

Bill No. 182 of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

By

DR. HEENA VIJAYKUMAR GAVIT, M.P.

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and
Commencement.

(2) It shall come into force on such date as the Central Government may, by
5 notification in the Official Gazette, appoint.

Amendment
of the Seventh
Schedule.

2. In the Seventh Schedule to the Constitution,—

(i) in List II — State List, entry 5 shall be omitted; and

(ii) in List III — Concurrent List, after entry 47, the following entry shall be inserted, namely:—

“48. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.”. 5

Amendment of
article 243F.

3. In article 243F of the Constitution, after clause (1), the following clause shall be inserted, namely:— 10

“(1A) If any person is disqualified under sub-clause (a) or (b), of clause (1), that no bye-election shall be held and the person who had secured the second place at the previous election held shall be deemed to be elected as the member of a Panchayat:

Provided that nothing in this clause shall apply if the remainder of the term of a member disqualified is less than one year.”. 15

Amendment of
article 243-O.

4. In article 243-O of the Constitution, for clause (b), the following clause shall be inserted, namely:—

“(b) No election to any Panchayat or against any member of Panchayat shall be called in question except by an election petition presented before an Election Tribunal constituted for the purpose and in such manner as provided for by or under any law made by the Parliament.”. 20

Amendment of
article 243V.

5. In article 243V of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) If any person is disqualified under sub-clause (a) and (b), then there shall be no requirement of bye-polls and such office shall be held by the person who was second with respect to number of votes received in the elections. 25

Provided that nothing in this clause shall apply if —

(a) the remainder of the term of a member in relation to a vacancy is less than one year; or

(b) the State Election Commission in consultation with the State Government certifies that it is difficult to hold the bye election within the said period.”. 30

Amendment of
article 243ZG.

6. In article 243ZG of the Constitution, for clause (b) the following clause shall be substituted, namely:—

“(b) No election to any Municipality or against any member of Municipality shall be called in question except by an election petition presented before an Election Tribunal constituted for the purpose and in such manner as provided for by or under any law made by the Parliament.” 35

STATEMENT OF OBJECTS AND REASONS

India follows a *quasi*-federal system to ensure separation of power in vertical stratas of Government to ensure good governance and equal distribution of power, discretion and resources. The local Government consists broadly of the Panchayats at the Village Level and the Municipalities at the City and Town Level thus forming a 3rd tier of Governance and administration. The system was introduced to empower citizens and ensure accountability in resource and power distribution.

According to the Report of the 12th Finance Commission, India has 3723 Urban Local Bodies of which 109 are Municipal Corporation, 1432 are Municipalities and 2182 Nagar Panchayats. Furthermore, if we shift our view on the rural local bodies, there are total of 630 Zila Panchayat, 6614 Panchayat Samitis and 2,53,163 of Gram Panchayats as of January, 2019. The onus for making laws and regulations for the management and governance of local bodies and local governance is on the State Legislatures in accordance to PART IX and IX-A of the Constitution of India.

The need is to reform and streamline the procedure and redressal mechanisms of election to the aforementioned local bodies.

The Bill, therefore, seeks to amend the Constitution with a view to:—

(a) include Local Government and its constitution and administration under the Concurrent List of Seventh Schedule, thus making it the responsibility of both Union and State to make laws on the subject matter;

(b) ensure that local administration runs in a smooth manner and the office held by the representative of the people is not left vacant and does not require bye-polls thus saving exchequers expenditure on the bye-elections, ultimately saving tax-payers money; and

(c) introduce the system of Election Tribunals which was abolished by to ensure that election petitions and disputes must be settled in a speedy manner which ensures effective local governance as well as reduces the burden of the Judicial System.

Hence this Bill.

NEW DELHI;

HEENA VIJAYKUMAR GAVIT

5 July, 2022

ANNEXURE

[EXTRACT FROM THE SEVENTH SCHEDULE TO THE CONSTITUTION]

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List II—State List

5. Local Government, that is to say, the Constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

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List III—Concurrent List

42. Acquisition and requisitioning of property

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Disqualifications
for membership.

243F. (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

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Bar to interference
by Courts in
Electoral matters.

243-O. Notwithstanding anything in this Constitution,—

(a) * * * * *

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

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Disqualifications
for membership.

243V. (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

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Bar to interference
by Courts in
Electoral matters.

243ZG. Notwithstanding anything in this Constitution,—

(a) * * * * *

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

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(Dr. Heena Vijaykumar Gavit, M.P.)