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PART III — Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

NOTIFICATION

No. 1673-L. — 29th December, 2006. — The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XXVIII of 2006

THE WEST BENGAL MUNICIPAL (SECOND AMENDMENT)
ACT, 2006.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in *Kolkata Gazette, Extraordinary*, the of the 29th December, 2006.]

An Act to amend the West Bengal Municipal Act, 1993.

Whereas it is expedient to amend the West Bengal Municipal Act, 1993, for the purposes and in the manner hereinafter appearing:

West Ben. Act
XXII of 1993.

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

Short title and
commencement.

1. (1) This Act may be called the West Bengal Municipal (Second Amendment) Act, 2006.

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

*The West Bengal Municipal (Second Amendment)**Act, 2006.**(Section 2.)*

Amendment of
section 121 of
West Ben. Act
XXII of 1993.

2. In section 121 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the principal Act) —

(1) to sub-section (1), the following provisos shall be added :—

“ Provided that the permission under this sub-section shall be accorded subject to the submission of written consent, in original, of the owner or the authority of land, building, wall, hoarding, frame, post, kiosk or structure upon or over which the advertisement has been proposed to be erected, exhibited, fixed or retained, by the person intending to erect, exhibit, fix or retain any advertisement, or display any advertisement to public view;

Provided further that application for permission under this sub-section shall accompany a declaration by the advertiser stipulating a time-frame within which the advertisement shall be erased, removed or taken down:

Provided also that the application for permission shall also accompany a security deposit of such amount, as may be determined by the Board of Councillors, by order, which shall, if the advertisement is not erased, removed or taken down by the advertiser within seven days after the expiry of time-frame for erasure, removal or taken down of such advertisement as mentioned in the declaration, be deemed to have been forfeited and the money, so forfeited, shall be used by the Municipality for erasure, removal or taken down of the advertisement:

Provided also that when the advertisement is erased, removed or taken down within seven days after the expiry of the time-frame in the declaration, the security deposit shall forthwith be refunded.”;

(2) after sub-section (3), the following sub-sections shall be inserted :—

“(4) Notwithstanding anything contained in this section or elsewhere in this Act or in any other law for the time being in force, non-commercial advertisement or advertisement related to public interest may, with the consent, in writing, of the owner or the authority, be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post, kiosk or structure, or displayed to public view in any manner whatsoever;

Provided that no permission of the Chairman shall be required for erecting, exhibiting, fixing or retaining upon or over any land, building, wall, hoarding, frame, post, kiosk or structure, or displaying any advertisement, under this sub-section;

Provided further that no non-commercial advertisement, other than the advertisement related to public interest, shall be erected, exhibited, fixed or retained on—

- (i) the surface of any solid wall, or on any other permanent structure, including the terrace, in such manner which shall cover, even partially, any door, window, ventilation shaft, chimney, airconditioner, balcony or any other portion of the building covered with iron grill;
- (ii) the building or fence or any educational institution or hospital;

*The West Bengal Municipal (Second Amendment)**Act, 2006.**(Section 2.)*

- (iii) the building used for religious purposes;
- (iv) the gate or exit requirement of any building;
- (v) the electrical installation, like transformer, lamp post, switch gear box, meter room;
- (vi) the water supply installation, like pump house, pump, water main, boosting station or machinery, water tank or water reservoir;
- (vii) the portion of any public transport;
- (viii) the buildings or structures owned by the Central Government, State Government or any local authority, or on any heritage building;
- (ix) the public street which may block the flow of pedestrians or traffic;

*Explanation.—*In this Chapter,—

- (a) the words 'non-commercial advertisement' mean the advertisement which is related to the campaign of any political party, or an independent candidate, to an election, or any campaign of any mass organisation;
- (b) the words 'advertisement related to public interest' mean the advertisement which is related to promoting public health, preservation and conservation of environment, literacy campaign, fire protection, awareness of traffic rules, communal harmony, displayed by the Government, or any registered non-Government organisation, or any political party, or any mas organisation, but shall not include the displaying of advertisement, in any manner whatsoever, for the purposes of—
 - (i) selling or buying goods, real estates, services, concepts in lieu of financial or any other consideration; or
 - (ii) entertainment or recreational programme; or
 - (iii) setting up any marketing chain or network; or
 - (iv) admission in any tutorial, academy, training center, commercial school, commercial college, or in any other organisation which imparts, or shall impart, any education, including technical education, in lieu of financial or any other consideration; or
 - (v) recruitment of personnel through any private agency;
- (c) the words 'mass organisation' includes any registered trade union, organised workers' organisation, teachers' organisation, youth organisation, women organisation, peasants' organisation, students' organisation, pensioners' organisation, traders' organisation, unorganised workers' organisation;
- (d) the words 'political party' shall mean a political party as defined in clause (f) of section 2 of the Representation of the People Act, 1951.

*The West Bengal Municipal (Second Amendment)**Act, 2006.**(Section 3.)*

(5) Whoever contravenes the provisions of sub-section (4) shall be guilty of an offence and shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine not exceeding fifty thousand rupees:

Provided that if such contravention is made for the benefit of any political party, or a mass organisation, or an independent candidate then such other persons and every president, chairman, director, partner, manager, secretary, agent or any other person, who was in charge of, and was responsible to, such political party or mass organisation or independent candidate shall also be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly:

Provided further that nothing contained in this sub-section shall render such other person, president, chairman, director, partner, manager, secretary, agent or any other person who was in charge of, and was responsible to, such political party or mass organisation or independent candidate, liable to any punishment under this sub-section, if he proves that the offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such offence."

Amendment of
section 123.

3. For clause (a) of sub-section (2) of section 123 of the principal Act, the following clause shall be substituted :—

"(a) relates to 'non-commercial advertisement' or 'advertisement related to public interest' as defined in the *Explanation* to sub-section (4) of section 121; or

By order of the Governor,

A. BHATTACHARYYA,
Secty.-in-charge
to the Govt. of West Bengal,
Law Department.