

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXX of 1997

THE CHANDERNAGORE MUNICIPAL CORPORATION (AMENDMENT) ACT, 1997.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 9th March, 1998.]

[9th March, 1998.]

An Act to amend the Chandernagore Municipal Corporation Act, 1990.

West Ben.
Act XXXII
of 1990.

WHEREAS it is expedient to amend the Chandernagore Municipal Corporation Act, 1990, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-eighth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Chandernagore Municipal Corporation (Amendment) Act, 1997.

Short title
and
commence-
ment.

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

2. In section 2 of the Chandernagore Municipal Corporation Act, 1990 (hereinafter referred to as the principal Act),—

Amendment
of section 2
of West Ben.
Act XXXII
of 1990.

(1) clause (1A) shall be renumbered as clause (1B) and before clause (1B) as so renumbered, the following clause shall be inserted:—

‘(1A) “Annual Development Plan” means the Annual Development Plan prepared under section 292;’;

(2) after clause (10), the following clause shall be inserted:—

‘(10A) “corporate sector” mean a financial institution.

Explanation.—“Financial institution” shall mean—

(a) a bank to which the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, do not apply,

5 of 1970.

(Section 2.)

- (b) a financial institution which is not maintained or managed by the Central Government or the State Government,
 - (c) a private company, or a limited company (being a public company), as defined in the Companies Act, 1956, not being a public financial institution within the meaning of section 4A of that Act, or 1 of 1956.
 - (d) a co-operative society, by whatever name called, registered or deemed to have been registered under the West Bengal Co-operative Societies Act, 1983;'; West Ben. Act XLV of 1983.
- (3) after clause (15), the following clause shall be inserted:—
- ‘(15A) “District Planning Committee” means the District Planning Committee constituted under sub-section (1) of section 3 of the West Bengal District Planning Committee Act, 1994, and includes the Siliguri Sub-Division Planning Committee;’; West Ben. Act XXV of 1994.
- (4) after clause (16), the following clause shall be inserted:—
- ‘(16A) “Draft Development Plan” means the Draft Development Plan prepared under section 289;’;
- (5) after clause (27), the following clause shall be inserted:—
- ‘(27A) “household sector” includes—
- (a) a rural household or urban household.
- Explanation I.*—“Rural household” shall mean a household within a rural area as defined in the West Bengal District Planning Committee Act, 1994.
- Explanation II.*—“Urban household” shall mean a household within an urban area as defined in the West Bengal District Planning Committee Act, 1994,
- (b) a business undertaking, whether proprietorship or partnership, not being a body corporate as defined in the Companies Act, 1956, or
 - (c) a trust for a public purpose of a charitable nature within the meaning of the Charitable and Religious Trusts Act, 1920;’; 14 of 1920.

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(Sections 3, 4.)

(6) after clause (58), the following clause shall be inserted:—

‘(58A) “recognised political party” means a National party or a State party recognised as such by the Election Commission of India by notification for the time being in force;’;

(7) after clause (71), the following clause shall be inserted:—

‘(71A) “Urban Development Sub-Committee” means the Urban Development Sub-Committee constituted under sub-section (4) of section 10 of the West Bengal District Planning Committee Act, 1994;’.

West Ben.
Act XX of
1994.

3. In section 14 of the principal Act,—

Amendment
of section
14.

(1) in the marginal note, after the words “members of the Mayor-in-Council”, the words “, Leader of the Opposition” shall be inserted;

(2) after the words “the members of the Mayor-in-Council”, the words “, the Leader of the Opposition” shall be inserted;

(3) after the words “the Committee constituted in accordance with the provisions of this Chapter”, the words, figures and letter “, except the Ward Committee constituted under section 11A,” shall be inserted;

(4) the following *Explanation* shall be added at the end:—

‘*Explanation.*—“Leader of the Opposition”, in relation to the Corporation, shall mean that Councillor of the Corporation who is, for the time being, the Leader of the party in opposition to the Corporation having the greatest numerical strength and recognised as such by the Mayor:

Provided that where there are two or more parties in opposition to the Corporation having the same numerical strength, the Mayor shall, having regard to the status of the parties, recognise any one of the Leaders of such parties as the Leader of the Opposition for the purposes of this section and such recognition shall be final and conclusive.’.

4. To sub-section (1) of section 17 of the principal Act, the following provisos shall be added:—

Amendment
of section
17.

“Provided that the Mayor-in-Council may, with the prior approval of the State Government, sanction remuneration to the Chief Executive Officer and the Finance Officer in addition to the salaries and allowances referred to in this sub-section:

(Sections 5, 6.)

Provided further that if the Chief Executive Officer or the Finance Officer is an officer in the service of the State Government, the Corporation shall make such contribution towards his salaries and allowances as may be required by or under the conditions of his service under the State Government.”.

Amendment
of section
42.

5. In sub-section (1) of section 42 of the principal Act, after the words and figures “section 83 of the West Bengal Municipal Elections Act 1994”, the words, figures and letter “and section 42A of this Act” shall be inserted.

Insertion of
new section
42A.

6. After section 42 of the principal Act, the following section shall be inserted:—

“Disqualifi-
cation for
being a
Councillor
on change of
political
party by the
Councillor.

42A. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, such competent authority for the Corporation as may be appointed by the State Government by notification in this behalf (hereinafter referred to in this section as the competent authority), may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a Councillor to be disqualified for being a Councillor thereof, if—

- (a) he is an elected Councillor set up by a recognised political party and has—
 - (i) voluntarily given up his membership of such recognised political party, or
 - (ii) exercised the voting right contrary to the manner of voting of the majority of the Councillors who are the members of such recognised political party in the Corporation, or
- (b) he is an elected Councillor set up by a recognised political party and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the competent authority shall not declare any Councillor to be disqualified under this section without giving to such Councillor a reasonable opportunity to represent his case and, to be heard in person:

Provided further that an elected Councillor referred to in sub-clause (ii) of clause (a) shall not, on the competent authority being satisfied in this behalf, be declared to be disqualified, if—

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(Section 6.)

- (a) the action of such Councillor was taken on obtaining prior permission of, or was condoned by, such recognised political party, or
- (b) such Councillor claims that he and any other Councillors, who are the members, of such recognised political party, constitute in the Corporation a group representing a faction consisting of not less than one-third of the total number of Councillors set up by such recognised political party in the Corporation and that all the Councillors constituting such group have voluntarily given up their membership of such recognised political party, or
- (c) the former recognised political party of the Councillor merges with another recognised political party, and he claims that he and the other members of his former recognised political party—

- (i) have become members of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or
- (ii) have not accepted the merger, and from the time of such merger, he and such other Councillors constituting not less than one-third of the total number of Councillors set up by the former recognised political party in the Corporation, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a Councillor shall, subject to the provisions of sub-section (12), stand removed from the Corporation from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of the Corporation or within one month from the date on which this section comes into force, as the case may be, the elected Councillors set up by the recognised political parties shall, by adopting a resolution, select one Councillor from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the competent authority referred to in sub-section (1)—

- (i) a copy of the resolution,
- (ii) a signed statement containing the names, addresses and constituencies of himself and other Councillors set up by such recognised political party, and

(Section 6.)

- (iii) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of the Leader:

Provided further that the competent authority shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was not adopted within one month from the date of the first meeting of the Corporation or within one month from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

- (4) Where there is only one elected Councillor set up by recognised political party in a Corporation, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of Councillors who are the members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the Corporation was held or this section came into force, as the case may be, on the date on which such increase took place.

- (5) A Councillor not belonging to any recognised political party shall furnish a statement to that effect to the competent authority within one month from the date of the first meeting of the Corporation.

- (6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5), the Leader or the Councillor, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the competent authority.

- (7) The Leader referred to in sub-section (3), who is a member of a recognised political party, may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the competent authority, stating that—

- (a) one or more Councillors who are the members of such recognised political party have—

- (i) voluntarily given up his or their membership of such recognised political party, or
(ii) have exercised the voting right contrary to the manner of voting of the majority of the Councillors set up by such recognised political party in the Corporation, or

(Section 6.)

- (b) the Councillor referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or
- (c) the Councillor referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election, and that such Councillor or Councillors should be declared to be disqualified under sub-section (1) and should be removed from the Corporation.

(8) Every petition referred to in sub-section (7)—

- (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 or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the competent authority shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

- (a) the common decision in regard to the manner of voting to be exercised by the majority of the Councillors set up by the recognised political party, and
- (b) whether the Councillor or Councillors, against whom such petition is filed, exercised the voting right in a meeting of the Corporation contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9), the competent authority may summon such members of the recognised political party or other persons, and may require such signed statement from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the competent authority shall, in consideration of the statements, documents and records before it,—

- (a) reject a petition, or
- (b) admit the petition wholly or in part and declare any member or members of such recognised political party to be disqualified under sub-section (1) for being Councillor or Councillors of the Corporation.

(Section 7.)

(12) Any Councillor declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the competent authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the competent authority, and after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any Councillor or Councillors to be disqualified under, and in accordance with the provisions of, sub-section (1) and, upon such declaration, the Councillor or Councillors shall stand removed from the Corporation.

(13) The order passed by the authority referred to in sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a Councillor being declared to be disqualified under sub-section (1) for being a Councillor.

Explanation.—For the purposes of this section, an elected Councillor shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the competent authority before the expiry of six months from the date of election.”

Insertion of
new section
60A.

7. After section 60 of the principal Act, the following section shall be inserted:—

“Approval
of State
Government
in respect of
work etc.
estimated to
cost more
than rupees
five lakhs.

60A. No expenditure for any work or for purchase of any material as may be necessary for the purposes of this Act shall be made without the approval of the Corporation at a meeting, if the estimated cost of such work or purchase exceeds rupees five thousand but does not exceed rupees five lakhs:

Provided that where the estimated cost of such work or purchase exceeds rupees five lakhs, approval of the State Government shall be obtained.”

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(Sections 8-11.)

8. After section 63 of the principal Act, the following section shall be inserted:—

Insertion of
new section
63A.

“Financial assistance by State Government. 63A. (1) The State Government may, from time to time, give grants or financial assistance to the Corporation with or without direction as to the manner of application of such grants or financial assistance.

(2) The State Government may also lay down the pattern of distribution of such grants or financial assistance and the conditions of release of the grants for the purpose of such distribution.

(3) The State Government shall give grants to the Corporation for implementation in full or in part of any scheme included in the Annual Development Plan.”.

9. In sub-section (1) of section 93 of the principal Act,—

Amendment
of section
93.

(1) for clause (e), the following clause shall be substituted:—

“(e) toll on—

(i) ferry,

(ii) bridge, and

(iii) heavy truck which shall be a heavy goods vehicle, and bus which shall be a heavy passenger motor vehicle, within the meaning of the Motor Vehicles Act, 1988, plying on a public street.”;

(2) after clause (e), the following clause shall be inserted:—

“(f) a special conservancy charge on commercial and industrial establishments.”.

10. After section 101 of the principal Act, the following section shall be inserted:—

Insertion of
new section
101A.

“Exemption of properties of ex-servicemen. 101A. Notwithstanding anything contained in the foregoing provisions of this chapter, the Corporation may, by a resolution, exempt 25 *per cent* of the property tax in respect of any holding belonging to an ex-serviceman, or family of a deceased soldier or ex-serviceman, who has no other land or building in any part of the State of West Bengal and who is residing in that holding.”.

11. After section 118 of the principal Act, the following section shall be inserted:—

Insertion of
new section
118A.

“Levy of surcharge on transfer of lands. 118A. (1) The Corporation shall levy a surcharge on the transfer of immovable property situated within Chandernagore, in the form of additional stamp duty.

(Sections 12-15.)

(2) The rate of the surcharge, and the manner of—

- (a) collection of the surcharge,
- (b) payment of the surcharge to the Corporation, and
- (c) deduction of the expenses, if any, incurred by the State Government in course of collection of the surcharge,

shall be such as may be prescribed.”.

Amendment
of section
126.

12. In section 126 of the principal Act, for the words “not exceeding rupees ten,”, the words “not exceeding rupees five hundred,” shall be substituted.

Insertion of
new section
138A.

13. In Chapter IX of the principal Act, after section 138, the following section shall be inserted:—

“Levy of
special
conservancy
charge.

138A. (1) The Corporation may levy a special conservancy charge on the commercial and industrial establishments for providing municipal services in connection with removal of solid wastes.

(2) The charge for the purpose of sub-section (1) shall be such as may be determined by the Corporation from time to time.

(3) The Corporation may make regulations specifying the occasions on which such charge may be imposed as well as the rate of charge, the mode of collection and other matters incidental thereto.”.

Amendment
of section
200A.

14. To section 200A of the principal Act, the following proviso shall be added:—

“Provided that if such structure or building under the plan approved under the West Bengal *Panchayat* Act, 1973, has not been constructed, either in full or in part, before the constitution of the Corporation under this Act, the plan shall be revalidated by the Corporation before the completion of the work in respect of part construction or before the commencement of the work in respect of new construction.”.

Amendment
of section
218.

15. In section 218 of the principal Act, for the words “such sanction or permission shall be deemed to have been granted, but the same shall not contravene”, the words “the applicant may, by application in writing, appeal to the Mayor-in-Council, and if such application is not disposed of within thirty days from the date of receipt of the application, such sanction or permission shall be deemed to have been granted; so, however, that nothing in this section shall be deemed to have permitted the applicant to contravene” shall be substituted.

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(Sections 16, 17.)

16. In Chapter XIII of the principal Act, after section 228, the following section shall be inserted:—

Insertion of
new section
228A.

'Construction of building in contravention of the provisions of the Act or the rules made thereunder.

228A. (1) Notwithstanding anything contained in this Act or the rules made thereunder or in any other law for the time being in force, any person, who, being responsible by himself or by any other person on his behalf, so constructs or attempts to so construct or conspires to so construct any new building or additional floor or floors of any building in contravention of the provisions of this Act or the rules made thereunder as endangers or is likely to endanger human life, or any property of the Corporation whereupon the water-supply, drainage or sewerage or the road traffic is disrupted or is likely to be disrupted, or is likely to cause a fire hazard, shall be punishable with imprisonment of either description for a term which may extend to five years and also with fine which may extend to fifty thousand rupees.

Explanation.—"person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier, or a servant or agent of an owner, occupier, lessee, mortgagee, consultant, promoter or financier, who supervises or causes the construction of any building or additional floor or floors of any building as aforesaid.

(2) The offence under sub-section (1) shall be cognizable and non-bailable, within the meaning of the Code of Criminal Procedure, 1973.

2 of 1974.

(3) Where an offence under sub-section (1) has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.'

17. In Part VII of the principal Act, after Chapter XXI, the following Chapter shall be inserted:—

Insertion of
new Chapter
XXII.

(Section 17.)

“CHAPTER XXII

Planning and Development

Preparation
of Draft
Develop-
ment Plan.

289. (1) The Corporation shall prepare a Draft Development Plan for Chandernagore in consultation with the District Planning Committee for a period of five years, and shall submit to the Urban Development Sub-Committee at least one year before completion of the term of the preceding Draft Development Plan:

Provided that the Corporation shall prepare the first Draft Development Plan in accordance with the directions of the District Planning Committee.

(2) The Draft Development Plan for Chandernagore shall be a written statement, and shall include—

- (a) the schemes of the Corporation for the development and other use of land or for any description of development or other use of such land including, in either case, such measures as the Corporation thinks fit for the improvement of the physical environment;
- (b) detailed and specific scheme of the Corporation for conducting development programmes on all or any of the points specified in clauses (1), (2) and (3) of section 87, section 88 and sub-section (2) of section 89;
- (c) such maps and diagrams as the Corporation thinks appropriate;
- (d) existing land use pattern in maps or documents;
- (e) the scheme for future land use control by way of—
 - (i) identification and preservation of open spaces;
 - (ii) prohibition of filling up of tanks or water courses;
 - (iii) filling up of insanitary water courses;
 - (iv) protection of land surface through which sub-soil water sources are re-charged;
 - (v) provision for drainage network and outfalls;
 - (vi) provision of dumping grounds for solid wastes disposal;
 - (vii) street alignment;
 - (viii) provision for burning and burial grounds;
 - (ix) reclamation of waste lands; or
 - (x) providing activities of similar nature;

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- (f) regulation and restriction of sites for construction of buildings, huts or structures for the purposes of safety, disinfection, density control or pollution control;
- (g) scheme for environmental improvement by way of restriction on falling of trees, planting of new trees and flowering of plants in public places and adding of house greenary and the like;
- (h) scheme for control of pollution relating to water, soil, air, noise and odour;
- (i) scheme for acquisition of land for the purpose of ensuring that the benefits of development activities are reaped by public institutions for community-welfare and not for speculative gains by private individuals.

(3) If the preceding Draft Development Plan has not been fully implemented, a statement shall be annexed with the Draft Development Plan, showing the due quantum of work and the reasons for such non-completion.

Financial statement in regard to Draft Development Plan.

290. A financial statement shall be submitted with the Draft Development Plan containing—

- (a) detailed particulars about the quantum of finance available for conducting the development programme under the said Draft Development Plan from—
 - (i) own resources of the Corporation with source-wise break-ups; and
 - (ii) corporate sector or household sector;
- (b) the following particulars in detail:—
 - (i) credit plan or the terms and conditions for availing of the finance from corporate sector or household sector;
 - (ii) sources of fund for repayment of credit, if taken from corporate sector or household sector and the manner of repayment; and
- (c) if the Corporation thinks it proper to transfer any function of the Corporation in relation to the implementation of the Draft Development Plan to any organisation including Government organisation within the meaning of section 92A, a statement containing the list of the function or the functions to be transferred, the manner of transfer, and the terms and conditions of such transfer.

(Section 17.)

Modification of Draft Development Plan. 291. The Corporation may, at any time but not more than once in every three years, propose to the District Planning Committee any revision or modification of the Draft Development Plan.

Annual Development Plan. 292. (1) The Corporation shall prepare an Annual Development Plan for a period of one financial year, covering only the relevant portion of the Draft Development Plan for the concerned period, in consultation with the District Planning Committee, and submit the same to the State Government within the last week of the month of October of the year preceding the period for which the Annual Development Plan shall be prepared.

(2) The Annual Development Plan shall be prepared in accordance with the provisions of sub-section (2) of section 289 and section 290, which shall apply *mutatis mutandis*.

(3) The State Government shall, on receipt of the Annual Development Plan, consider it in the light of the availability of fund for the purpose and shall, thereafter, approve the Annual Development Plan with necessary modification, if any.

(4) The Corporation shall, within six months from the date of receipt of plan grant under sub-section (3) of section 63A, submit a report, stating the progress of work towards implementing the Annual Development Plan, either in full or in part, for which the said grant was sanctioned.

(5) The Corporation may, at any time but not more than once, revise or modify the Annual Development Plan with the approval of the State Government:

Provided that any modification or revision of the Annual Development Plan shall not contain anything which is not included in the Draft Development Plan for the period to which the Annual Development Plan relates.”