

## Municipal Governance – A perspective from Greater Hyderabad Municipal Corporation (GHMC) Act, 1955

### 1. Background

In the erstwhile Hyderabad State, there were two Municipal Corporations, one at Hyderabad and the other at Secunderabad and they were governed under the Hyderabad Municipal Corporations (HMC) Act, 1955. The two Municipal Corporations were merged during 1960 and it was made as Hyderabad Municipal Corporation. Subsequently, during 2007, 12 municipalities around Hyderabad were merged in the corporation limits, the merged entity came to known as Greater Hyderabad Municipal Corporation, and the Hyderabad Municipal Corporations Act, 1955 has been renamed as Greater Hyderabad Municipal Corporation Act, 1955 (GHMC Act).

### 2. Structure of the Act

For the sake of convenience, the Greater Hyderabad Municipal Corporation Act would be referred as ‘Act’ and the Municipal Corporation as ‘Corporation’ hereafter. The Act consists 23 chapters with 687 sections and 22 schedules. Some sections and schedules have however been deleted. The structure of the Act looks as below:

**Table 1: Structure of the Act**

Chapter	Subject	Sections
I	Preliminary	1 to 3
II	Municipal Constitution – Municipal Authorities	4 to 111
III	Duties and Powers of Municipal Authorities – Obligatory and discretionary duties of the Corporation	112 to 129
IV	Local Government Service and Municipal Officers and Servants	130 to 144
V	Municipal Property	145 to 148
VI	Borrowing Powers	149 to 168
VII	Revenue and Expenditure	169 to 196 A
VIII	Municipal Taxation	197 to 289
IX	Drains and Drainage Works	290 to 340
X	Water Works	341 to 372
XI	Regulation of Streets	373 to 427
XII	Building Regulations	428 to 463
XII A	Special provision relating to development and maintenance of major civic infrastructure	463 A
XIII	<i>Repealed by Telangana Urban Areas (Development) Act, 1975</i>	<i>464 to 479 (Repealed)</i>
XIV	Sanitary Provisions	480 to 572
XV	Vital Statistics	573 to 584
XVI	Rules and Byelaws	585 to 595
XVII	Offences and Penalties	596 to 617
XVII A	Election Expenses	617 A to 617 C
XVII B	Appointment of Observers	617 D
XVIII	Licensing of Surveyors and Plumbers	618 to 621

Chapter	Subject	Sections
XIX	Procedure	622 to 653
XX	Appeal from certain orders	654 to 674
XXI	Control	675 to 679 F
XXII	Supplemental Provisions	680 to 686
XXII A	Public Disclosure	686 A and 686 B
XXIII	Repeal of enactments	687

In addition, the Act contains certain schedules (A to V) and they are:

**Table 2: Schedules of the Act**

Schedule	Details
A	Forms relating to municipal elections
B	<i>Omitted</i>
C	Officers and servants of the Corporation belonging to Local Government Service
D	Form of debenture
E	Duties and powers of Municipal Examiner of Accounts
F	Forms in connection with transfer of titles
G	Tax rates on vehicles and animals
H	<i>Omitted</i>
I	<i>Omitted</i>
J	Rates of admission charges on entertainment
K	<i>Omitted</i>
L	Form of distress warrant
M	Form of inventory and notice
N	Fee payable in distraints
O	Drainage completion certificate
P	Articles/places may not be kept or used without a licence
Q	Particulars to be specified in the register of births
R	Particulars to be specified in the register of deaths
S	Certificate of cause of death
T	Form certifying name given by baptism and without baptism
U	Fines to be imposed on various offences under the Act
V	Fines to be imposed on continuous offences under the Act

### 3. Chapter-wise details

#### 3.1 Chapter I: Preliminary

Chapter I consists 3 sections – 1 to 3. While section 1 is title of the Act, section 2 contains definitions of various words and phrases used in the Act. Section 3 is constitution of corporation. If the Government declares any local area as larger urban area, a Corporation is constituted and the Government have power to alter the limits of the Corporation.

#### 3.2 Chapter II: Municipal Constitution – Municipal Authorities

The chapter consists sections 4 to 111. Section 4 initiates the chapter with detailing the municipal authorities charged with carrying out the provisions of the Act. Four authorities have been designated and they are, (i) corporation, (ii) standing committee, (iii) commissioner and (iv) ward committee. The next section (section 5) deals with composition

of corporation. The corporation consists of elected members, ex-officio members and co-opted members. Section 9 deals with State Election Commission (SEC) and elections to the corporations are held under the superintendence, direction and control of EC. The other important provisions in this chapter are division of corporation into wards, constitution of ward committees and area sabhas, preparation of electoral rolls, qualification of voters and qualification of members. (sections 8 to 23D). The next important provisions in the chapter are conduct of elections to the corporation which are covered in sections 24 to 70 G. This part covers appointment of returning officers, election notification, conduct of elections, counting of votes and declaration of results.

Appointment of Special Officer is also covered in the chapter as section 70 G. Whenever elections could not be held for any reason, the Government has power to appoint Special Officer to exercise powers and perform functions of the corporation and standing committee. The next part is election petition. If there is any dispute on the elections, election petitions have to be filed in the Election Tribunal, to be constituted by the Government. The procedure for constituting Election Tribunal, filing of election petition, process of disposal, orders of Tribunal etc. are covered in sections 71 to 87.

The next part of this chapter is proceedings of the corporation and are covered in sections 88 to 103. Sections 88 and 89 details as to how the proceedings of corporation have to be conducted. The election of Mayor and Deputy Mayor, no-confidence motion against them, the resignations of member, Deputy Mayor and Mayor, and the constitution of Standing Committee and other committees are covered under sections 90 to 100.

The next part of this chapter relates to the executive wing of the Corporation. The executive power of the Corporation vests with Commissioner. He is appointed by the Government and various officers assist him in performing the assigned functions. All matters relating to Commissioner and his officers are covered in sections 104 to 111.

### **3.3 Chapter III: Duties and Powers of Municipal Authorities**

This chapter consists sections 112 to 129 and can be grouped in three parts. The first part is the details of obligatory and discretionary duties of the Corporation and they are covered in sections 112 to 116. The next part is the functions of various municipal authorities and they are covered in sections 117 to 123. The last part of the chapter relates to contracts and covered in sections 124 to 129. The competent authority to sanction works, mode of executing the contracts and invitation of tenders for the works are dealt in these sections.

### **3.4 Chapter IV: Local Government Service and Municipal Officers and Servants**

This chapter deals with municipal personnel and are covered in sections 130 to 144. The municipal officers and servants are governed under three services, (i) local government service, (ii) state municipal corporation service and (iii) municipal service. Besides Commissioner and Additional Commissioner etc., Government appoints officers of State Government in the Corporation and these officers while working in the Corporation are considered as municipal officers and work under administrative control of Commissioner.

These officers are listed in Schedule C and they are considered as officers of Local Government Service. The Government may constitute State Municipal Corporation Service with any class of officers or employees of municipal corporations in the State under section 132 A. Even though this provision is included in the Act, it is not operationalised. The other service is the municipal service and are covered under sections 137 to 144. Sanction of posts, recruitment and disciplinary action in respect of officers and employees of municipal service are covered in these sections.

### **3.5 Chapter V: Municipal Property**

This chapter deals with acquisition and disposal of property by the Corporation and the subject is covered in sections 145 to 148.

### **3.6 Chapter VI: Borrowing powers**

This chapter relates to borrowing powers of Corporation and covered in sections 149 to 168. Matters relating to raising of loans from the government or government institutions or persons (sec.149) and issue of debentures (sec.153) are covered in the chapter. Another noteworthy provision in this regard is the steps to be taken by Corporation to repay the loans or redemption of debentures. These steps are mortgaging of taxes or immovable property of the corporation (sec. 151) and establishing of sinking fund (sec153).

### **3.7 Chapter VII: Revenue and Expenditure**

This chapter contained in sections 169 to 196 A. These sections are grouped in three parts. The important part of the chapter is municipal fund and is covered under sections 169 to 176. Details relating to municipal fund covering the receipt of amounts, lodging these amounts in banks, drawl of amounts from banks, purposes for which the amounts be spent etc. are covered. The next is the constitution and disposal of special funds (sec.177). The other part of this chapter relates to accounts and budget. Sections 179 to 181 refer to maintenance of accounts, preparation of annual statement of accounts and administration report and forwarding them to the Government. Sections 182 to 192 relates to budget. Details relating to preparation of budget estimates, consideration and final adoption of budget by the Corporation and readjustment of budget figures in the course of the year are detailed. The scrutiny of accounts by the Examiner of Accounts (sec.193 to 195) and audit of accounts by Director of State Audit (sec.196) are covered in this chapter. The State Finance Commission and its role in municipal finances are detailed in sec.196 A.

### **3.8 Chapter VIII – Municipal Taxation**

This is a detailed chapter of the Act and consists of sec 197 to 289. Taxation is one of the major sources of revenue to the Corporation. The Corporation is authorised to levy various taxes in the limits of the Corporation. The major tax is property tax. Matters relating to levy of tax, rates of various components of tax, fixing rate of tax, etc., are covered in sections 197 to 203. The persons responsible for payment of tax and matters relating to transfer of titles are covered in sections 204 to 211. The next important part under taxation is valuation of property for the purpose of taxation. Matters relating to method and manner of assessment, levy of penalty for unauthorised constructions, complaints on the assessment and their

disposal, and maintenance of assessment books are covered in sections 212 to 226 A. Remission of tax on vacant building is covered in sec 232 to 238. While matters relating to tax on vehicles and animals are covered under sections 239 to 247, tax on dogs are separately covered under sections 248 to 251. There is a provision for levy of tax on transfer of properties. This is levied and collected as surcharge on stamp duty by the Registration Department while registering the transfer documents. This provision is covered in section 261.

The next part in this chapter is collection of taxes. The process covers service of bill, distraint of goods of defaulters, sale of those goods if tax is not paid, prosecution if distraint has become not possible and filing of suit for realising dues. Similarly, levy of penalty for late payment and disconnection of essential services are also some of the measures for collection of taxes. All these matters are covered in sections 264 to 281 A. Limitation of time for recovery of dues (sec.278A) and write-off of irrecoverable dues (sec 281) are also covered. There is also provision for filing appeals against valuation of taxes to the Judge and those provisions are covered under sections 282 to 289.

### **3.9 Chapter IX – Drains and drainage works**

One of the services for which the Corporation is responsible is drains and drain works and chapter 9 deals it. The chapter contains section 290 to 340. These sections are grouped in 5 parts. Sections 290 to 295 are grouped under municipal drains. The Commissioner has powers to construct drains, repair them and is responsible to clean them. It is provided that all buildings should be constructed with drains, that all drains and cesspools be properly covered and ventilated; and pipes affixed for ventilation of drains. The next group of sections from 321 to 331 relate to water closets, privies and urinals. All premises should have water closets and privies; and factories and work places should have enough and convenient privies and water closets. The Corporation has to provide and maintain sufficient public conveniences like water closets, privies and urinals and it should be ensured that they should not be a source of nuisance and annoy any passers-by (sec.331). The next group of sections relate to the authority of Commissioner for inspection of drains, water closets, privies and other public conveniences and the remedial measures connected therewith.

### **3.10 Chapter X – Water Supply**

Water supply is one of the major services to be provided by the Corporation and is covered in chapter 10. This chapter consists sections 341 to 372. Section 341 defines the words used under this chapter. Section 342 lays that the Corporation is responsible to supply of water within the corporation limits. Then followed provisions relating to Commissioner's responsibility to take up relevant works, maintain the water works and keep them in good condition, provision of fire hydrants and prohibiting certain acts affecting water works. The Corporation has to provide water connection to the owner of any premises, if an application is made and subject to certain formalities and conditions (section 352). If water is charged by measurement, the Corporation has to supply a meter or may permit the owner to install a meter. In case there is failure on the part of the owner to pay water charges or neglects in proper maintenance of water connection or uses water in contravention of bye-law, the

corporation may discontinue the connection (section 360). It is also provided that the works in respect of water works have to be carried out by licenced plumbers (sec.371). With the permission of the Corporation, the Commissioner may supply water outside the limits on such terms and conditions as to payment and period of supply. (sec.372).

### **3.11 Chapter XI – Regulation of streets**

Construction and maintenance of roads is one of a major service activity of the Corporation and it is covered in chapter 11 consisting of sections 373 to 427. The first group of sections in this chapter relates to construction, maintenance and improvement of roads, i.e., public streets. The Commissioner is responsible to ensure that all public streets are properly levelled, metalled, altered and repaired as required (sec.374). There is a provision that the Government may take over the streets from the control of Commissioner for the purposes of levelling, metalling, widening or repairing. After completing the relaying or repairing, the Government would transfer the streets to the corporation (sec.374 A). The Commissioner is empowered to make a new street, agree with any person to make a street for public use through his land, declare any street made by other agencies as public street (sec.376), adopt, construct or alter any sub-way, bridge or approach (sec378), prohibit use of public streets for certain kinds of traffic (sec.379) and acquire any land for improving or widening or diverting any public street (sec.380).

Another important matter relating to public streets is the layouts developed by private landowners or developers. Every person who intends to sell any land to erect buildings has to divide the land into building plots and make or layout private streets and allow the public a right of passage or access. (section 388). After certain formalities and sanction of layout, the private streets should be levelled, metalled, lighted and provided with avenue trees and declared as public streets, and on such declaration, they vest in the Corporation (section 395).

The next part is to make the streets free from projections and encroachments. Sections 397 to 408 deal with the subject. No person should make any projections upon streets. If the Commissioner notices any projections, he is competent to remove them. However in certain cases, they may be permitted through a licence.

Other provisions relating to public streets include naming the streets, numbering the houses (sec.418), splaying the compound wall on buildings at corner of streets (sec.419), regulating the sky signs (sec.420), regulating advertisements (sec.421), lighting of streets (sec.424) and watering of streets (sec.427).

### **3.12 Chapter XII – Building Regulations**

Building regulation is one of the regulatory activities of the Corporation and the chapter on Building Regulations consists of section 428 to 463. Every person who intends to construct or reconstruct a building has to give a notice/make an application to the Commissioner for permission (section 428). There is a printed form of notice/application and it should be made available in the office (sec. 435). The documents to be furnished by the applicant are listed in

section 429. The Commissioner may require additional documents and the applicant has to furnish those documents. The Commissioner has to give permission to the construction in writing within 30 days. If the Commissioner does neither approve nor disapprove within 30 days, it would be considered as deemed approval (sec.437). If any person to whom permission is given fails to proceed with the work within one year, he has to make a fresh application to Commissioner (section. 440). The nature of usage of the building is crucial, and no person should use a building for residential purpose, if permission is given for non-residential purpose and vice-versa. (sections 441 - 443). The building regulations also cover requirements like improvement of street abutting the building site, street alignment, foundation of building structure, ventilation to the building, external walls, room sizes, height of the building, sanitation arrangements etc. (sections 444- 449).

There are provisions like cancellation of permission by Commissioner in case the permission is obtained through false representation (sec 450), inspection of buildings under construction (sec451) and action in case the work is carried out without permission or contrary to the Act or byelaws (section 452). Section 452 authorises Commissioner to demolish the building if it is unauthorised or constructed contrary to the permission or any provision of law, after giving the person an opportunity to explain.

Another important provision is occupancy certificate. Every person who completes the construction has to make an application to Commissioner for permission to occupy or use the building and the Commissioner would give the permission. If the permission is neither issued nor refused within twenty one days, it is considered as deemed permission (section 455).

Then followed action on dangerous structures. If the Commissioner notices any building is in ruinous condition or likely to endanger the neighbourhood, he may pull down, secure, remove or repair such building to prevent danger (section 456). Similar action can be taken in respect of dangerous trees (sec.457), and dangerous tanks, wells and holes (sec.458).

Section 461 A empowers Commissioner to seal any premises, if it is noticed that there is unauthorised construction or development of the premises. The Commissioner is also authorised to cause any building vacated (section 462) and regulate future construction in designated streets or localities (sec.463).

### **3.12A Chapter XII A – Special provisions relating to Development and Maintenance of Major Civic Infrastructure**

A new chapter with one section 463A was introduced in the year 1986. This section empowers the Corporation to levy and collect external betterment charges while approving layouts or sub-division of plots or issue of building permits. The external betterment charges are meant to maintain major arterial roads, lung spaces and other major civic infrastructure. It is also provided that these charges shall not be levied in the case of layouts released before 10 March, 2008 and also for residential buildings whose plot area does not exceed 200 sq. mts.

### **3.13 Chapter XIII – Repealed**

This chapter relates to master plans, land use regulations and similar provisions and consists of sections 464 to 479. During 1975, Telangana Urban Areas (Development) Act, 1975 was passed and section 61 of this Act deleted chapter XIII of the Act. The provisions of the Act were incorporated in chapter III (Master Plans and Zonal Development Plans), chapter IV (Development of land) and chapter VII (Levy, assessment and recovery of development charges) of UDA Act.

### **3.14 Chapter XIV – Sanitary provisions**

Providing sanitation services is a major service activity of the Corporation and the chapter details all sanitation activities and consists of sections 480 to 572. The basic activity is cleansing of roads and removal of all varieties of refuse (sec. 480 to 491). Besides cleansing of streets and removal of refuse (sec. 480), Commissioner has to make provision of public receptacles, depots and places for disposal of refuse (sec.482). The owners and occupiers of all premises are equally responsible for maintaining sanitation by collecting the refuse etc. from their premises and deposit at such identified receptacles or places (sec.483). The Commissioner is also responsible for removal of all excrements and polluted matter from privies, urinals and cess pools (sec.484).

As regards inspection and sanitary regulation of premises, the Commissioner may inspect any building or premises to ascertain sanitary conditions (section 492), issue notices to owner to repair or whitewash any building (sec.493), remove building material (sec.494), abate nuisance in abandoned or unoccupied premises (se.495), clean and clear neglected buildings (sec.496) etc. He also has power to inspect buildings unfit for human habitation (sec.499), overcrowded buildings (sec.501), insanitary huts and sheds (sec.502), and premises used for storage of goods (sec.503). The Commissioner can regulate or prohibit certain kinds of cultivation, if the activity is injurious to public health (sec.504A). The Commissioner is empowered to permit the digging of new well or tank (sec.505), order cleansing of insanitary private water source (sec.506), stop dangerous quarrying (sec.508) and trimming or removal of trees, shrubs and hedges (sec.509).

The next group relates to keeping of animals, destruction of animals and disposal of carcass. Section 510 prohibits keeping of animals without permission of Commissioner. Section 511 prohibit stabling of animals or storing of grain in dwelling houses. Similarly, Commissioner should ensure the removal of carcass of animals dying within the Corporation limits (sec.512).

Regulation of bathing and washing in public places like lake, tank, reservoir, cistern, well etc. is covered in sections 513 to 515. The Commissioner may set portion of such places for public bathing and washing and drying cloths, and may prohibit contamination of water by not allowing animals in the water bodies and not throwing any offensive material likely to be offensive and dangerous to health.



The next important group under this provision relates to regulation of factories and trades which are dealt in sections 516 to 524. No person shall establish a new factory, workshop or workplace without permission of Commissioner (Sec.516). Certain specific requirements for factories, workshops and work places are detailed in sections 518 to 524.

The next group relates to maintenance and regulation of markets and slaughter houses and are covered in sections 525 to 548. Markets and slaughter houses may be maintained either by the Corporation or private persons or institutions (sec.525). The Corporation can provide markets and slaughter houses (sec.526), and close them (sec.527). Private markets are allowed with a licence issued by the Corporation [sec.530 (1)(a)]. The Corporation makes regulations for markets and slaughter houses (sec.533), fix rents of shop rooms in the markets and slaughter houses and fee for exposure of sale of articles in the markets and slaughtering of animals in the slaughter houses; and also authorise the management of these institutions to private persons through public auction (sec.534).

The next group under sanitation service relates to prevention and spread of infectious diseases. These aspects are covered in sections 549 to 565. Every medical practitioner in the Corporation limits, if he comes across the prevalence of any infectious or communicable disease has to give information of the same to the Commissioner immediately (sec.549). As a measure to prevent the spread of disease, the Commissioner may prohibit drinking of water from any suspected water bodies (well, tank, or lake), remove a patient to a hospital for treatment, detain a patient in a hospital, disinfect a building, destruct hut or shed, provide suitable place with required apparatus for disinfecting clothing, bedding and other articles, prohibit a person from entering public transport, and provide suitable carriage for conveying patients etc. (sec.551 to 559). The Commissioner may close a lodging house or eating house in which the infectious disease exists or recently occurred and shall not be opened unless it is certified that it has been disinfected and free from infection (sec.564). In addition to these specific provisions, the Commissioner may with the sanction of the Government take any special measure necessary to prevent the outbreak of any infectious disease and report the action taken to Corporation (sec.565).

The other group under this subject is disposal of dead and covered in sections 566 to 572. Every person or institution who owns any place for burying or cremating and otherwise disposing the dead has to register the same with the municipality (sec.566). No new places shall be opened without permission of the Commissioner (sec.568). In addition to such places, the Corporation may also provide convenient places for the same purpose and get them registered in the Corporation records. (sec.567). If the Commissioner is of the opinion that any place for disposal of dead is injurious to health or otherwise not suitable for such use, he may with the sanction of the Government close such place for disposal of dead and notify in Telangana Gazette and local news papers. (sec.569). This closure may be revoked with the permission of the Government by the Commissioner later, if he finds that the place is no longer injurious to health or otherwise suitable (sec.570).

### **3.15 Chapter XV – Vital Statistics**

This chapter deals with registration of births and deaths take place within the limits of the Corporation and are covered in sections 573 to 584. The Corporation shall maintain register of births and deaths in specified forms for each ward and appoint an officer to register the births and deaths in those wards. (sec.573 to 575). Information of birth has to be given within seven days (sec.578) and information of death has to be given at the time of disposal of dead (sec.580). It is the duty of qualified medical practitioner who attends an ill person upto the time of his death to certify the cause of death in a specified form and cause of death has to be entered in the register of deaths (sec.581). Registration of name of a new born child can be certified by a person who baptised the name or by the parent or guardian of the child. Similarly, the name of the child already registered can also be altered by the parent or guardian (sec584).

### **3.16 Chapter XVI – Rules and Byelaws**

This chapter deals with rules and byelaws and are covered in sections 585 to 595. Section 585 empowers the Government to make rules for carrying out the purposes of the Act and these rules have to be notified in the Telangana Gazette. The rules made by the Government have to be placed before the State Legislature.

Under section 586, Corporation has to make byelaws not consistent with the Act from time to time. The Corporation has to follow certain procedure while making byelaws. The Commissioner has to prepare draft byelaws, place them before the Corporation and after the approval, publish the draft byelaws in Telangana Gazette and local news papers and seek objections or suggestions from public. After objections and suggestions are received, they would be placed before the Corporation for consideration and the byelaws would be finally approved. Thereupon, they would be sent to the Government for confirmation. After the byelaws are confirmed by the Government, they would be published in the Telangana Gazette (Sec.587 to 589). If the Government finds it necessary, the byelaws may be modified or repealed after communicating to the Corporation and calling public objections and suggestions. After considering the views of the Corporation and public objections and suggestions, the Government may modify or repeal the byelaw through Gazette notification (sec.592).

### **3.17 Chapter XVII – Offences and Penalties**

This chapter details the nature of offences under the provisions of the Act and the amount of fines or punishments therefor; and are covered in sections 596 to 617. Various provisions of the Act (sections and subject) which if violated are punishable and the amount of fine for the violations are detailed in schedule U of the Act (sec.596). If any person who is convicted under the above sections fails to comply with those provisions are considered continuing offenders and the amount of fines and punishments for continuing offences are detailed in Schedule V of the Act. (Sec.597). There are certain provisions in the Act, the violations of which are also punishable under the Indian Penal Code (IPC). The provisions in this Act and the corresponding provisions in the IPC are listed and they are punishable under the provisions of IPC (sec.598).

The next group is electoral offences and are covered in sec.599 to 612. The nature of offences and the corresponding fine and penalty are listed in these sections. The offences include promotion of enmity between classes, holding public meetings when prohibited before date of election, disturbance at election meeting, violation on restriction of printing of pamphlets, non- maintenance of secrecy in voting, helping candidates by officers on election duty, canvassing near polling station, disorderly conduct near polling station, failure to observe poll procedure, illegal conveyance during polling, government officers acting as election/polling/counting agents, going armed near polling station, booth capturing, removal of ballot papers from polling station, breach of official duty, sale or distribution of liquor on polling date, etc.

Offences other than election offences are covered in sections 613 to 617. They include ward member or officer acquiring share or interest in contracts with the Corporation, certain acts in connection with municipal water works, using smoky furnaces, default as an agent or a trustee etc.

### **3.17A Chapter XVII A – Election Expenses**

The chapter consists sections 617 A to 617 C and applies to candidates of any election held under this Act. The candidate has to maintain an account of all expenses in connection with elections. The expenses authorised in connection with the elections are detailed and they have to be maintained in a form specified by the SEC and should be lodged with District Election Authority within 45 days from the date of declaration of results.

### **3.17 B Chapter XVII B – Appointment of Observers**

The chapter consists only one section 617 D. The SEC may nominate an officer of the Government as an Observer. The Observer would watch the elections in a ward or group of wards in the Corporation and perform such functions as entrusted by the SEC. The Observer is competent to direct the Returning Officer either to stop counting of votes or declaration of results, if the situation so warrants and report the matter to the SEC to issue appropriate orders. The SEC is also competent to appoint Election Expenditure Observer for a group of wards in the Corporation to ensure that provisions under chapter XVIIA relating to election expenses are adhered to.

### **3.18 Chapter XVIII – Licensing of Surveyors and Plumbers**

This chapter contains sections 618 to 621. Under the provisions of the Act, the surveyor or plumber have to be licensed by the Commissioner to undertake the professional services as surveyor or plumber in the Corporation. Certain qualifications would be prescribed for licensing of plumber or surveyor and the license has validity for one year. The Corporation would made byelaws covering all aspects of licensed surveyors and plumbers. The fee to be collected from the public for the work done by them would be determined by the Corporation and the licensed surveyor and plumber should execute the work undertaken by them carefully and diligently.

### **3.19 Chapter XIX – Procedure**

This chapter contains various matters relating to licenses and permissions, publication of notices, service of notices, payment of compensation and recovery of expenses etc. and are covered in sections 622 to 653.

Sections 622 to 625 cover licenses and permissions. Whenever a licence or permission is required for any purpose under the Act, a written licence or a written permission has to be given. It should specify the period and the conditions; and should also be signed by the Commissioner. The licence or permission would be granted only on payment of fee as fixed by the Corporation. Commissioner is competent to suspend or revoke the permission, if the conditions are not followed. Another important aspect is that the acceptance of fee cannot be construed as issue of licence or permission. (sec.622).

Whenever it is provided in the Act that a public notice is given for anything, the notice shall be in writing and signed by the Commissioner and shall be given wide publicity through advertisement in the local newspaper, by beat of drum or any other means of publicity (sec.626). Similarly, if the Act provides that the notice be published through advertisement, the notice should be published at least in two local newspapers (sec.627).

The service of notice, bill, summon etc. to a person shall be effected through (i) giving the notice to such person, (ii) if such person is not found, by giving it to some adult male member of his family; (iii) if the person does not reside in the town and his current address is known, by forwarding the notice to his known address by registered post; and finally (iv) in the absence of above means, by affixing the notice in some conspicuous part of the building or land to which the notice relates. (sec.630). However, the bills for municipal taxes can be served by sending them in ordinary post under certificate of posting.(sec.633). Whenever the signature of Commissioner or any municipal officer on any bill, notice, document etc. is required under the Act, the said bill, notice, etc. is deemed to be validly signed, if it bears the facsimile of the signature stamped thereupon. However, this facility is not applicable to a cheque drawn upon municipal fund (sec.634).

If any work or thing which requires permission of the Commissioner under the Act is done without the permission, the work is considered unauthorised and the Commissioner may remove or pull or undo the work or thing (sec.636). The Commissioner or any officer authorised by him may enter any premises for purposes of inspection, survey or execution of any work. However, there are certain restrictions like the entry should be between sun-rise and sun-set, by giving notice to the owner if the premises is a used as a human dwelling, by not disturbing the privacy of women and observing due regard to the social and religious usage of the occupants (sec.637). Similarly, the Commissioner may summon any person to attend as witness or produce document as if exercising power of Civil Court (sec.638).

If the Commissioner require any person to do any work and the person fails to do the work within a reasonable period, the Commissioner may execute the work on behalf of the person and the expenses incurred therefor may be recovered from the person (sec.639). The expenses

recoverable from any person under the Act are not paid by him, the Commissioner may demand the amount by a notice and the amount is not paid even thereafter, the Commissioner may take action as if it is an arrear of property tax and he can recover the amount through distraint and sale of goods and chattels.

If any person sustains damage by reason of exercising any power by the Commissioner or any municipal officer or employee under the provisions of the Act, the Commissioner may with the approval of Standing Committee pay compensation to such person (Sec.648).

If any person is convicted of any offence against any provision of the Act and by reason thereof, any damage occurred to any property of Corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment inflicted on the person for such offence (sec.649).

### **3.20 Chapter XX – Appeal from Certain Orders**

The Act provides for appeals from certain orders and they are covered in sections 654 to 674. Certain orders of the Commissioner issued under the Act are appealable to the Judge. Such orders (fourteen (14) in number) are detailed in sec.654 and appeal to the Judge against these orders have to be made within one month from the date of order.

The orders of the Judge are final. However, in certain cases, appeals can be filed against the order of the Judge to the High Court and they are referred in sections 655 and 656. Appeal to the High Court has to be made within one month from the date of order.

The proceedings before the Judge are detailed in sections 657 to 662. The Judge is empowered to summon witnesses and compel production of documents in the same manner as a Civil Court (sec.658). The amount of fee and the person responsible for making payment on the application or appeal have to be determined by the Government and notified in the Telangana Gazette (section 659). Exemption from payment of fee (sec. 660), repayment of half of fee to the applicant if the appeal is settled by agreement (sec.661) and delegation of powers to another Judge (sec.662) are also provided in the Act.

Proceedings before a Magistrate are also detailed in the Act under sections 663 to 667. The Government may with the consent of the Corporation create one or more posts of Magistrates and invest them with powers of First Class Magistrate for the trial of offences against the Act (sec.664) and the offences against the provisions of the Act are cognizable (sec.663). The time limits within which complaints are entertained by the Magistrate are detailed in section 665 and the time limit is 3 months and 6 months depending on nature of offences. On an order of the Magistrate, appeal lies to the Session Court within 30 days (sec.668).

Any police officer may arrest any person who commits any offence against the Act and the person so arrested has to be presented before a Magistrate within 24 hours (sec.669). It is also laid down that the Code of Civil Procedure relating to appeals from original decrees will apply to appeals from the orders of the Judge to the High Court (sec.670). Similarly, the

provisions of Code of Criminal Procedure applies in all matters dealt with before the Magistrate (sec.673).

There is a provision in the Act that any assessment or demand made cannot be questioned in a Court of Law by reasons of clerical or other trivial mistakes, if the provisions of the Act are in substance complied and the Court cannot quash the assessment or demand simply for defect in form (sec.670A). The same section provides that the Court shall not entertain any suit on the assessment or demand unless the assessee pays half of the tax assessed and demanded.

Regarding time limit for appeal or application referred in the Act, the provisions of Indian Limitation Act, 1908 applies. If there is no specific provision, the time limit is thirty days (sec.671). The orders passed by the Judge and of the High Court on an appeal from the Judge shall be executed as if they are passed by the relevant Courts (sec.672).

Section 673 A provides that a member elected to the Corporation shall take an oath or affirmation of allegiance to the Constitution of India before taking the seat. If he does not take the oath of allegiance within three months or at one of the first three meetings, he ceases to hold the office and the seat is deemed to have become vacant. However, the matter would be reported by the Commissioner to the Corporation and the Corporation may permit the member to take the oath of allegiance within three months thereafter. This provision has been extended to Mayor also during 2008.

The last section (sec.674) of the chapter relates to institution of civil and criminal actions and obtaining legal advice. The Commissioner may file a suit for recovery of any sum due to the Corporation and institute a prosecution for any offence under the Act. He may withdraw or compromise any suit or prosecution. He may defend an election petition and similarly the Corporation, Commissioner, any officer or employee of the Corporation in respect of any suit filed against them in the discharge of duties. He may obtain legal opinion or assistance on matters relating to the Corporation. In a couple of above instances, he has to take the approval of Standing Committee.

### **3.21 Chapter XXI – Control**

Since Corporations are created by the Government and the responsibility of Local Government is under the purview of State Government as per federal system of governance, the State Government kept certain amount of control over the Corporations. This chapter lists such control measures and consists sections 675 to 679 F.

The Government may require the Corporation or Commissioner to produce any record, correspondence, plan or other document and furnish any return, plan, estimate, account or statistics (sec.675). The Government has power to depute any officer to inspect or examine any department or office of the Corporation or any work or thing and to report thereon (sec.676).

If the Government receive any information and on enquiry, it is noticed that any municipal authority fails to perform its duty or the performance is imperfect or ineffective, or adequate finances are not provided for performance of the duty, the Government may direct the Corporation or Commissioner to perform the duty properly or provide adequate funds to perform the duty to the satisfaction of the Government (Sec.677).

In case the Corporation or Commissioner fails to take action under the above provision, the Government may appoint some other person to take action, fix a remuneration to him and direct the Corporation to pay remuneration to the person and spend the costs for taking such action from municipal funds (sec.678).

The Government may call for and examine the record with reference to its correctness, legality and propriety and pass such orders as it thinks fit. If the Government is of the opinion that the execution of any resolution or order contravenes any provisions of the Act, they may suspend the execution of the resolution or order or prohibit doing any act. However, before suspending the resolution, they should call the explanation of the Corporation (sec. 679).

The Government may cancel a resolution, order, licence or permission or prohibit doing of any act if the Government is of the opinion that the resolution etc. has been passed is not in accordance with law or in excess of the powers or the execution of resolution, order etc. is likely to cause financial loss, danger to human life, health or safety or likely to lead to a riot or breach of peace or against public interest. However, before cancelling the resolution, an opportunity of explanation has to be given to the Corporation. If the Government considers that immediate action is necessary, they may suspend the resolution pending action for cancellation. (Sec.679 A).

The Government may suspend a Mayor, Deputy Mayor or a member, if in their opinion the Mayor etc. wilfully misbehaved or manhandled any member, officer or employee or destroyed property or used unparliamentary language during meetings which leads that the municipal administration cannot be carried on according to law. However, before taking action in the matter, an opportunity of explanation shall be given to the Mayor etc. (sec.679 AA).

Government may remove Mayor or Deputy Mayor, if in their opinion, the Mayor or Deputy Mayor wilfully omits or refuses to carry out or disobeys the provisions of the Act or abuses the powers vested in him. However, before taking action in the matter, an opportunity of explanation shall be given to the Mayor etc. (sec.679 B).

The finality of control is Government's power to dissolve the Corporation. If in the opinion of the Government, the Corporation is not competent or persistently makes default in performing its duties and abuses or exceeds its position or power or a situation exists in which municipal administration cannot be carried, it may dissolve the Corporation. However, before taking action in the matter, an opportunity of explanation shall be given to the Corporation and the Mayor (sec.679 D).

The Government may from time to time give directions not inconsistent with the Act to the Corporation for carrying out the purposes of the Act (sec. 679 E).

The Government may in consultation with the Corporation and Telangana Industrial Infrastructure Corporation (TSIIC), may transfer any of the powers and functions of the Corporation to TSIIC subject to certain restrictions and conditions (sec.679F). Under this provision, some of the powers and functions of the Corporations have been transferred to TSIIC to be performed in the areas covered under industrial estates. One of the principal conditions is certain percentage of property tax collected in the industrial estates has to be transferred to the respective Corporations.

### **3.22 Chapter XXII – Supplementary Provisions**

The chapter consists sections 680 to 686 A. Section 680 provides that the Commissioner, Deputy Commissioner, all officers, employees and ward members shall be deemed to be a public servant as defined in the IPC. Every police officer shall cooperate with the Commissioner in carrying out his functions and maintenance of order in the Corporation limits. If the police officer receives any information relating to commission of any offence against the Act, he has to communicate to the Corporation without delay (sec. 681). The clerical errors, omissions or other defects in any assessment made need be rectified and such defects will not render the notice or document invalid or illegal. (sec.684). There is protection for the Commissioner, officer or employee from the costs, expenses and damages etc. consequent on a suit, if he does the act in pursuance of the Act. Before filing a suit against him, one month's notice has to be given and during trial of the suit, no fresh charges shall be raised except those referred in the notice. Further, the expenses etc. in the suit shall be paid from municipal funds with the sanction of the Standing Committee (sec.685).

#### **3.22A Chapter XXII A – Public Disclosure**

The Corporation has to maintain and publish all its records duly categorised and indexed; and disclose the information at quarterly, half yearly and yearly intervals to the public. The manner in which the disclosure has to be made, i.e., newspaper, internet, notice boards etc. are listed. Similarly, the information to be disclosed like basic particulars of Corporation, particulars of officers, officers responsible to issue permissions and deliver services, financial statements, budget details, list of major works, etc. are also listed. (sec.686 A).

### **3.23 Chapter XXIII – Repeal of Enactments**

This is a mandatory section and it is section 687. When a new Act is passed, existing Act would be repealed. In this case, when the new Act comes into force, the then existing Hyderabad Municipal Corporation Act, 1950 and Hyderabad and Secunderabad Municipal Committees (Composition and Election) Regulation, 1359 F were repealed. However, the notifications, notices, licenses, permissions, rules, regulations, appointments etc. which were issued as per earlier Acts would continue as long as they are not inconsistent with the provisions of this Act. All rights and privileges; all investigations, court cases etc. would also continue.



#### **4. Schedules**

After the main provisions through various sections, certain schedules have been added in the Act and they are:

Schedule A: It contains three forms relating to election of ward members in the Corporation. They are Form 7 (Public notice by Returning Officer), Form 8 (Nomination form) and Form 9 (Notice of withdrawal)

Schedule B: Omitted

Schedule C: List of officers belonging to Local Government Service (State Government)

Schedule D: Form of debenture

Schedule E: Duties and powers of Municipal Examiner of Accounts

Schedule F: Form 1 (Notice of transfer when transfer is effected by instrument) and Form 2 (Notice of transfer when transfer is effected otherwise than by instrument)

Schedule G: Maximum and minimum level of tax on animals and vehicles

Schedule H: Omitted

Schedule I: Omitted

Schedule J: Maximum and minimum rates chargeable for admission to places of entertainment.

Schedule K: Omitted

Schedule L: Form of distress warrant

Schedule M: Form of inventory and notice

Schedule N: Fee payable in distraints

Schedule O: Certificate of completion of work (by licenced plumber)

Schedule P: Licence from the Commissioner to keep certain things and carry on certain trades and operations in 4 parts. Part I (List of articles which cannot be kept upon any premises without a license ), Part II (List of articles and maximum quantities to be kept without a license in any premises), Part III (List of articles to be kept without a license in any premises for sale or for other domestic use) and Part IV (Trades or operations connected with trade which cannot be carried on any premises without a licence)

Schedule Q: Particulars to be recorded in Register of Births

Schedule R: Particular to be recorded in Register of Deaths

Schedule S: Certificate of cause of death (by a qualified medical practitioner)

Schedule T: One form for certifying the name of child issued by an officiating minister on baptism and the other form is certificate given by parent if the name given is not on baptism

Schedule U: List of offences (provisions punishable if contravened) and the amount of fine therefor

Schedule V: List of continuing offences and the amount of fine therefor

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