the Commissioner, or, as the case may be, to the Collector, namely(a)a statement in writing containing the names of members of such party together with other relevant particulars regarding such members as prescribed in Form I, and the names and designations of the members of such party who have been authorised by it for communicating with the Commissioner or, as the case may be, Collector for the purposes of these rules;(b)a copy of the rules and regulations (whether known as such or a constitution or by any other name), of the municipal party, Zilla Parishad party or the Panchayat Samiti party concerned, as the case may be; and(c)where such party has any separate set of rules and regulations (whether known as such or as constitution or/by any other name), also a copy of such rules and regulations.(2)Where a municipal party or a Zilla Parishad party in relation to a councillor and [* * *] [The words 'the leader of' were deleted by G. N. of 16.3.1990.] a Panchayat Samiti party in relation to a member, consists of only one member then such member shall furnish a copy of the rules and regulations mentioned in clause (b) of sub-rule (1) to the Commissioner or, as the case may be, Collector, within thirty days from the date of commencement of these rules or, where he has become a councillor of the Municipal Corporation, Municipal Council, Zilla Parishad or as the case may be, a member of the Panchayat Samiti after such date, within thirty days from the date on which he has taken his seat in the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti, or in any case, within such further period as the Commissioner or, as the case may be, Collector may for sufficient reason allow.(3)In the event of any increase in the strength of a municipal party or a Zilla Parishad party in relation to a councillor and the Panchayat Samiti party in relation to a member, consisting of only one member, the provisions of sub-rule (1) shall apply in relation to such party as if such party had been formed on the first date on which its strength increased.(4)Whenever any change takes place in the information furnished by the leader of a municipal party or a Zilla Parishad party, in relation to a councillor and by the leader of a Panchayat Samiti party, in relation to a member under sub-rule (1) or by a member under sub-rule (2), he shall as soon as may be thereafter and in any case not later than thirty days from the date on which such change has taken place or within such further period as the Commissioner, or, as the case may be. Collector may for sufficient reason allow, furnish in writing the information with respect to such change to the Commissioner or, as the case may be, Collector.(5)[Where a councillor in relation to a municipal party or a Zilla Parishad party and a member in relation to a Panchayat Samiti party votes or abstains from voting in any of the meetings of the 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 it in this behalf, without obtaining in either case, the prior permission of such party, person or authority, the leader of such municipal party or Zilla Parishad party or as the case may be, Panchayat Samiti party, or where such councillor or member is the leader or, as the case may be, the sole member of such municipal party, Zilla Parishad party or Panchayat Samiti party, such councillor or, as the case may be, member, shall as soon as may be thereafter and in any case within thirty days from the date of such voting or abstention inform the Commissioner or, as the case may be, the Collector in Form II whether such voting or abstention has or has not been condoned by such party, person or authority.] [Sub-rule (5) was substituted by G. N. of 16.3.1990.]

4. Information etc., to be furnished by councillor or member.

- [(1)(a) Every councillor in relation to a municipal party or a Zilla Parishad party and a member in relation to a Panchayat Samiti party who is holding office as such on the commencement of the Act in the Municipal Corporation, Municipal Council, Zilla Parishad or as the case may be, in Panchayat Samiti shall furnish to the Commissioner or, as the case may be, to the Collector within thirty days from the date of commencement of these rules or within such further period as the Commissioner or, as the case may be, the Collector may for sufficient reason allow, a statement of particulars and declaration in Form III.(b)Every councillor in relation to a municipal party or a Zilla Parishad party and a member in relation to a Panchayat Samiti party after the commencement of the Act who is elected to the Municipal Corporation, Municipal Council, Zilla Parishad or as the case may be, the Panchayat Samiti before taking his seat, shall be furnished to the Commissioner, or, as the case may be, the Collector within thirty days from the date of the declaration of the election results or within such further period as the Commissioner or, as the case may be, the Collector may for sufficient reason allow a statement of particulars and declaration in Form III.Explanation (1). - For the purpose of this sub-rule 'councillor' in relation to a Municipal party or a Zilla Parishad party and 'member' in relation to a Panchayat Samiti party means a councillor or member belonging to such political party or aghadi or front, which has set up his candidature for the election of Municipal Corporation, Municipal Council, Zilla Parishad or as the case may be, the Panchayat Samiti.Explanation (2). - For the purpose of this sub-rule, the Commissioner or as the case may be the Collector, after the expiry of the date prescribed for the statement of the particulars and the declaration in Form III may decide as and when need arises about the affiliation of the political party or aghadi or front of the councillor, or as the case may be the member on the basis of the election symbol allotted to him at the time of his election.] [Sub-rule (1) was substituted by G. N. of 16.3.1990.][Explanation (3). [Explanation (3) was added by G. N. of 7.6.1993.] - For the purpose of this sub-rule, if a councillor is elected as a nominee of a particular political party or aghadi or front in Zilla Parishad, he will automatically be considered as a nominee of the same political party or aghadi or front in Panchayat Samiti; as each councillor who is elected on Zilla Parishad is a member of Panchayat Samiti.](2)Every councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party who takes his seat in the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, in Panchayat Samiti, after the commencement of these rules shall, before taking his seat in the Municipal Corporation, Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti, deposit with the Commissioner or,

as the case may be, Collector his election certificate or, as the case may be, a certified copy of the notification nominating him as a member and also furnish to him a statement of particulars and declaration in Form III. Explanation. - For the purposes of this sub rule, "election certificate" means the certificate of election issued under the Bombay Municipal Corporation Act (Bombay III of 1888), the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949), the Maharashtra Municipalities Act, 1965 (Maharashtra XL of 1965), the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950), the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Maharashtra V of 1962) and the rules made thereunder. (3) A summary of the information furnished by the councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party, under this rule shall be published in the Maharashtra Government Gazette and if any discrepancy therein is pointed out to the satisfaction of the Commissioner or, as the case may be, Collector, necessary corrigendum shall be published in the said Gazette.

5. Register of information as to councillor or members.

(1) The Commissioner in the case of a councillor of a Municipal Corporation and the Collector, in the case of any other councillor or member, shall maintain in Form IV, a register based on the information furnished [under rules 3 and 4] [These words and figures were substituted for the words and figures 'under rules 4 and 5' by G. N. of 16.3.1990.] in relation to the councillor of a municipal party, Zilla Parishad party or, as the case may be, member of a Panchayat Samiti party. (2) The information in relation to each councillor in respect of a municipal party, a Zilla Parishad party and in relation to each member in respect of a Panchayat Samiti party shall be recorded on a separate page in the register.

6. References to be by petitions.

(1) No reference of any question as to whether a councillor in relation to a municipal party and a Zilla Parishad party or member in relation to a Panchayat Samiti party has become subject to disqualification under the Act shall be made except by a petition in writing to the Commissioner in the case of a councillor of a Municipal Corporation and the Collector in the case of any other councillor or member, by any other councillor or, as the case may be, member, in relation to such councillor or, as the case may be, member. (2) Before making any petition in respect of a councillor in relation to a municipal party and a Zilla Parishad party or a member in relation to a Panchayat Samiti party, [the petitioner shall satisfy himself] [These words were substituted for the words 'the petition shall satisfy himself' by G. N. of 16.3.1990.] that there are reasonable grounds for believing that a question has arisen as to whether such councillor or, as the case may be, member has become subject to disqualification under the Act. (3) Every petition - (a) shall contain a concise statement of the material facts on which the petitioner relies; and (b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and where the petitioner relies on any information furnished to him by any person, a statement containing the names and addresses of such person and the gist of such information as furnished by each such person. (4) Every petition and any annexure thereto shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (V of 1908) for the verification of pleadings.

7. Procedure.

(1) On receipt of a petition under rule 6, the Commissioner or, as the case may be, Collector shall consider whether the petition complies with the requirements laid down in that rule. (2) If the petition does not comply with the requirements of rule 6, the Commissioner or, as the case may be, Collector shall dismiss the petition and intimate the petitioner accordingly. (3) If the petition complies with the requirements of rule 6, the Commissioner or, as the case may be, Collector shall forward copies of the petition and of the annexures thereto - (a) to the councillor in relation to a municipal party and a Zilla Parishad party and member in relation to a Panchayat Samiti party, in respect of whom the petition has been made, and (b) where such councillor in relation to a municipal party and a Zilla Parishad party or member in relation to a Panchayat Samiti party belongs to any political party or aghadi or front and such petition has not been made by the leader thereof, also to such leader; and such councillor, member or leader shall, within seven days of the receipt of such copies, or within such further period as the Commissioner or, as the case may be, Collector may for sufficient reason allow, forward his comments in writing thereon to the Commissioner or, as the case may be, Collector. (4) After considering the comments, if any, in relation to the petition received under sub-rule (3) within the period allowed (including the extended period), the Commissioner or, as the case may be, Collector shall proceed to determine the question after making a preliminary enquiry. (5) [The procedure which shall be followed by the Commissioner or, as the case may be, Collector for the purpose of making a preliminary enquiry to determine any question under sub-rule (4) shall be as prescribed in sub-rules (6) to (15).] (6) The Commissioner or, as the case may be, Collector shall draw up or cause to be drawn up, - (i) the substance of the imputations of disqualification into definite and distinct articles of charge; (ii) a statement of the imputations of disqualifications in support of each article of charge, which shall contain - (a) a statement of all relevant facts including any admission or confession made by the councillor or the member, and (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained. (7) [The petition shall be dealt with by the Commissioner, or as the case may be, Collector, as expeditiously as possible and endeavour shall be made by him to dispose of the petition within 90 days from the date of receipt of the petition : Provided that, where any petition could not be disposed of within the said period of 90 days, the Commissioner, or as the case may be, the Collector, shall record his reasons, in writing, for not disposing of the petition within the said period.] [Sub-rules (5) to (15) were substituted for the original sub-rules (5) and (6) by G. N. of 28.11.1991.] (8) On receipt of the written statement of defence, the Commissioner or, as the case may be, the Collector, may himself inquire into such of the articles of charge as are not admitted, and where all the articles of charge have been admitted by the councillor or member in his written statement of defence, the Commissioner or, as the case may be, the Collector, shall record his findings on each charge after taking such evidence as he may think fit and shall act in the manner laid down in rule 8 of these rules. (9) If no written statement of defence is submitted by such councillor or member, the Commissioner or, as the case may be, the Collector shall proceed to inquire as if the councillor or member has nothing to say. (10) The Commissioner or, as the case may be, Collector shall require the complainant as well as the councillor or member who wishes to be heard either in person or through his Advocate to appear before him on such day and at such time as may be fixed by him. (11) The councillor or, as the case may be, the member, shall appear in person before the Commissioner or, as the case may be, the Collector, on such day and at such time within ten working days from the

date of receipt by him of the articles of charge and the statement of the imputations of disqualification, as the Commissioner or, as the case may be, the Collector, may, by a notice in writing, specify in his behalf, or within such further time not exceeding ten days, as the Commissioner or, as the case may be, the Collector, may allow.(12)The Commissioner or, as the case may be, the Collector, shall, if the councillor or, as the case may be, the member, fails to appear within the specified time or refuses or admits to plead, produce the evidence by which he proposes to disprove article of charge, adjourn the case to a later date not exceeding thirty days, after recording an order that the councillor or, as the case may be, the member, may for the purposes of preparing his defence, -(i)inspect within five days of the order or within such further time not exceeding five days as the Commissioner or, as the case may be, the Collector, may allow, the documents specified in the list referred to in sub-rule (6) of this rule;(ii)submit a list of witnesses to be examined on his behalf.(13)Where the councillor or, as the case may be, the member applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (6) of this rule, the Commissioner or, as the case may be, the Collector, shall furnish him with such copies as early as possible, and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.(14)The enquiry shall be commenced on the date fixed in that behalf by the Commissioner or, as the case may be, the Collector, and shall be continued thereafter on such date or dates as may be fixed from time to time by him.(15)On the date fixed for the inquiry, the oral and documentary evidence shall be produced by or on behalf of the petitioner. The witnesses shall be examined by or on behalf of the petitioner and may be cross-examined by the councillor or member, against whom there are charges of disqualification.]

8. Decision of petitions.

(1)At the conclusion of the consideration of the petition, the Commissioner or, as the case may be, Collector shall, by order in writing -(a)dismiss the petition, or(b)declare that the councillor in relation to the municipal party and Zilla Parishad party or member in relation to the Panchayat Samiti party, in respect of whom the petition has been made has become subject to disqualification under the Act [and copies of the order] [These words were substituted for the words 'and the copies of the order' by G. N. of 16.3.1990.] shall be delivered or forwarded to the petitioner, the councillor or member in relation to whom the petition has been made and to the leader or [such municipal party or Zilla Parishad party] [These words were substituted for the words 'such municipal party and Zilla Parishad party', by G. N. of 16.3.1990.] or, as the case may be, Panchayat Samiti party, if any, concerned.(1A)[Notwithstanding anything contained in these rules a petition or proceeding under these rules shall be heard and disposed of as expeditiously as possible and endeavour shall be made to dispose of the cases, as far as may be practicable, within a period of six months from the date of service of notice on the opponent.] [Sub-rule (1A) was inserted by G. N. of 28.11.1997.](2)Every decision declaring a councillor or as the case may be, a member to have become subject to disqualification under the Act shall be reported to the Municipal Corporation. Municipal Council, Zilla Parishad or, as the case may be, Panchayat Samiti forthwith.(3)Every decision referred to in sub-rule (1) shall be notified in the Maharashtra Government Gazette and copies of such decision shall be forwarded to the State Government.

9. Directions as to detailed working of these rules.

- The Commissioner or, as the case may be. Collector may from time to time issue such directions as he may consider necessary in regard to the detailed working of these rules.

10. [Penalty for breach of the rules. [Rule 10 was Inserted by G. N. of 16.3.1990.]

- A councillor in relation to a municipal party and a Zilla Parishad party or a member in relation to a Panchayat Samiti party who commits any breach of any of the provisions of these rules shall, on conviction, be punished with a fine, which may extend to one thousand rupees and in the case of continuing breach with a fine, which may extend to fifty rupees for every day, during which the breach of the provisions of the rules continues after conviction for the first breach.]Form I(See rule 3(1)(a))[Name of the Municipal Council/ Corporation/ Zilla Parishad/ Panchayat Samiti] [These words were substituted for the words 'Name of the Municipal Council/Corporation/Zilla Parishad/ Panchayat Samiti' by G. N. of 16.3.1990.]Name of the corresponding political party or aghadi or front

Serial No.	Name of the member (in block letters)	Father's/ Husband's name	Permanent address	Name of the constituency from which elected
1	2	3	4	5

SignatureLeader of the party.Form II[See rule 3(5)]ToThe CommissionerThe CollectorSir

At the sitting of the| Municipal CorporationMunicipal CouncilZilla ParishadPanchayat Samiti| held on (date) during voting on (Subject matter)

Councillor

[Shri] [Strike out inappropriate words/portion.]

Member

Member of

(Name of the political party or aghadi or front) and member of.....[(Name of Municipal/ Zilla Parishad/ Panchayat Samiti party)] [Substituted for the brackets and words 'Name of Municipal party/ Zilla Parishad/ Panchayat Samiti' by G. N. of 16.3.1990.]

Councillor

[Shri] [Strike out inappropriate words/portion.]

Member

(Name of the Member)

Member of (Name of the political party) and leader of/sole member of.....[(Name of Municipal/ Zilla Parishad/ Panchayat Samiti party)] [Substituted for the brackets and words 'Name of Municipal party/ Zilla Parishad/ Panchayat Samiti' by G. N. of 16.3.1990.]

had voted/abstained from voting contrary to the direction issued by [.....] [Here mention the name of the person/ authority/ party, as the case may be, who had issued the direction.] ([person/ authority/ party] [Strike out inappropriate words/ portion.]) without obtaining the prior permission of the leader of the said party or of the person authorised by it in this behalf and the said [voting/ abstention] [Strike out inappropriate words/ portion.] [was condoned/was not condoned] [Strike out inappropriate words/ portion.] by [him/ it] [Strike out inappropriate words/ portion.].

2. On (date)..... the aforesaid matter was considered by [.....] [Here mention the name of the person/authority/party, as the case may be, who had issued the direction.] ([person/ authority/ party] [Strike out inappropriate words/ portion.]) and the said [voting/ abstention] [Strike out inappropriate words/ portion.] [was condoned/ was not condoned] [Strike out inappropriate words/ portion.] by [him/ it] [Strike out inappropriate words/ portion.].

Yours faithfully,.....(Signature).DateForm III[See rule 4(1)]

1. Name of the Councillor

Member.(in block letters).

2. Father's/ Husband's name

3. Permanent address

4. Date of election/ nomination

5. [Affiliation to political party or aghadi or front, as on] [Substituted for the figure and word '5. Party affiliation as on' by G. N. of 16.3.1990.]

[* * *] [Figure 6 was deleted by G. N. of 16.3.1990.](i)date of election/nomination(ii)(mention the date of coming into force of this Act.(iii)date of signing this formDeclarationI Shri/ Smt. hereby declare that the information given above is true and correct.In the event of any change in the information above. I undertake to inform the officer immediately.CouncillorSignature/ Thumb impression ofMember.Date :

To be filled in by| councillormember| elected or nominated before the date of coming into force of the Maharashtra Local Authority Members

Disqualification Act, 1986.Form IV[See rule 5(1)]

Name of the councillor/member (in	Father's/Husband's name	Permanent address	Name of the constituency from	Date of election nomination
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block letters)

which elected

1

2

3

4

5

Date of taking seat in
the[MunicipalCorporation/ Zilla
Parishad/ Panchayat Samiti]
[Substituted for the words
'Municipal/Corporation' by G.N. of
16.3.1990.]

Date of
commencement of
term of office

Name of
political part,
aghadi or
front to
whichhe
belongs

Name of
Municipal party/
Zilla Parishad
party/Panchayat
Samiti party to
which he belongs

Remarks

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