

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act IX of 1994

THE WEST BENGAL MUNICIPAL CORPORATION LAWS (SECOND AMENDMENT) ACT, 1994.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 24th March, 1994.]

[24th March, 1994.]

An Act to amend the Siliguri Municipal Corporation Act, 1990, the Asansol Municipal Corporation Act, 1990, and the Chandernagore Municipal Corporation Act, 1990.

West Ben.
Act XXX of
1990.
West Ben.
Act XXXI
of 1990.
West Ben.
Act XXXII
of 1990.

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

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

1. (1) This Act may be called the West Bengal Municipal Corporation Laws (Second Amendment) Act, 1994.

Short title
and
commence-
ment.

(2) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.

2. In the Siliguri Municipal Corporation Act, 1990,—

(1) in section 5, in sub-section (5), the words “as may be notified by the State Government” shall be added at the end of the words “shall constitute a constituency”;

(2) the proviso to sub-section (5) of section 5 shall be omitted;

Amendment
of West Ben.
Act XXX of
1990.

(Section 2.)

- (3) after section 5, the following section shall be inserted:—

Oath of
allegiance to
be taken by
Councillors.

5A. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected to be a Councillor or Alderman shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form:—

10 of 1873.

“I, A.B., having been elected a Councillor/Alderman of the Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter.”.

(2) Any person who, having been elected a Councillor or Alderman, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant:

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

(3) Any Councillor or Alderman nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of section 8, shall assume office forthwith after taking the oath of secrecy in the following form:—

“I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor/ a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/ Member of the Mayor-in-Council.” ;

- (4) in section 6, in clause (b), for the words “who shall assume office forthwith after taking such oath of secrecy as may be prescribed.”, the words, figure and letter “and the Mayor or, as the case may be, the Chairman so elected shall assume office forthwith after taking the oath of secrecy under section 5A.” shall be substituted;

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(Section 2.)

- (5) in section 8,—
 - (a) in sub-section (1), for the words “not exceeding five,” the words “not exceeding seven,” shall be substituted;
 - (b) in sub-section (2),—
 - (i) for the words “other elected members”, the words “other members” shall be substituted, and
 - (ii) after the words “nominated by the Mayor”, the words “from amongst the elected members of the Corporation” shall be inserted;
- (6) in section 9,—
 - (a) for the words “from the date of his nomination to the Mayor-in-Council”, the words, figures, letter and brackets “from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be, under sub-section (3) of section 5A” shall be substituted;
 - (b) in clause (b), for the word “this”, the word “his” shall be substituted;
 - (c) in clause (d), after the words “ceases to hold office”, the words “for any reason other than the reason of death” shall be inserted;
- (7) after section 11, the following section shall be inserted:—

“Ward Committee. 11A. (1) Each ward of the Corporation shall have a Ward Committee.

(2) The composition and the functions of the Ward Committee shall be such as the State Government may determine by notification.

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward.”;
- (8) in section 259, after sub-section (2), the following sub-section shall be inserted:—

“(2A) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, till such time as the State Government makes rules under this Act providing for all or any of the matters, the rules made under the Bengal Municipal Act, 1932, the Howrah Municipal Corporation Act, 1980, or the Calcutta Municipal Corporation Act, 1980, providing for all or any of the similar matters may be made applicable to the Corporation by the State Government to such extent and with such modifications as the State Government may by notifications specify.”;

Ben. Act XV
of 1932.
West Ben.
Act LVIII of
1980.
West Ben.
Act LIX of
1980.

(Section 2.)

- (9) after Chapter XX, the following Chapter shall be inserted:—

“CHAPTER XXA

Delegation, co-ordination and control.

Delegation of power by the State Government. 263A. (1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, authorise one or more Deputy Directors or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers and perform the functions of the Director of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-divisional Magistrate to exercise any of the powers or perform any of the functions within his jurisdiction, on matters delegated under sub-sections (1) and (2).

Supervision by Director of Local Bodies. 263B. (1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may—

- (a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation;
- (b) inspect or examine any department of the Corporation or any office, service, work or thing under the control of the Corporation;
- (c) record, in writing, for the consideration of the Corporation, any observation he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of inspection or examination, the Director of Local Bodies may require the Chief Executive Officer or any officer of the Corporation—

- (a) to produce any book, record, correspondence, plan or other document,

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(Second Amendment) Act, 1994.*

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(Section 2.)

- (b) to furnish any return, plan, estimate, statement, account or statistics, or
- (c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chief Executive Officer or any officer of the Corporation, as the case may be, shall comply with such requisition.

Power of State Government to call for documents, returns or information from Chief Executive Officer or any officer of Corporation.

263C. The State Government may, at any time,—

- (a) call for any document in the possession or under the control of the Chief Executive Officer or any officer of the Corporation;
- (b) require the Chief Executive Officer or any officer of the Corporation to furnish any return, plan, estimate, statement, account, report or statistics, or any information whatsoever.

Inspection of Corporation works and institutions by Government officers.

263D. Any work or institution constructed or maintained, or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

Power to suspend action under the Act.

263E. (1) The State Government may, after giving the Corporation a reasonable opportunity of being heard; annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity:

Provided that pending the hearing to be given to the Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the Corporation is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Corporation:

*The West Bengal Municipal Corporation Laws
(Second Amendment) Act, 1994.*

[West Ben. Act

(Section 2.)

Provided that the State Government shall immediately thereafter give an opportunity to the Corporation to make its representation in the matter upon which the State Government shall give its final order with reasons in writing.

Powers of
State
Government
in case of
default.

263F. (1) If, at any time, it appears to the State Government that the Corporation has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Corporation Fund within such time as it may fix.

Co-
ordination
for purposes
of planning
and
develop-
ment.

263G. (1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

(2) When so required, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

Civic
participa-
tion.

263H. (1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

Services of
Municipal
Engineering
Directorate.

263I. (1) The State Government may require the Corporation to avail of the services of the Municipal Engineering Directorate of the State Government in all matters on which the State Government considers such services necessary.

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(Second Amendment) Act, 1994.*

IX of 1994.]

(Section 2.)

(2) The power of the State Government under sub-section (1) shall include the power to post a technical officer, namely, an engineer, architect or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, who shall discharge his functions in such manner as the State Government may decide.

Training and
Research
Programmes
of Institute
of Local
Government
and Urban
Studies.

263J. (1) The State Government may require the Corporation to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the Corporation functionaries and personnel.

(2) It shall be obligatory on the part of the Corporation to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

Appoint-
ment of
officers for
Corporation
from cadres
of State
Government.

263K. Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation by way of support service on such terms and conditions as the State Government may decide:

Provided that an officer so appointed shall be under the administrative control of the Mayor-in-Council.

Disputes.

263L. If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

Savings as
to certain
suits and
proceedings.

263M. (1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken under the Bengal Municipal Act, 1932, by or against the Siliguri Municipality constituted under that Act may be continued or instituted by the Corporation.

Ben. Act XV
of 1932.

*The West Bengal Municipal Corporation Laws
(Second Amendment) Act, 1994.*

[West Ben. Act

(Section 2.)

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners of the Siliguri Municipality constituted under the Bengal Municipal Act, 1932, shall vest in the Corporation constituted or appointed under this Act.

Ben. Act XV
of 1932.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932.”;

(10) in section 269, for the words “to assist the Corporation, the Mayor-in-Council,” the words “to assist the Mayor, the Mayor-in-Council, the Councillors,” shall be substituted;

(11) after section 283, the following section shall be inserted and shall be deemed always to have been inserted:

‘Cessation
of
application
of Ben. Act
XV of 1932.

284. (1) With effect from the date of commencement of this Act, the provisions of the Bengal Municipal Act, 1932, shall cease to apply to any area of the Corporation and shall cease to be in force in such area.

(2) Notwithstanding the provisions of sub-section (1),—

(a) every budget passed, loan taken, assessment made, building plan sanctioned, licence for permission or sanction granted or issued or any other similar action taken under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued;

(b) all properties, movable or immovable, and all rights and interest of whatever kind, owned by, or vested in, the Siliguri Municipality shall, at the date of commencement of this Act, be deemed to be owned by, or vested in, the Corporation;

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(Section 3.)

- (c) all contracts made or liabilities incurred by the Siliguri Municipality and legally subsisting against that municipality immediately before the commencement of this Act, shall, at the date of commencement of this Act, pass on to the Corporation; and
- (d) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been appointed under this Act.

Explanation.—“Siliguri Municipality” shall mean the Siliguri Municipality constituted under the Bengal Municipal Act, 1932.’.

3. In the Asansol Municipal Corporation Act, 1990,—

- (1) in section 5, in sub-section (5), the words “as may be notified by the State Government” shall be added at the end of the words “shall constitute a constituency”;
- (2) in section 5, in sub-section (5), the proviso shall be omitted;
- (3) after section 5, the following section shall be inserted:—

‘Oath of
allegiance to
be taken by
Councillors.

5A. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected to be a Councillor or Alderman shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form:—

“I, A.B., having been elected a Councillor/Alderman of the Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter.”.

(2) Any person who, having been elected a Councillor or Alderman, fails to make and subscribe, within three months

Amendment
of West Ben.
Act XXXI
of 1990.

10 of 1873.

(Section 3.)

of the date on which his term of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant:

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

(3) Any Councillor or Alderman nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of section 8, shall assume office forthwith after taking the oath of secrecy in the following form:—

“I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor/a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/Member of the Mayor-in-Council.” ;

(4) in section 6, in clause (b), for the words “who shall assume office forthwith after taking such oath of secrecy as may be prescribed.”, the words, figure and letter “and the Mayor or, as the case may be, the Chairman so elected shall assume office forthwith after taking the oath of secrecy under section 5A.” shall be substituted;

(5) in section 8,—

(a) in sub-section (1), for the words “not exceeding five,”, the words, “not exceeding seven,” shall be substituted;

(b) in sub-section (2),—

(i) for the words “other elected members”, the words “other members” shall be substituted, and

(ii) after the words “nominated by the Mayor”, the words “from amongst the elected members of the Corporation” shall be inserted;

(6) in section 9,—

(a) for the words “from the date of his nomination to the Mayor-in-Council”, the words, figures, letter and brackets “from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be, under sub-section (3) of section 5A” shall be substituted;

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(Section 3.)

- (b) in clause (b), for the word “this”, the word “his” shall be substituted;
- (c) in clause (d), after the words “ceases to hold office”, the words “for any reason other than the reason of death” shall be inserted;
- (7) after section 11, the following section shall be inserted:—
- “Ward Committee. 11A. (1) Each ward of the Corporation shall have a Ward Committee.
- (2) The composition and the functions of the Ward Committee shall be such as the State Government may determine by notification.
- (3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward.”;
- (8) in section 259, after sub-section (2), the following sub-section shall be inserted:—
- “(2A) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, till such time as the State Government makes rules under this Act providing for all or any of the matters, the rules made under the Bengal Municipal Act, 1932, the Howrah Municipal Corporation Act, 1980, or the Calcutta Municipal Corporation Act, 1980, providing for all or any of the similar matters may be made applicable to the Corporation by the State Government, to such extent and with such modifications as the State Government may by notifications specify.”;
- (9) after Chapter XX, the following Chapter shall be inserted:—

Ben. Act XV
of 1932.
West Ben.
Act LVIII of
1980.
West Ben.
Act LIX of
1980.

“CHAPTER XXA

Delegation, co-ordination and control

- Delegation of power by the State Government. 263A. (1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

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(Second Amendment) Act, 1994.*

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(Section 3.)

(2) The State Government may, by notification, authorise one or more Deputy Directors or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers and perform the functions of the Directors of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-divisional Magistrate to exercise any of the powers or perform any of the functions within his jurisdiction, on matters delegated under sub-sections (1) and (2).

Supervision
by Director
of Local
Bodies.

263B. (1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may—

- (a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation;
- (b) inspect or examine any department of the Corporation or any office, service, work or thing under the control of the Corporation;
- (c) record, in writing, for the consideration of the Corporation, any observation he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of inspection or examination, the Director of Local Bodies may require the Chief Executive Officer or any officer of the Corporation—

- (a) to produce any book, record, correspondence, plan or other document,
- (b) to furnish any return, plan, estimate, statement, account or statistics, or
- (c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chief Executive Officer or any officer of the Corporation, as the case may be, shall comply with such requisition.

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(Section 3.)

Power of
State
Government
to call for
documents,
returns or
information
from Chief
Executive
Officer or
any officer
of
Corpora-
tion.

263C. The State Government may, at any time,—

- (a) call for any document in the possession or under the control of the Chief Executive Officer or any officer of the Corporation;
- (b) require the Chief Executive Officer or any officer of the Corporation to furnish any return, plan, estimate, statement, account, report of statistics, or any information whatsoever.

Inspection
of
Corporation
works and
institutions
by
Government
officers.

263D. Any work or institution constructed or maintained or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

Powers of
suspend
action under
the Act.

263E. (1) The State Government may, after giving the Corporation a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity:

Provided that pending the hearing to be given to the Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the Corporation is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Corporation:

Provided that the State Government shall immediately thereafter give an opportunity to the Corporation to make its representation in the matter upon which the State Government shall give its final order with reasons in writing.

Powers of
State
Government
in case of
default.

263F. (1) If, at any time, it appears to the State Government that the Corporation has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

*The West Bengal Municipal Corporation Laws
(Second Amendment) Act, 1994.*

[West Ben. Act

(Section 3.)

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Corporation Fund within such time as it may fix.

Co-ordination for purposes of planning and development.

263G. (1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

(2) When so required, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

Civic participation.

263H. (1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

Services of Municipal Engineering Directorate.

263I. (1) The State Government may require the Corporation to avail of the services of the Municipal Engineering Directorate of the State Government in all matters in which the State Government considers such services necessary.

(2) The power of the State Government under subsection (1) shall include the power to post a technical officer, namely, an engineer, architect or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, who shall discharge his functions in such manner as the State Government may decide.

Training and Research Programmes of Institute of Local Government and Urban Studies.

263J. (1) The State Government may require the Corporation to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the Corporation functionaries and personnel.

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IX of 1994.]

(Section 3.)

(2) It shall be obligatory on the part of the Corporation to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

Appoint-
ment of
officers for
Corporation
from cadres
of State
Government. 263K. Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation by way of support service on such terms and conditions as the State Government may decide:

Provided that an officer so appointed shall be under the administrative control of the Mayor-in-Council.

Disputes. 263L. If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

Savings as
to certain
suits and
proceedings. 263M. (1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken under the Bengal Municipal Act, 1932, by or against the Asansol Municipality constituted under that Act may be continued or instituted by the Corporation.

Ben. Act IV
of 1932.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners of the Asansol Municipality constituted under the Bengal Municipal Act, 1932, shall vest in the Corporation constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932.”;

- (10) in section 269, for the words “to assist the Corporation, the Mayor-in-Council,” the words “to assist the Mayor, the Mayor-in-Council, the Councillors,” shall be substituted;

*The West Bengal Municipal Corporation Laws
(Second Amendment) Act, 1994.*

[West Ben. Act

(Section 3.)

- (11) after section 283, the following section shall be inserted and shall be deemed always to have been inserted:—

Cessation
of
application
of Ben. Act
XV of 1932.

284. (1) With effect from the date of commencement of this Act, the provisions of the Bengal Municipal Act, 1932, shall cease to apply to any area of the Corporation and shall cease to be in force in such area.

Ben. Act IV
of 1932.

- (2) Notwithstanding the provisions of sub-section (1),—

- (a) every budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or issued or any other similar action taken under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued;
- (b) all properties, movable or immovable, and all rights and interest of whatever kind, owned by, or vested in, the Asansol Municipality shall, at the date of commencement of this Act, be deemed to be owned by, or vested in, the Corporation;
- (c) all contracts made or liabilities incurred by the Asansol Municipality and legally substituting against that municipality immediately before the commencement of this Act, shall, at the date of commencement of this Act, pass on to the Corporation; and
- (d) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been appointed under this Act.

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(Second Amendment) Act, 1994.*

IX of 1994.]

(Section 4.)

Explanation.—“Asansol Municipality” shall mean the Asansol Municipality constituted under the Bengal Municipal Act, 1932.’.

Ben. Act IV
of 1932.

4. In the Chandernagore Municipal Corporation Act, 1990,—
- (1) in section 5, in sub-section (5), the words “as may be notified by the State Government” shall be added at the end of the words “shall constitute a constituency”;
 - (2) in section 5, in sub-section (5), the proviso shall be omitted;
 - (3) after section 5, the following section shall be inserted:—

Amendment
of West Ben.
Act XXXII
of 1990.

10 of 1873.

Oath of
allegiance to
be taken by
Councillors.

5A. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected to be a Councillor or Alderman shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form:—

“I, A.B., having been elected a Councillor/Alderman of the Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter.”.

(2) Any person who, having been elected a Councillor or Alderman, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant:

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

(3) Any Councillor or Alderman nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of section 8, shall assume office forthwith after taking the oath of secrecy in the following form:—

“I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor/a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/Member of the Mayor-in-Council.” ’;

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- (4) in section 6, in clause (b), for the words “ who shall assume office forthwith after taking such oath of secrecy as may be prescribed.”, the words, figure and letter “and the Mayor or, as the case may be, the Chairman so elected shall assume office forthwith after taking the oath of secrecy under section 5A.” shall be substituted;
- (5) in section 8,—
- (a) in sub-section (1), for the words “not exceeding five, ”, the words “not exceeding seven,” shall be substituted;
- (b) in sub-section (2),—
- (i) for the words “other elected members”, the words “other members” shall be substituted, and
- (ii) after the words “nominated by the Mayor”, the words “from amongst the elected members of the Corporation” shall be inserted;
- (6) in section 9,—
- (a) for the words “from the date of his nomination to the Mayor-in-Council”, the words, figures, letter and brackets “from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be, under sub-section (3) of section 5A” shall be substituted;
- (b) in clause (b), for the word “this”, the word “his” shall be substituted;
- (c) in clause (d), after the words “ceases to hold office”, the words “for any reason other than the reason of death” shall be inserted;
- (7) after section 11, the following section shall be inserted:—
- “Ward Committee. 11A. (1) Each ward of the Corporation shall have a Ward Committee.
- (2) The composition and the functions of the Ward Committee shall be such as the State Government may determine by notification.
- (3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward.”;
- (8) in section 262, after sub-section (2) the following sub-section shall be inserted:—
- “(2A) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, till such time as the State Government makes rules

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of 1932.
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Act LVIII of
1980.
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1980.

under this Act providing for all or any of the matters, the rules made under the Bengal Municipal Act, 1932, the Howrah Municipal Corporation Act, 1980, or the Calcutta Municipal Corporation Act, 1980, providing for all or any of the similar matters may be made applicable to the Corporation by the State Government to such extent and with such modifications as the State Government may by notifications specify.”;

- (9) after Chapter XX, the following Chapter shall be inserted:—

“CHAPTER XXA

Delegation, co-ordination and control.

Delegation
of power by
the State
Government.

266A. (1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, authorise one or more Deputy Directors or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers and perform the functions of the Director of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-divisional Magistrate to exercise any of the powers or perform any of the functions within his jurisdiction, on matters delegated under sub-sections (1) and (2).

Supervision
by Director
of Local
Bodies.

266B. (1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may—

- (a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation;

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- (b) inspect or examine any department of the Corporation or any office, service, work or thing under the control of the Corporation;
- (c) record, in writing, for the consideration of the Corporation, any observation he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of inspection of examination, the director of Local Bodies may require the Chief Executive Officer or any officer of the Corporation—

- (a) to produce any book, record, correspondence, plan or other document,
- (b) to furnish any return, plan, estimate, statement, account or statistics, or
- (c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chief Executive Officer or any officer of the Corporation, as the case may be, shall comply with such requisition.

Power of
State
Government
to call for
documents,
returns or
information
from Chief
Executive
Officer or
any officer
of
Corporation.

266C. The State Government may, at any time,—

- (a) call for any document in the possession or under the control of the Chief Executive Officer or any officer of the Corporation;
- (b) require the Chief Executive Officer or any officer of the Corporation to furnish any return, plan, estimate, statement, account, report or statistics, or any information whatsoever.

Inspection of
Corporation
works and
institutions
by
Government
officers.

266D. Any work or institution constructed or maintained, or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

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Power to
suspend
action under
the Act.

266E. (1) The State Government may, after giving the Corporation a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity:

Provided that pending the hearing to be given to the Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the Corporation is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Corporation:

Provided that the State Government shall immediately thereafter give an opportunity to the Corporation to make its representation in the matter upon which the State Government shall give its final order with reasons in writing.

Powers of
State
Government
in case of
default.

266F. (1) If, at any time, it appears to the State Government that the Corporation has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Corporation Fund within such time as it may fix.

Co-ordination
for purposes
of planning
and
development.

266G. (1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

(2) When so required, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

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Civic
participa-
tion.

266H. (1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

Services of
Municipal
Engineering
Directorate.

266I. (1) The State Government may require the Corporation to avail of the services of the Municipal Engineering Directorate of the State Government in all matters in which the State Government considers such services necessary.

(2) The power of the State Government under sub-section (1) shall include the power to post a technical officer, namely, an engineer, architect or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, who shall discharge his functions in such manner as the State Government may decide.

Training and
Research
Programmes
of Institute
of Local
Government
and Urban
Studies.

266J. (1) The State Government may require the Corporation to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the Corporation functionaries and personnel.

(2) It shall be obligatory on the part of the Corporation to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

Appoint-
ment of
officers for
Corporation
from cadres
of State
Government.

266K. Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation by way of support service on such terms and conditions as the State Government may decide:

Provided that an officer so appointed shall be under the administrative control of the Mayor-in-Council.

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Disputes. 266L. If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

Savings as to certain suits and proceedings. 266M. (1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken under the Chandernagore Municipal Act, 1955, by or against the Municipal Corporation of Chandernagore, established under that Act may be continued or instituted by the Corporation.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Municipal Corporation of Chandernagore established under the Chandernagore Municipal Act, 1955, shall vest in the Corporation constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Chandernagore Municipal Act, 1955.”;

(10) in section 272, for the words “to assist the Corporation, the Mayor-in-Council,” the words “to assist the Mayor, the Mayor-in-Council, the Councillors,” shall be substituted;

(11) after section 287, the following section shall be inserted and shall be deemed always to have been inserted:—

“Savings and validation. 288. (1) Notwithstanding the repeal of the Chandernagore Municipal Act, 1995 (hereinafter referred to as the said Act),—

(a) every budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or issued or any other similar action taken under the said Act and in force immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been passed, taken, made, sanctioned, granted or issued

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1955.

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under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued;

- (b) all properties, movable or immovable, and all rights and interest of whatever kind, owned by, or vested in, the Municipal Corporation of Chandernagore established under the said Act (hereinafter referred to as the former Corporation) shall, at the date of commencement of this Act, be deemed to be owned by, or vested in, the Corporation;
- (c) all contracts made or liabilities incurred by the former Corporation and legally subsisting against the former Corporation immediately before the commencement of this Act, shall, at the date of commencement of this Act, pass on to the Corporation; and
- (d) all officers or other employees appointed under the said Act, and continuing in office immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been appointed under this Act.”.