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SIND ORDINANCE NO.IV OF 1980

THE SIND LOCAL GOVERNMENT (AMENDMENT) ORDINANCE, 1980

[4th February, 1980]

An Ordinance *to amend the Sind Local Government Ordinance, 1979.*

Preamble.

WHEREAS it is expedient to amend the Sind Local Government Ordinance, 1979, in the manner hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and the Laws (Continuance in Force) Order, 1977, the Governor of Sind is pleased to make and promulgate the following Ordinance: -

Short title and commencement.

1. (1) This Ordinance may be called the Sind Local Government (Amendment) Ordinance, 1980.

(2) It shall come into force at once.

Amendment of section 10 of Sind Ordinance XII of 1979.

2. In the Sind Local Government Ordinance, 1979, hereinafter called as the said Ordinance, in section 10, for sub-section (2), the following shall be substituted: -

"(2) As soon as may be, there shall be constituted a panchayat for each electoral unit of a council other than a district council or Taluka council consisting of the member of the council elected from that electoral unit, who shall be the Chairman and other two members to be nominated by the council from amongst the residents of that unit.".

Amendment of section 21 of Sind Ordinance XII of 1979.

3. In the said Ordinance, in section 21, in sub-section (2), between the word and comma "bye-laws," and the word "he", the words and comma "or has absented himself without reasonable cause from three consecutive ordinary meetings of the council or refuses to take oath of office," shall be inserted.

Amendment of section 30 of Sind Ordinance XII of 1979.

4. In the said Ordinance, in section 30, for the words, bracket and figures "under sub-section (2) of section 21" the words "from membership under any provision of this Ordinance" shall be substituted.

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Amendment of section 37 of Sind Ordinance XII of 1979.

5. In the said Ordinance, in section 37, in sub-section (2), in clause (c), for the words "for any offence been sentenced to imprisonment for a term of not less two years", the words "for any offence under the Pakistan Penal Code been sentenced to imprisonment" shall be substituted.

Amendment of section 51 of Sind Ordinance Xii of 1979.

6. In the said ordinance, in section 51—

(i) in sub-section (10)—

(a) in clause (c) the word "and" shall be omitted;

(b) in clause (d), the full-stop at the and shall be replaced by a semi colon;

(c) after clause (d), the following shall be added:—

"(e) tend directly or indirectly to bring into hatred or contempt the Government established by law; and

(f) amont to propagation of any political opinion or indulgence in any other political activity.";

(ii) for sub-section (12), the following shall be substituted: —

"(12) A council which passes a resolution or acts in contravention of the provisions of sub-section (10), may forthwith be superseded for a period not exceeding six months and on such supersession the provisions of sub-section (2) and sub-section (3) of section 58 shall apply.".

Amendment of section 75 of Sind Ordinance XII of 1979.

7. In the said ordinance, in section 75, for sub-section (1), the following shall be substituted:—

"(1) There shall be constituted an Accounts committee consisting of a Chairman and such official and non-official members as may be appointed by Government.".

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Amendment of section 78 of Sind Ordinance XII of 1979.

8. In the said ordinance, in section 78, for sub-section (3), the following shall be substituted:—

"(3) The members of the Sind Local Council Service constituted under the repealed enactment shall, on the coming into force of this ordinance, be deemed to be the members of the Sind Councils Unified Grade.".

Amendment of section 89 of Sind Ordinance XII of 1979.

9. In the said ordinance, in section 89, in sub-section (2), between the word "elected" and the word "in", the words "or appointed" shall be inserted.

Amendment of section 102 of Sind Ordinance XII of 1979.

10. In the said ordinance, in section 102, the fullstop appearing at the end shall be replaced by a colon and thereafter the following proviso shall be added: —

"Provided that the Mayor or Chairman or a person authorized by the council in this behalf may make complaint to a panchayat for disposal.".

Insertion of sections 102-A to 102-W in Sind Ordinance XII of 1979.

11. In the said ordinance, after section 102, the following sections shall be inserted: —

Cases regarding weight's and measures.

"102-A Notwithstanding anything contained in the Sind Standard Weights and Measures Enforcement Act, 1975, Government may, by notification, direct that complaints in respect of the offences under the said Act mentioned in the notification shall be made to the panchayat.

Disposals.

102-B (1) Where a complaint has been made to a panchayat, the offences mentioned therein shall be investigated, inquired into, tried and otherwise dealt with, by the panchayat according to the provisions hereinafter contained.

(2) The panchayat shall, on receipt of the complaint examine the complaint, and if necessary hold such enquiry as it deems fit.

(3) If the panchayat is satisfied that the complaint is frivolous or time barred or discloses no cause of action, it may dismiss the complaint summarily.

(4) If the complainant or his duly authorized agent fails to appear on the date fixed for hearing or he is otherwise negligent in prosecuting the case, the panchayat may dismiss the complaint by order in writing.

(5) The complainant may, within thirty days of the dismissal of the case under sub-section (2), apply for its restoration and if the panchayat is satisfied that there is good cause for the complainant's failure to appear or prosecute the case the panchayat may restore the proceedings.

Summoning of accused.

102-C. If a complaint is not dismissed, or is restored under section 102-B, the panchayat, shall, by summons, require the accused to appear before it and answer the charges; provided that if the accused is a *parda nashin,* lady, she may be permitted to be represented by a duly authorized agent.

Pleading guilty.

102-D. If the accused pleads guilty, the plea shall be recorded and he may be convicted thereon.

Acquittal or conviction.

102-E. If the accused does not plead guilty and the panchayat after such enquiry or examination as it deems fit finds the accused—

(i) not guilty, he shall be acquitted;
(ii) guilty, he shall be convicted.

Punishment.

102-F. Notwithstanding any other provision of this ordinance or any other law for the time being in force, the panchayat shall not pass a sentence of imprisonment or impose a fine exceeding one thousand rupees.

Proceeding of failure of the accused to appear.

102-G. (1) If the accused fails to appear or cannot be found, the panchayat shall report the fact to the nearest Magistrate, who shall proceed against the accused in accordance with the code of criminal procedure, 1898, and direct him to execute a bond with or without sureties to appear before the panchayat, as if it were the court of the Magistrate which issued the direction.

(2) If the accused fails to execute such bond, the Magistrate shall order that the accused be produced in custody before the panchayat, which may fix a date for hearing of the case requiring the accused to appear on such date or any subsequent date to which the case may thereafter be adjourned.

(3) If the accused fails to appear before the panchayat after executing a bond under sub-section (1) or otherwise the panchayat shall report the fact and transfer the case to the Magistrate having jurisdiction for trial and disposal according to law.

Attendance of witnesses.

102-H. (1) A panchayat may issue summon to any person to appear before it and to give evidence or to produce or cause the production of any document:

Provided that no women shall be compelled to appear as a witness before a panchayat but may be examined on commission.

(2) If any person, whom the panchayat summons to appear to give evidence or to produce any document before it, willfully fails to obey such summons, the panchayat may take cognizance of such disobedience and after giving such person an opportunity to explain, may impose a fine not exceeding two hundred rupees.

Processes.

102-I. (1) Summon may be served in such manner as the panchayat may deem fit.

(2) If the person required to be summoned resides outside the jurisdiction of the panchayat, the summons may be forwarded to the panchayat within whose jurisdiction such person resides and such panchayat shall cause it to be served as if it were a summons issued by it.

(3) Any such person referred to in sub-section (2), who is required to appear to give evidence or to produce a document shall be paid such sum of money as appears to the panchayat to be sufficient to defray his traveling or other expenses, if any.

(4) If the summons cannot be served in the ordinary manner, the panchayat may forward the summons to the nearest Magistrate who shall cause it to be served as if it were a summons issued by him.

Complex cases.

102-J. If at any time it appears to the Panchayat that any case before it is of complex nature or the ends of justice demand that it should be tried by a court, the Panchayat may, by an order in writing send the case to the Court of competent jurisdiction for trial and disposal and a copy of the order shall be forwarded to the complaint.

Contempt of panchayat.

102-K. (1) A person shall be guilty of contempt of a panchayat if he, without lawful excuse—

(a) offers any insult to the panchayat or any member thereof while the panchayat is functioning as such; or

(b) causes any interruption in the work of the panchayat; or

(c) fails to produce or deliver a document when ordered by the panchayat to do so; or

(d) refuses to answer any question of the panchayat which he is bound to answer; or

(e) refuses to take oath or to state the truth or to sign any statement made by him when required by the panchayat to do so.

(2) The panchayat may of its own or on any complaint having been made to it, try any person for contempt and sentence him to a fine not exceeding one hundred rupees.

Decision

102-L. (1) The decisions of a panchayat shall be taken by majority vote, and in case of equality or votes, the Chairman of the panchayat shall have a casting vote.

(2) All decisions of the panchayat shall be recorded in writing before being announced and shall be authenticated by the Chairman and members of the panchayat making the decision.

Bar to personal interest.

102-M. The Chairman or a member of a panchayat shall not take part in any case in which he is directly or indirectly interested

Application of certain laws.

102-N. Save as otherwise provided in this Ordinance the provisions of the Code of Criminal procedure, 1898, and the Evidence Act, 1872, shall nor apply to the proceedings before a panchayat but the panchayat may ascertain the facts of any case by all legitimate means in its powers.

Appearance of counsel barred.

102-O. Notwithstanding anything contained in any other law, no legal practitioner shall be permitted to appear on behalf of any party to any matter before a panchayat or appellate authority.

Application of Oaths Act.

102-P. Sections 8 to 11 of the Oath Act, 1873, shall be applicable to the proceedings before a panchayat.

Meetings of panchayats for judicial function.

102-Q. A panchayat shall for judicial proceedings—

(a) hear to case from day to day, and no adjournment shall be given except for reasons to be recorded; and

(b) have its own seal for the purpose of authenticating its proceedings, orders, decisions or other documents.

Maintenance of proceedings.

102-R. A panchayat shall maintain a brief memorandum of proceedings of each case heard by it.

Execution of sentences and orders of the panchayats.

102-S. A sentence, or order of a panchayat shall not be executed until the disposal of appeal or in the absence of appeal till the expiry of the period of limitation fixed for the appeal.

Appeal.

102-T. Any person aggrieved by an order passed by the panchayat may within thirty days of the announcement of such order file an appeal in writing to such authority and in such manner as may be prescribed:

Provided that no appeal shall lie against the imposition of a fine upto two hundred and fifty rupees other than a fine under sub-section (2) of section 102-H or section 102-K.

Disposal of cases in special circumstances.

102-U. Where a panchayat is dissolved or its term expires and its successor panchayat is not constituted within a period of sixty days, Government may make arrangements for the disposal of cases pending with the panchayat in such manner as it may deem fit.

Pending case and transfer of cases.

102-V. Government may of its own or on application made to it, transfer any case pending before a panchayat to the Court of competent jurisdiction.

Fines.

102-W. (1) Where a panchayat imposes a fine and such fine is not immediately paid, the matter shall be referred to the nearest magistrate who shall proceed to recover it in accordance with the provisions of the Code of Criminal Procedure, 1898, as if it were a fine imposed by himself and such Magistrate may also sentence the person concerned to imprisonment in default of payment of such fine.

(2) All fines paid to the panchayat or collected on behalf of a panchayat under this section shall from part of the fund of the council concerned.".

Amendment of section 106 of Sind Ordinance XII of 1979.

12. In the said Ordinance, in section 106 in sub-section (1), for the words "any officer subordinate to it", the words and comma "a council or to any officer under Government or the council, as the case may be" shall be substituted.

Amendment of section 37 of Sind Ordinance XII of 1979.

13. In the said Ordinance, in section 120, in sub-section (2), in clause (a), for the words "rule made" the words "rules or bye-laws made" shall be substituted.