



GOVERNMENT OF MAHARASHTRA
LAW AND JUDICIARY DEPARTMENT

MAHARASHTRA ACT No. XX OF 1987

THE MAHARASHTRA LOCAL AUTHORITY MEMBERS' DISQUALIFICATION ACT, 1986.

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THE MAHARASHTRA LOCAL AUTHORITY MEMBERS' DISQUALIFICATION ACT, 1986

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SCHEDULE

MAHARASHTRA ACT No. XX OF 1987¹

[THE MAHARASHTRA LOCAL AUTHORITY MEMBERS' DISQUALIFICATION ACT, 1986]

(This Act received the assent of the Governor on the 28th July 1987; assent was first published in the *Maharashtra Government Gazette*, Part IV, Extraordinary, on the 29th April 1987.)

Amended by Mah. 8 of 1997 (29-4-1996)²

” ” ” 50 of 2006 (19-10-2006)^{3 4}

” ” ” 37 of 2016 (16-12-2016)⁵

” ” ” 1 of 2018 (1-7-2017)^{6 7}

” ” ” 35 of 2019 (6-8-2019)⁸

An Act to provide for disqualification of members of certain local authorities on ground of defection and for matters incidental and connected therewith.

WHEREAS it is expedient to provide for disqualification of members of certain local authorities on ground of defection and for matters incidental and connected therewith ; It is hereby enacted in the Thirty-seventh Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Maharashtra Local Authority Members' Disqualification Act, 1986.

(2) It shall come into force on such date⁹ as the State Government may, by notification in the *Official Gazette*, appointment.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “*aghadi*” or “*front*” means a group of persons who have formed themselves into a party for the purpose of setting up candidates for election to a local authority ;

(b) “*Collector*” means the Collector of a district ;

(c) “*Commissioner*” means the Commissioner of a revenue division appointed under section 6 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966) ;

(d) “*councillor*” means a councillor of a Municipal Corporation, or a Municipal Council or a *Zilla Parishad* ;

(e) “*local authority*” means—

(i) a Municipal Corporation,

(ii) a Municipal Council,

(iii) a *Zilla Parishad*, or

(iv) a *Panchayat Samiti* ;

(f) “*member*” means a member of a *Panchayat Samiti* ;

(g) “*Municipal Corporation*” means a Municipal Corporation constituted under a relevant municipal law ;

¹ For Statement of Objects and Reasons, See *Maharashtra Government Gazette*, 1987, Extraordinary, Part V, Page 585.

² This indicates the date of commencement of the Act.

³ This indicates the date of commencement of the Act.

⁴ Maharashtra Ordinance No. XI of 2006 was repealed by Mah. 50 of 2006, s. 6.

⁵ This indicates the date of commencement of the Act.

⁶ This indicates the date of commencement of the Act.

⁷ Maharashtra Ordinance No. XI of 2017 was repealed by Mah. 1 of 2018, s. 3.

⁸ This indicates the date of commencement of the Act.

⁹ 1st November 1987 (*vide* G.N., R. D. D., No. ZPA. 1086/Cr-875/04, dated the 29th October 1987.)

¹[(h) "Municipal Council" means a Municipal Council constituted under the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965) and also includes the *Nagar Panchayat* constituted under the said Act ;]

(i) "municipal party", in relation to the councillor belonging to any political party or *aghadi* or front in accordance with the *Explanation* to section 3, means—

(i) in the case of a councillor of a Municipal Corporation, the group consisting of all councillors of the Municipal Corporation for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation* ;

(ii) in the case of a councillor of a Municipal Council, the group consisting of all the councillors of the Municipal Council for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation* ;

(j) "original political party", in relation to a councillor or a member, means the political party to which he belongs for the purposes of sub-section (1) of section 3 ;

(k) "*Panchayat Samiti*" means a *Panchayat Samiti* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962) ;

(l) "*Panchayat Samiti Party*", in relation to a member belonging to any political party or *aghadi* or front in accordance with the *Explanation* to section 3, means the group consisting of all the members of the *Panchayat Samiti* for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation* ;

(m) "relevant municipal law",—

(i) in relation to the Municipal Corporation of Greater Bombay, means the ²Bombay Municipal Corporation Act (Bom. III of 1888) ;

(ii) in relation to the Corporation of the City of Nagpur, means ³the City of Nagpur Corporation Act, 1948 (C. P. and Berar II of 1950) ;

(iii) in relation to the Municipal Corporation of any other City, means ⁴the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) ;

⁵[(iv) in relation to the Municipal Council, means the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965) ;]

(n) "Schedule" means the Schedule appended to this Act ;

(o) "*Zilla Parishad*" means a *Zilla Parishad* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962) ;

(p) "*Zilla Parishad Party*", in relation to a councillor of a *Zilla Parishad* belonging to any political party or *aghadi* or front in accordance with the *Explanation* to section 3, means the group consisting of all the members of the *Zilla Parishad* for the time being belonging to that political party or *aghadi* or front in accordance with the said *Explanation*.

3. Disqualification on ground of defection.—(1) Subject to the provisions of ⁶[section 5], a councillor or a member belonging to any political party or *aghadi* or front shall be disqualified for being a councillor or a member—

(a) if he has voluntarily given up his membership of such political party or *aghadi* or front; or

(b) if he votes or abstains from voting in any meeting of a Municipal Corporation, Municipal Council, *Zilla Parishad* or, as the case may be, *Panchayat Samiti* contrary to any direction issued by the political party or *aghadi* or front to which he belongs or by any person or authority authorised by any of them in this behalf, without obtaining, in either case, the prior permission of such political party or *aghadi* or front, person or authority and such voting or abstention has not been condoned by such

¹ Clause (h) was substituted by Mah. 35 of 2019, s. 2(i).

² Now see the Mumbai Municipal Corporation Act.

³ This Act is repealed by the Bombay Provincial Municipal Corporations (Amendment) and the city of Nagpur Corporation (Repeal) Act, 2011 (Mah. XXIII of 2012), s. 7.

⁴ Now see the Maharashtra Municipal Corporations Act.

⁵ Sub-clause (iv) was added by Mah. 35 of 2019, s. 2(ii).

⁶ This word and figure was substituted for the words and figures "sections 4 and 5" by Mah. 50 of 2006, s. 2(a)(1).

political party or *aghadi* or front, person or authority within fifteen days from the date of such voting or abstention :

¹[Provided that, if a councillor or a member belonging to any political party or *aghadi* or front is disqualified under clause (b), he shall be disqualified for being a councillor or a member, for six years, from the date of his disqualification:]

²[Provided further that,] such voting or abstention without prior permission from such party or *aghadi* or front, at election of any office, authority or committee under any relevant municipal law or the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962) shall not be condoned under this clause;

Explanation.—For the purposes of this section—

(a) a person elected as a councillor, or as the case may be, a member shall be deemed to belong to the political party or *aghadi* or front, if any, by which he was set up as candidate for election as such councillor or member ;

(b) a nominated ³[councillor] shall,—

(i) where he is a member of any political party or *aghadi* or front on the date of his nomination ⁴* * * * be deemed to belong to such political party or *aghadi* or front,

(ii) in any other case, be deemed to belong to the political party or *aghadi* or front of which he becomes, or as the case may be, first becomes a member of such party or *aghadi* or front before the expiry of six months from the date on which he is nominated ⁵* * * * ;

(c) ⁶* * * *

(2) An elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by any political party or *aghadi* or front shall be disqualified for being a councillor, or as the case may be, a member if he joins any political party or *aghadi* or front after such election.

(3) ⁷* * * *

(4) Notwithstanding anything contained in the foregoing provisions of this section a person who on the commencement of this Act, is a councillor, or as the case may be, a member (whether elected or nominated ⁸* * * * as such councillor or member) shall—

(a) where he was a member of a political party or *aghadi* or front immediately before such commencement, be deemed, for the purposes of sub-section (1), to have been elected as a councillor, or as the case may be, a member as a candidate set up by such political party or *aghadi* or front ;

(b) in any other case, be deemed to be an elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by any political party or *aghadi* or front for the purpose of sub-section (2) ⁹* * * * .

¹⁰[(5) The period of disqualification under this section, shall be counted from the date of order of the officer referred to in section 7.]

¹¹**3A.** *Disqualification for appointment on remunerative political post.*—¹²[(1)] A councillor or, as the case may be, a member belonging to any political party, *aghadi* or front who is disqualified for being a councillor or, as the case may be, a member ¹³[under clause (a) of sub-section (1) of section 3] shall also be

¹ This proviso was added by Mah. 37 of 2016, s. 2(i) (a).

² These words were substituted for the words “provided that”, by Mah. 37 of 2016, s. 2(i) (b).

³ The word “councillor” was substituted for the words “or co-opted councillor or member” by Mah. 50 of 2006, s. 2(a)(2)(A)(i).

⁴ The words “or as the case may be, co-option as such councillor, or as the case may be, member” were deleted by Mah. 50 of 2006, s. 2(a)(2)(A)(ii).

⁵ The words “or co-opted as such councillor, or as the case may be, member” were deleted by Mah. 50 of 2006, s. 2(a)(2)(A)(iii).

⁶ Clause (c) was deleted by Mah. 50 of 2006, s. 2(a) (2) (b).

⁷ Sub-section (3) was deleted by Mah. 50 of 2006, s. 2(b).

⁸ The words “or co-opted” were deleted by Mah. 50 of 2006, s. 2(c) (1).

⁹ The words “or as the case may be, be deemed to be a nominated or co-opted councilor, or as the case may be, a member for the purposes of sub-section (3)” were deleted, by Mah. 50 of 2006, s. 2(c) (2).

¹⁰ Sub-section (5) was added by Mah. 37 of 2016, s. 2(ii).

¹¹ Section 3A was inserted by Mah. 50 of 2006, s. 3.

¹² Section 3A was renumbered as sub-section (1) thereof by Mah. 37 of 2016, s. 3.

¹³ These words, brackets, letter and figures were substituted for the words and number “under section 3”, by Mah. 39 of 2016, s. 3(a).

disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such councillor or, as the case may be, a member expires or till the date on which he contests an election to a local authority and is declared elected, whichever is earlier.

¹[(2) A councillor or, as the case may be, a member belonging to any political party, *aghadi* or front, who is disqualified for being a councillor or, as the case may be, a member under clause (b) of sub-section (1) of section 3, shall also be disqualified to hold any remunerative political post for duration of the period of six years commencing from the date of his disqualification.]

Explanation.—For the purpose of this section, the expression “remunerative political post” means any office,—

(i) under the State Government where the salary or remuneration for such office is paid out of the public revenue of the State Government or Consolidated Fund of the State ; or

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the State Government and the salary or remuneration for such office is paid by such body ; or

(iii) under a local authority, where the salary or remuneration for such office is paid by the local authority out of such local authority’s fund,

except where such salary or remuneration paid is compensatory in nature].

4. 2 * * * *

5. *Disqualification on ground of defection not to apply in case of merger.*—(1) A councillor or a member shall not be disqualified under sub-section (1) of section 3 where his original political party or *aghadi* or front merges with another political party or *aghadi* or front and he claims that he and any other members of his original political party or *aghadi* or front,—

(a) have become members of such other political party, or *aghadi* or front or as the case may be, of a new political party formed by such merger ; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or *aghadi* or front or group, as the case may be, shall be deemed to be the political party or *aghadi* or front to which he belongs for the purpose of sub-section (1) of section 3 and to be original political party or *aghadi* or front for the purpose of this sub-section.

(2) For the purposes of sub-section (1), the merger of the original political party or *aghadi* or front of a councillor, or as the case may be, a member shall be deemed to have taken place if, and only if, not less than two-thirds of the members of municipal party, *Zilla Parishad* party, or as the case may be, *Panchayat Samiti* party, concerned, have agreed to such merger.

6. *Councillor or member to vacate office or not to hold office after ^{3***} merger.*—A councillor, or as the case may be, member claiming ⁴[merger referred to in section 5], shall—

(a) if holding any office other than such councillor or member under any relevant municipal law, or as the case may be, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962) shall be deemed to vacate such office on the date of such ^{5* * *} merger and shall, on and from that date, cease to hold such office ;

6 * * * *

¹ Sub-section (2) was inserted by Mah. 37 of 2016, s. 3(b).
² Section 4 was deleted by Mah. 50 of 2006, s. 4.
³ The words “split or” were deleted by Mah. 50 of 2006, s. 5(c).
⁴ These words and figure were substituted for the words and figures “such split or merger as referred to in section 4 or 5 as the case may be” by Mah. 50 of 2006, s. 5(a).
⁵ The words “split or” were deleted by Mah. 50 of 2006, s. 5(b).
⁶ Clause (b) was deleted by Mah. 8 of 1997, s. 2.

7. *Decision on question as to disqualification on ground of defection.*—¹[(1) If any question arises as to whether,—

- (a) a councillor of a Municipal Corporation; or
- (b) a councillor of a Municipal Council; or
- (c) a councillor of a *Zilla Parishad*; or
- (d) a member of a *Panchayat Samiti*,

has become subject to disqualification under this Act, the question shall be referred—

- (i) in the case of a councillor of a Municipal Corporation, to the Commissioner, and
- ²[(ii) in the case of any other councillor or member, to the Collector,

for his decision ;]

³[(2) The decision of the Commissioner or the Collector, as the case may be, shall forthwith be communicated to all concerned.

(3) Any person aggrieved by the decision of the Commissioner or Collector may, prefer an appeal to the State Government within a period of thirty days from the date of such order :]

⁴[Provided that, the Commissioner or, as the case may be, the Collector shall take such decision within a period of ninety days.]

8. *Bar of jurisdiction of civil courts, etc.*—Notwithstanding anything contained in any relevant municipal law, or the Maharashtra Municipalities Act, 1965⁵ (Mah. XL of 1965), or the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), no civil court and no other authority or officer shall have any jurisdiction to deal with or decide any question as to disqualification of a councillor or a member on the ground of defection or as to any matter connected therewith, which the Commissioner or the Collector is empowered to deal with and decide under section 7; and no injunction shall be granted by any civil court or any authority or officer in respect of any action taken or to be taken by the Commissioner or Collector in pursuance of any power conferred on him by or under this Act.

9. *Rules.*— (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the maintenance of registers or other records as to the political parties, *aghadi* or fronts, if any, to which different councillors, or as the case may be, members belong;
- (b) the report which the leader of a municipal party or a *Zilla Parishad* party, in relation to a councillor and the leader of a *Panchayat Samiti* party in relation to a member shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-section (1) of section 3 in respect of such councillor, or as the case may be, member, the time within which and the authority to whom such report shall be furnished;
- (c) the reports which a political party or *aghadi* or front shall furnish with regard to admission to such political party or *aghadi* or front of any councillors or members and the officer of the Municipal Corporation, Municipal Council, *Zilla Parishad*, or as the case may be, *Panchayat Samiti* to whom such reports shall be furnished;
- (d) the procedure for deciding any question referred to in section 7 including the procedure of any inquiry which will be made for the purpose of deciding such question; and
- (e) any other matter which is required to be or may be prescribed.

¹ Section 7 was re-numbered as sub-section (1) thereof by Mah. 1 of 2018, s. 2(a).

² This portion was substituted for the portion beginning with brackets, letters and words “(ii) in the case of any other councillor or” and ending with the words “collector shall be final” by Mah. 1 of 2018, s. 2(a).

³ Sub-sections (2) and (3) were added by Mah. 1 of 2018, s. 2(b).

⁴ This Proviso was added by Mah. 37 of 2016, s 4.

⁵ Now see the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965.

(3) In making rules under this section, the State Government may provide that for any breach thereof, the offender shall on conviction be punished with fine which may extend to one thousand rupees and in the case of continuing breach with fine which may extend to fifty rupees for every day during which the breach continues after conviction for the first breach.

(4) Every rule made by the State Government under this Act, shall be laid, as soon as may be after it is made, before each House of State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, then on publication of such decision in the *Official Gazette*, the rule shall have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Act to have overriding effect, but shall be in addition to existing local authority laws.—

(1) The provisions of this Act and the rules shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

(2) Subject to the provisions of sub-section (1), the provisions of this Act shall be in addition to and shall not, save as expressly provided hereinbefore, be in derogation of the provisions of any law relating to Municipal Corporation, Municipal Council or other local authority concerned.

(3) Notwithstanding anything contained in the foregoing provisions of this section nothing in this Act shall apply when a Government servant is nominated as a Councillor or a Municipal Council for a municipal area specified in Part II or Part III of Schedule I to the Maharashtra Municipalities Act, 1965¹ (Mah. XL of 1965), or to any person who holds the office as a member of a *Panchayat Samiti* by virtue of his being a Government servant and appointed as Administrator of a co-operative society.

11. Amendment of certain enactments.—The enactments specified in the second column of the Schedule are hereby amended in the manner and to the extent specified in the third column thereof.

SCHEDULE
(See section 11)

Serial No. (1)	Short title and Number of enactment (2)	Amendments (3)
1	The ² Bombay Municipal Corporation Act (Bom. III of 1888).	In section 16, after sub-section (1), the following sub-section shall be inserted, namely :— “(1A) A person who at any time during the term of his office is disqualified under the Maharashtra Local Authority Members' Disqualification Act, 1986 (Mah. XX of 1987) for being a councillor shall cease to hold office as such councillor.”
2	The ³ Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	In section 10, after sub-section (1), the following sub-section shall be inserted, namely :— “(1A) A person shall be disqualified for being a councillor, if such person has, at any time during the term of his office, become disqualified under the Maharashtra Local Authority Members' Disqualification Act, 1986 (Mah. XX of 1987) for being a councillor.”

¹ Now see the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965.

² Now see the Mumbai Municipal Corporation Act.

³ Now see the Maharashtra Municipal Corporations Act.

SCHEDULE—*contd.*

(1)	(2)	(3)
3	The ¹ City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950).	In section 19— (1) after the words “been elected” the words “or nominated” shall be inserted; (2) after clause (a), the following clause shall be inserted, namely :— “(a-i) has been disqualified under the Maharashtra Local Authority Members’ Disqualification Act, 1986 (Mah. XX of 1987), for being a councillor, or”.
4	² The Maharashtra Municipalities Act, 1965 (Mah. XL of 1965).	In section 16— (1) After sub-section (1), the following sub-section shall be inserted, namely :— “(1A) A person who at any time during the term of his office is disqualified under the Maharashtra Local Authority Members’ Disqualification Act, 1986 (Mah. XX of 1987) for being a councillor shall cease to hold office as such councillor.”; (2) in sub-section (2), after the word, brackets and figure “sub-section (1)” the words, brackets, figure and letter “or in sub-section (1-A)” shall be inserted.
5	The Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962).	In section 16, after sub-section (1), the following sub-section shall be inserted, namely :— “(1A) A person who at any time during the term of his office is disqualified under the Maharashtra Local Authority Members’ Disqualification Act, 1986 (Mah. XX of 1987) for being a councillor shall cease to hold office as such councillor.

¹ This Act is repealed by the Bombay Provincial Municipal Corporations (Amendment) and the city of Nagpur Corporation (Repeal) Act, 2011 (Mah. XXIII of 2012), s. 7.

² Now see the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

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