

L.A. BILL No. XVIII OF 2022.

A BILL

further to amend the Maharashtra Village Panchayats Act.

WHEREAS both Houses of the State Legislature were not in session ;

5 AND WHEREAS the Governor of Maharashtra was satisfied that
circumstances existed which rendered it necessary for him to take
III of immediate action further to amend the Maharashtra Village Panchayats
1959. Act, for the purposes hereinafter appearing ; and, therefore, promulgated
Mah. the Maharashtra Village Panchayats (Amendment) Ordinance, 2022, on
Ord. V₁₀ the 27th July 2022 ;
of 2022.

AND WHEREAS it is expedient to replace the said Ordinance by an
Act of the State Legislature; it is hereby enacted in the Seventy-third Year
of the Republic of India as follows :—

Short title and
commencement.

1. (1) This Act may be called the Maharashtra Village Panchayats (Amendment) Act, 2022.

(2) It shall be deemed to have come into force on the 27th July 2022.

Amendment of
section 13 of
III of 1959.

2. In section 13 the Maharashtra Village Panchayats Act (hereinafter referred to as “the principal Act”),—

III of
5 1959.

(1) in sub-section (1), for the words “such list pertains.”, the words “such list pertains and, *Sarpanch* of *panchayat* to be elected directly.”, shall be substituted ;

(2) for sub-section (2), the following sub-section shall be substituted, namely :—

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“(2) Every person whose name is in the list of voters and who is not less than twenty-one years of age on the last date fixed for making nomination for every general election or bye-election shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected as a member from any ward of the village or for *Sarpanch* of *panchayat*. No person whose name is not entered in the list of voters for such village shall be qualified to be elected as a member of any ward of the village or *Sarpanch* of *panchayat*.”.

Amendment
of section 15
of III of
1959.

3. In section 15 of the principal Act, in sub-section (2), for the word and figures “section 11”, the words, figures and letters “section 11 or section 30A-1A, as the case may be”, shall be substituted.

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Amendment
of section
30A-1A of
III of 1959.

4. In section 30A-1A of the principal Act, in sub-section (1), for the words and figures “the Maharashtra Village Panchayats (Amendment) Act, 2017”, the words and figures “the Maharashtra Village Panchayats (Amendment) Act, 2022”, shall be substituted.

Mah.
LIV of
2018.
Mah.
of 2022.

Deletion of
section 30A-
1B of III of
1959.

5. Section 30A-1B of the principal Act, shall be deleted.

Amendment
of section 35
of III of
1959.

6. In section 35 of the principal Act,—

(1) sub-section (1A) shall be deleted ;

(2) sub-section (3) shall be re-lettered as clause (a) thereof; and after clause (a) as so re-lettered, the following clause shall be inserted, namely :—

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“(b) After the motion of no-confidence against the directly elected *Sarpanch* is carried by a majority of not less than three-fourth of the total number of the members, who are for the time being entitled to sit and vote at any meeting of the *panchayat*, then the same shall be ratified by the *Gram Sabha*, in a special meeting convened, within fifteen days from passing of such motion, by an officer appointed by a Collector in this behalf, in the presence and under the Chairmanship

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of such officer, by a simple majority by the method of counting of heads. After such ratification of motion by the *Gram Sabha*, the *Sarpanch* shall forthwith stop, exercising all the powers and performing all the functions and duties of the office and thereupon, such powers, functions
 5 and duties shall vest in the *Upa-Sarpanch*, and in case the motion is carried out against both the *Sarpanch* and *Upa-Sarpanch*, in such officer, not below the rank of Extension Officer, as may be authorised by the Block Development Officer, till the dispute, if any, referred to under sub-section (3B) is decided.”.

10 **7.** In section 43 of the principal Act, in sub-section (1), for the second proviso, the following proviso shall be substituted, namely :—

Amendment
of section
43 of III
1959.

“Provided further that, if the post of the directly elected *Sarpanch* fallen vacant under this sub-section, then it shall be filled in by election in the manner laid down in section 30A-1A within six months from
 15 the date of such vacancy.”.

8. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, by an order published in the *Official Gazette*, as the occasion arises, make such provisions not inconsistent with the provisions of
 20 the principal Act, as amended by this Act, as may appear to it to be necessary or expedient for the purposes of removing the difficulty:

Power to
remove
difficulty.

Provided that, no such order shall be made after expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon
 25 as may be, after it is made, before each House of the State Legislature.

Mah.
Ord. V
of
2022. **9.** (1) The Maharashtra Village Panchayats (Amendment) Ordinance, 2022 is hereby repealed.

Repeal of
Mah. Ord. V
of 2022 and
saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding
 30 provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

As per the provisions of section 30 of the Maharashtra Village Panchayats Act (III of 1959), a *Sarpanch* is elected by and from amongst the elected members of the *panchayat*. After due deliberation, it was considered necessary to adopt a system of direct election for the post of *Sarpanch* of *panchayat* from the eligible voters of village which will give stability in the functioning of the *panchayat*.

2. It was also considered expedient to provide that, a no-confidence motion against the directly elected *Sarpanch* shall be ratified by the *Gram Sabha* by simple majority by the method of counting of heads.

For the above purposes, sections 30A-1A and 35 of the said Act were amended suitably. Certain other consequential amendments in the said Act were made.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra is satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act, for the purposes aforesaid, the Maharashtra Village Panchayats (Amendment) Ordinance, 2022 (Mah. Ord. V of 2022), was promulgated by the Governor of Maharashtra on the 27th July 2022.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 12th August 2022.

EKNATH SAMBHAJI SHINDE,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 8.—Under this clause, power is taken to the State Government, to issue an order published in the *Official Gazette*, for removing any difficulty which may arise in giving effect to the provisions of the Act.

2. The abovementioned proposal for delegation of legislative power is of a normal character.

*ANNEXURE TO THE L.A. BILL No. XVIII OF 2022—
THE MAHARASHTRA VILLAGE PANCHAYATS
(AMENDMENT) BILL, 2022.*

(Extracts from the Maharashtra Village Panchayats Act, 1958)

(Mah. III of 1959)

1. to 12. ** ** ** **

13. (1) Every person whose name is in the list of voters shall, unless disqualified under this Act, or any other law for the time being in force, be qualified to vote at the election of, a member for the ward to which such list pertains. Person qualified to vote and elected.

(2) Every person whose name is in the list of voters and who is not less than 21 years of age on the last date fixed for making nomination for every general election or bye-election shall, unless disqualified under this Act, or under any other law for the time being in force, be qualified to be elected as a members for any ward of village. No person whose name is not entered in the list of voters for such village shall be qualified to be elected as a member for any ward of the village.

(2A) ** ** ** **

(3) ** ** ** **

13A. ** ** ** **

14. and 14A. ** ** ** **

15. (1) ** ** ** **

(2) Any enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise all the powers of a civil court, and his decision shall be conclusive. If the election is set aside, a date for holding a fresh election shall forthwith be fixed under section 11. Determination of validity of elections; enquiry by Judge; procedure.

(3) to (7) ** ** ** **

15A. ** ** ** **

16. to 30. ** ** ** **

(30-1A) ** ** ** **

30A. ** ** ** **

30A-1A. (1) After the date of commencement of the Maharashtra Village Panchayats (Amendment) Act, 2017 in respect of the panchayat to which the general election is to be held, subject to provisions of sub-sections (4), (5) Direct election of the Sarpanch.

and (6) of section 30, every panchayat shall have a Sarpanch who shall be elected by the persons whose names are included in the list of voters for village under section 12.

(2) to (6) ** ** ** **

Non-
application of
section 30A-
1A. **30A-1B.** After the date of commencement of the Maharashtra Village Panchayats (Amendment) Act, 2020, in respect of the general elections and by-elections to panchayat, the provisions of section 30A-1A shall cease to apply and every panchayat have a Sarpanch, who shall be elected under section 30 and the provisions of section 33 shall apply therefor.

31. to 34. ** ** ** **

Motion of no
confidence. **35.(1)** ** ** ** **

(1A) In respect of the panchayat to which the Sarpanch is directly elected under section 30A-1A the provisions of this section shall apply with the following modifications :—

(a) in sub-section (1), for the words “one-third” the words “two-third” shall be substituted;

(b) in sub-section (3), for the portion beginning with the words “If the motion” and ending with the words “against the Sarpanch” the following portion shall be substituted, namely :—

If the motion of no-confidence is carried by a majority of not less than three fourth of the total number of the members who are for the time being entitled to sit and vote at any meeting of the panchayat, the Sarpanch or the Upa-Sarpanch, as the case may be, and ratified before the special Gram Sabha by the secret ballot in the presence and under the Chairmanship of the Officer appointed for the purpose by the Collector, shall forthwith stop, exercising all the power and, performing all the functions and duties of the office and thereupon such powers, functions and duties shall vest in the Upa-Sarpanch, in case the motion is carried out against the Sarpanch.

(c) for the fourth proviso, the following provisos shall be substituted, namely :—

Provided also that, no such motion of no-confidence shall be moved within a period of two years from the date of election of Sarpanch or Upa-Sarpanch and before six months preceding the date on which the term of panchayat expires :

Provided also that, if the no-confidence motion fails, then no motion shall be moved within next two years from the date of failure of no-confidence motion.

(2) and (3) ** ** ** **

(3A to 3C) ** ** ** **

36. to 42. ** ** ** **

43. (1) Any vacancy of which notice has been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification, confirmation of no confidence motion absence without leave or removal of a Sarpanch or Upa-Sarpanch shall be filled, by the election of a Sarpanch or Upa-Sarpanch who shall hold office so long only as the Sarpanch Upa-Sarpanch in whose place he has been elected would have held office if the vacancy had not occurred: Filling up of vacancies.

Provided that, the post of the Sarpanch or Upa-Sarpanch, as the case may be, fallen vacant under this sub-section shall be filled in within thirty days from the date of such vacancy:

Provided further that, the post of the directly elected Sarpanch fallen vacant, then such post shall be filled in by election from amongst the member of the panchayat themselves, within thirty days from the date of such vacancy.

(2) ** ** ** **

44. to 188. ** ** ** **

SCHEDULES. ** ** ** **

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. XVIII OF 2022.]

**[A Bill further to amend the
Maharashtra Village Panchayats Act.]**

**[SHRI EKNATH SAMHAJI SHINDE,
Chief Minister.]**

**RAJENDRA BHAGWAT,
Principal Secretary,
Maharashtra Legislative Assembly.**