

No. 29/XXXVI(3)/2020/67(1)/2019
Dated Dehradun, January 20, 2020

NOTIFICATION

Miscellaneous

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of '**The Uttarakhand Panchayati Raj (Second Amendment) Act, 2019**' (Act No. 09 of 2020).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 16 January, 2020.

The Uttarakhand Panchayati Raj (Second Amendment) Act, 2019
 (Uttarakhand Act No. 09 of 2020)

AN

ACT

further to amend the Uttarakhand Panchayati Raj Act, 2016,

Be it enacted by the Uttarakhand State Legislative Assembly in the Seventieth year of the Republic of India as follows:-

- | | | |
|------------------------------|----|--|
| Short title and commencement | 1. | (1) This Act may be called the Uttarakhand Panchayati Raj (Second Amendment) Act, 2019.
(2) It shall come into force at once. |
| Amendment of section 2 | 2. | The Uttarakhand Panchayati Raj Act, 2016 (hereinafter referred to as the principal Act), clause (35) of section 2 shall be substituted as follows, namely: -

“ (35) “Rules“ means rules made under this Act but until such rules are not promulgated rules means rules promulgated under the Uttar Pradesh Panchayati Raj Act, 1947 and the Uttar Pradesh Kshettra Panchayat and Zila Panchayat Act, 1961;” |
| Amendment of section 8 | 3. | In section 8 of the principal Act:-
(i) Clause (q) of sub-section (1), the proviso shall be substituted as follows, namely:- |

“Provided that in the matter of General Category women, Other Backward Classes women and Scheduled Caste/ Scheduled Tribes candidate has not passed minimum Middle/Eight examination.”

(ii) Sub clause (d) of clause (1) of sub section (8) shall be substituted as follows, namely:-

“(d) The Chairman or Vice-chairman or Member of Committee of Management, of any co-operative society, or”

Amendment of
section 53

4. In section 53 of the principal Act:-

(i) In Clause (q) of sub-section (1), the proviso shall be substituted as follows, namely:-

“Provided that in the matter of General Category women, Other Backward Classes women and Scheduled Caste/ Scheduled Tribes candidate has not passed minimum Middle/Eight examination.”

(ii) In sub clause (d) of clause (1) of sub section (7) shall be substituted as follows, namely:-

“(d) The Chairman or Vice-chairman or Member of Committee of Management, of any co-operative society, or”

Amendment of
section 90

5. In section 90 of the principal Act:-

(i) In clause (q) of sub-section (1), the proviso shall be substituted as follows, namely:-

“Provided that in the matter of General Category women, Other Backward Classes women and Scheduled Caste/ Scheduled Tribes candidate has not passed minimum Middle/Eight examination.”

(ii) In sub clause (d) of clause (1) of sub section (7) shall be substituted as follows, namely:-

“(d) The Chairman or Vice-chairman or Member of Committee of Management, of any co-operative society, or”

Amendment of
section 131

6. In clause (h) of sub- section (4) of section 131 of the principal Act shall be substituted as follows, namely:-

“(h). (1) The election of a person as Pradhan or Up-pradhan or as member of a Gram Panchayat shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed, on the ground that :-

(a) this election has not been free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election; or

(b) the result of the election has been materially affected -

(i) by the acceptance or rejection of any nomination in improper manner; or

(ii) by gross failure to comply with the provisions of this Act or the rules framed there under.

(2) The following shall be deemed to be corrupt practice of bribery or undue influence for the purpose of this Act-

(a) bribery, namely:-

(i) a person to stand or not to stand or to withdraw from being a candidate at an election; or

(ii) with objective of inducing any elector to vote or refrain voting of an election direct or indirect or to any person for the thing that:-

(1) a person for having so stood or not stood, for having withdrawn his candidature;

(2) an elector for having voted as refrained from voting for this purposes:

to propose or promise of any seat or reward on the port of a candidate is any other person what so ever with the connivance as served.

(b) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right :

Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who-

(i) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community ; or

(ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will, be rendered an object of divine displeasure or spiritual censure shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause,

(3) The application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed;

Explanation: Any person, who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidate at the election.

(4) The authority to whom the application under sub-section (1) is made shall, in the matter of-

(i) hearing of the application and the procedure to be followed at such hearing,

(ii) setting aside the election or declaring the election to be void or declaring the applicant to be duly elected or any other relief that may be granted to the petitioner have such powers and authority as may be prescribed.

(5) Without prejudice to the generality of the powers to be prescribed under sub-section (4) the rules may be provided for summarily hearing and disposal of an application under sub-section (1).

(6) Any party aggrieved by an order of the prescribed authority who shall be Assistant Collector (first class)/ Pargana Magistrate of concerned Tehsil/ Pargana upon an application under sub-section (1) may, within thirty days from the date of the order, apply to the District Judge for revision of such order or any one or more on the following grounds; namely :-

(a) that the prescribed authority has exercised such jurisdiction not vested in it by law ;

(b) that the prescribed authority has failed to exercise a such jurisdiction so vested ;

(c) that the prescribed authority has acted in the exercise of its jurisdiction illegally or with material irregularity.

(7) The District Judge may dispose of the application for revision himself or may assign it for disposal to any Additional District Judge, civil Judge or Additional Civil Judge under his administrative control and may recall it from any such officer or transfer it to any other such officer.

(8) The revising authority mentioned in sub-section (7) shall follow such procedure as may be prescribed, and may confirm, vary or rescind the order of the prescribed authority or remand the case to the prescribed authority for re-hearing and pending its decision pass such interim orders as may appear to it to be just and convenient.

(9) The decision of the prescribed authority, subject to any order passed by the revising authority under this section, and every decision of the revising authority passed under this section, shall be final.

(10) If any question arises that any person is legally elected as a Pramukh, Up pramukh or member of Kshettra Panchayat or Chairman, Vice Chairman or Member of Zila Panchayat or not or he is eligible to be such Pramukh, Up pramukh or member of Kshettra Panchayat or Chairman, Vice Chairman or Member of Zila Panchayat or not then that question shall be referred to judge which means District judge and its includes any other subordinate civil judge nominated on ad hoc by district judge under it, in prescribed manner, whose decision shall be binding and final.

If judge decides that any person is not legally elected as a Pramukh, Up-pramukh or member of Kshettra Panchayat or Chairman, Vice Chairman or Member of Zila Panchayat or he is not eligible to be such Pramukh, Up-pramukh or member of Kshettra Panchayat or Chairman, Vice Chairman or Member of Zila Panchayat then he shall not remain as a Pramukh, Up- Pramukh or member of Kshettra Panchayat or Chairman, Vice Chairman or Member of Zila Panchayat from the date of such decision.

Amendment of
section 132

7. In the Principal Act section 132 with marginal heading shall be substituted as follows, namely:-

"Jurisdiction of Civil Courts in election matters of Gram Panchayat barred : No Civil Court shall have jurisdiction to question the legality of any action taken or any decision given by an officer or authority appointed in relation to the subjects related to election of Gram Panchayat under this Act, in connection with the conduct of elections thereunder."

Repeal and
Savings

8. (1) The Uttarakhand Panchayati Raj (Second Amendment) Ordinance, 2019 (Ordinance No. 03 of 2019) is hereby repealed.
- (2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

By Order,

PREM SINGH KHIMAL,
Secretary.

Statement of Objects and Reasons

The Uttarakhand Panchayati Raj Act, 2016 (Act No. 11 of 2016) is enacted by the State Government. It is inevitable to amend the Principal Act in this perspective to define rules, to determine education qualification for Other Backward Classes women for election, to prohibit holding of two office simultaneously as well as to rectify certain errors of the Principal Act. Section 8, section 53 and section 90 have been amended by the Uttarakhand Panchayati Raj (Second amendment) Ordinance, 2019.

- 2- The proposed bill is substituted bill for the said Ordinance with aforesaid amendments.
- 3- The proposed Bill fulfills aforesaid objectives.

Arvind Pandey
Minister.