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LEGISLATIVE ASSEMBLY OF GOA

The Goa Municipalities (Amendment) Bill, 1988

(Bill No. 11 of 1988)

(To be introduced in the Legislative Assembly of Goa.)

GOA LEGISLATURE DEPARTMENT
ASSEMBLY HALL, PANAJI
JANUARY, 1988

The Goa Municipalities (Amendment) Bill, 1988

(Bill No. 11 of 1988)

A

BILL

further to amend the Goa, Daman and Diu Municipalities Act, 1968.

Be it enacted by the Legislative Assembly of Goa in the Thirty-eighth Year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act may be called the Goa Municipalities (Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Amendment of section 2.* — In section 2 of the Goa, Daman and Diu Municipalities Act, 1968 (Act 7 of 1969) (hereinafter referred to as the “principal Act”), after clause (35), the following clauses shall be inserted, namely: —

“(35-A) “Planning and Development Authority” means any Planning and Development Authority constituted under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975);

(35-B) “planning area” means any area declared to be a planning area under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975);”

3. *Insertion of new section.* — After section 51 of the principal Act, the following new section shall be inserted, namely: —

“51 A. Notwithstanding anything contained in this Act or any bye-laws, no Council, or any Committee shall exercise any power or pass any resolution in respect of matters pertaining to sections 74, 174, 182, 183, 184, 188, 189, 190, 259, 260, 261, 263, 265 and 266 of the Act.”

4. *Amendment of section 59.* — (1) In section 59 of the principal Act,—

(i) in sub-section (1), clauses (b), (c), (d) and (e) shall be deleted.

(ii) sub-section (2) shall be deleted.

5. *Amendment of section 72.* — In section 72 of the principal Act, in sub-section (1), after the words “for every Council,” the figure “.” shall be deleted and the following words shall be added, namely “and he shall work under the supervision of the Collector of the District.”

6. *Amendment of section 74.* — (1) In section 74 of the principal Act,

(i) in sub-section (1),—

(a) for clause “(a)”, the following clause shall be substituted, namely:—

“(a) supervise the financial and executive administration of the Council and exercise such powers and perform such duties and functions as may be conferred or imposed upon him or allotted to him by or under this Act;”

(b) after clause “(h)”, the following clauses shall be inserted, namely:—

“(i) inform the President about the matters to be brought before the Council or any committee from time to time;

(j) send reports from time to time to the Director about any resolution of the Council or of any Committee which he thinks unlawful or against the public interest and act in accordance with the decision of the Director in this regard under sub-section (1) of section 295 A of this Act.

(k) send report from time to time to the Director about the delay in the decision of the Council or any Committee regarding any affair which goes against the interest of the Council or public and act in accordance with the decision of the Director in this regard under sub-section (3) of section 295 A of this Act.

(ii) In sub-section (2), the figures and words “, with the sanction of the Council,” shall be deleted.

7. *Amendment of section 75.*— For section 75 of the principal Act, the following section shall be substituted, namely:—

“75. The powers and duties of all officers and servants of the Council shall be such as the Chief Officer may specify from time to time.”

8. *Amendment of section 184.*— In section 184 of the principal Act,—

(i) in sub-section (2), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that in a municipal area falling within the jurisdiction of a planning area for which a Planning and Development Authority has been constituted, the notice shall be given to the Member Secretary of the said Planning and Development Authority, who shall forward the same to the Chief Officer concerned after scrutiny, within 60 days of receipt of the notice”.

(ii) in sub-section (3),—

(a) under clause (ii), after the words “the Chief Officer”, the words “or the Planning and Development Authority concerned as the case may be” shall be inserted.

(b) for the words “the Chief Officer shall”, the words “the Chief Officer or the Member Secretary of the Planning and Development Authority concerned, as the case may be, shall,” shall be substituted.

(iii) After sub-section (4) the following proviso shall be inserted, namely:—

“Provided that, if the municipal area falls within the jurisdiction of a planning area for which a Planning and Development Authority has been constituted, the Chief Officer shall grant the necessary permission to construct according to the recommendations of the Planning and Development Authority concerned.”

(iv) In sub-section (5), for the words “The Council may,” the words “The Council, except in case of a municipal area falling within the jurisdiction of a planning area for which a Planning

and Development Authority has been constituted, may," shall be substituted.

9. *Amendment of section 188.* — After the first proviso to sub-section (1) of section 188 of the principal Act, the following proviso shall be inserted, namely:—

"Provided further that a Municipal area falling within the jurisdiction of a planning area for which a Planning and Development Authority has been constituted, the notice shall be delivered or sent by a person constructing the building to the Member Secretary of the Planning and Development Authority concerned who shall send it to the Chief Officer within two days of its receipt and the inspection shall be done jointly by the Chief Officer and the Member Secretary of the Planning and Development Authority within seven days from the date of receipt of notice of completion in the Office of the Member Secretary of the Planning and Development Authority concerned".

10. *Amendment of section 268.* — Sub-section (2) of section 268 of the principal Act shall be deleted.

Statement of Objects and Reasons

A committee headed by Shri J. B. Gonsalves, MLA was appointed to suggest amendments to the Municipalities Act in order to streamline the functioning of Municipalities and to eliminate delays in disposal of cases which affect public in general. It was felt by the Committee that the Chief Officers should have more freedom in exercising their statutory powers, so that day to day administration of the Municipal Councils could be carried on more efficiently. It is considered necessary to amend sections 2, 51, 59, 72, 74, 75 and 268 of the Municipalities Act, so that Chief Officers may be more effective.

2. It has also come to the notice of the Government that delays occur in issue of approval of development plans by Municipalities and Planning and Development Authorities because plans have to be scrutinised almost on the same lines by both these agencies, one after another. In respect of Panchayat areas an amendment has already been made in the Village Panchayat Regulation to ensure that a building licence is granted to an applicant as soon as he gets the clearance of the Planning and Development Authority concerned. Since it is primarily the responsibility of the Planning and Development Authority to see that development in planning areas takes place in accordance with the provisions of law, it is felt that the power of scrutinising the development plans has to be exercised by the Planning and Development Authority and Village Panchayats should follow the recommendations of the P.D.A. It is felt that if similar provisions are made in respect of Municipal areas, the delay in approval of plans as well as multifarious points of possible corruption can be eliminated to a great extent. Planning and Development Authorities have expressed their willingness to take up the work of examining development plans from the point of view of Municipal bye-laws as well. In order to implement this scheme it would be necessary to amend the Town and Country Planning Act as well as the Municipalities Act to provide for scrutiny of development plans from the point of view of both the

Acts at a single place i.e. in the Planning and Development Authority concerned. It is with this aim in view that the amendment of sections 184 and 188 of the Municipalities Act has been proposed.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
1st January, 1988

DR. LUIS PROTO BARBOSA
Minister for Municipalities

Assembly Hall,
Panaji
7th January, 1988

M. M. NAIK
Secretary to the Legislative
Assembly of Goa.

(Annexure to Bill No. 11 of 1988)

The Goa Municipalities (Amendment) Bill, 1988

The Goa, Daman and Diu Municipalities Act, 1947
(Act No. 16 of 1968)

Section 59 Functions of President. —

(1) Subject to the provisions of this Act and of any rules and bye-laws framed thereunder, the President of a Council shall —

(a) preside, unless prevented by reasonable cause, at all meetings of the Council and regulate the conduct of business at such meetings;

(b) watch over the financial and executive administration of the Council;

(c) perform such executive functions or exercise such powers as are conferred upon him by or under this Act or any other law for the time being in force;

(d) exercise supervision and control over the acts and proceedings of all officers and servants of the Council in matters of executive administration and in matters concerning the accounts and records of the Council; and

(e) furnish to the Government or the Director or the Collector or any other Government officer authorised by the Government from time to time, such reports, returns or records as may be prescribed by rules or as may be called for at any time by the Government, the Director, the Collector or such officer.

(2) The President may, in cases of emergency, direct the execution or stoppage of any work or the doing of any act which requires the sanction of the Council and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the municipal fund:

Provided that —

(a) he shall not act under this section in contravention of any order of the Council prohibiting the execution of any particular work or the doing of any particular act; and

(b) he shall report forthwith the action taken under this section and the reasons therefor to the Standing Committee and the Council at their respective next meeting.

Section 72. Appointment of Chief Officer, Engineer, Water Works Engineer, Health Officer, Auditor and certain other officers. — (1) There shall be a Chief Officer for every Council.

Section 74. Powers and duties of Chief Officer.— (1) The Chief Officer shall—

(a) subject to the control, direction and supervision of the President, supervise the financial and executive administration of the Council and exercise such powers and perform such duties and functions as may be conferred or imposed upon him or allotted to him by or under this Act;

(b) subject to the rules, bye-laws and general or special orders made under this Act, dispose of all questions such as the pay and allowances, leave and other privileges in respect of the officers and servants of the Council.

(2) The Chief Officer may, with the sanction of the Council, delegate any of the powers or duties or functions conferred or imposed upon or allotted to him by or under this Act, to any municipal officer or servant:

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the Council and also to the control and revision by the Chief Officer.

Section 75. Powers and duties of other officers and servants.— The powers and duties of all officers and servants of the Council, other than the Chief Officer, shall be such as the Standing Committee may specify from time to time.

Section 184 sub section (2). Before beginning to construct any building, the person intending to construct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a bye-law or by a special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Chief Officer, and all information required by the bye-laws or demanded by the Chief Officer regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, privies, water-closets, house-gullies and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, the means of access to such building and the purpose for which the building will be used:

Provided that, if the bye-laws of the Council so require, such notice shall be in such form as the Council may from time to time prescribe and such plans shall be signed by a person possessing the qualification laid down in the bye-laws or licensed under the bye-laws so to sign such plans.

(3) If the person giving notice under sub-section (2) fails to—

(i) furnish all the information and documents required under sub-section (2); or

(ii) the Chief Officer deems it necessary to call for any further information or documents, the Chief Officer shall, within sixty days of the receipt of the notice, requires such person by an order in writing to furnish such information or documents.

(4) Within sixty days of the receipt by the Chief Officer of the notice under sub-section (2) or if any further information and documents have been called for under sub-section (3) then within sixty days of the receipt of all such information and documents, the Chief Officer may —

(a) grant the necessary permission to construct according to the plans and information furnished under sub-section (2) and sub-section (3);

(b) impose any conditions in accordance with this Act or the rules and bye-laws made thereunder, as to the level, drainage, sanitation, materials or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected or to the means of access to such building on the purpose for which the building is to be used;

(c) direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building or street have been decided to his satisfaction;

(d) subject to the provisions of the next succeeding section, refuse such permission for reasons which shall be communicated to the applicant in writing.

(5) The Council may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (4), revoke such permission and may give fresh permission in lieu thereof or issue any other order as may be passed by the Chief Officer under sub-section (4).

Section 188. Completion certificate, permission to occupy or use.—(1) Every person constructing a building shall, within one month after the completion of construction of such building, deliver or send or cause to be delivered or sent to the Chief Officer at his Office, notice in writing of such completion and shall give to the Chief Officer all necessary facilities for inspection of such building:

Provided that —

(a) such inspection shall be commenced within seven days from the date of receipt of the notice of completion; and

(b) the Chief Officer may, not later than one month from the date of receipt of the notice of completion, by written intimation addressed to the person from whom the notice of completion was received, —

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such construction; or

(ii) refuse such permission in case such building has been constructed so as to contravene any provision of this Act or of any bye-law made under this Act at the time in force or of any order passed under section 184 intimating to the person who gave the notice under sub-section (2) of that section, the reasons for such refusal and requiring such person, or

if the person responsible for giving notice under sub-section (2) of the said section is not at the time of such notice owner of such building, then such owner to cause anything which is contrary to any provision of this Act or of any bye-law made under this Act at the time in force or of any order passed under section 184 to be amended or to do anything which by any such provision or bye-law or order he is required to do but which has been omitted.

Section 268. Power to establish cattle-pounds and appoint pound-keepers. — (1) Notwithstanding anything contained in any law for the time being in force, every Council within the limits of its jurisdiction shall, from time to time, appoint such place as it thinks fit to be public pounds, and may appoint suitable persons to be keepers of such pounds.

(2) Every pound-keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the Council.

Assembly Hall,
Panaji,
7th January, 1988.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa