



# DELHI

Judicial Services Exam

CIVIL JUDGE CADRE

High Court of Delhi

**Civil Law - 1**

Volume 3



# DELHI JUDICIAL SERVICES

## CIVIL LAW – 1 VOLUME - 3

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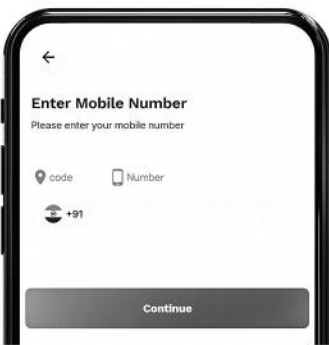
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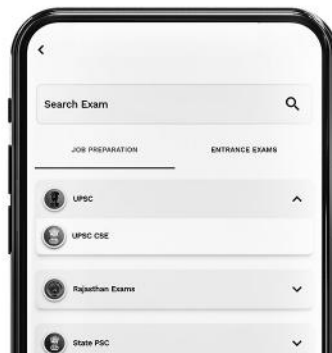
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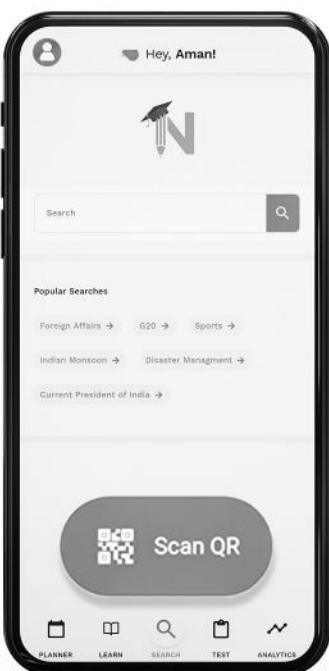
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## **THE DELHI MUNICIPAL CORPORATION ACT, 1957**

### **INTRODUCTION**

The Municipal Corporation of Delhi was officially established on April 7, 1958 by an Act of Parliament. The Delhi Town Hall at Chandni Chowk in Old Delhi was the seat of the MCD from 1866 till late 2009, when offices shifted to the new MCD Civic Centre on Minto Road in Central Delhi.



## 1. Short title, extent and commencement

- (1) This Act may be called the Delhi Municipal Corporation Act, 1957.
- (2) Except as otherwise provided in this Act, it extends only to Delhi.
- (3) The provisions of this Act, except this section which shall come into force at once, shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint: **Provided that** different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

## 2. Definitions

In this Act, unless the context otherwise requires,—

- (1) "Administrator" means the Lieutenant Governor of the National Capital Territory of Delhi; (1A) "Appellate Tribunal" means an Appellate Tribunal constituted under section 347A;
- (2) "budget-grant" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Corporation and includes any sum by which such budget-grant may be increased or reduced by transfer from or to other heads in accordance with the provisions of this Act and the regulations made thereunder;
- (3) "building" means a house, out-house, stable, latrine, urinal, shed, hut, wall (other than a boundary wall) or any other structure, whether of masonry, bricks, wood, mud, metal or other material but does not include any portable shelter;
- (4) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in the office of a councillor or an alderman or in any other elective office;
- (5) "Commissioner" means the Commissioner of the Corporation;
- (6) "Corporation" means the Municipal Corporation of Delhi established under this Act;
- (7) "corrupt practice" means any of the practices specified in section 22;
- (8) "dangerous disease" means—
  - (a) cholera, plague, chicken-pox, small-pox, tuberculosis, leprosy, enteric fever, cerebrospinal meningitis and diphtheria; and
  - (b) any other epidemic, endemic or infectious disease which the Commissioner may, by notification in the Official Gazette, declare to be a dangerous disease for the purposes of this Act;
- (10) "Delhi" means the entire area of the Union territory of Delhi except New Delhi and Delhi Cantonment;
- (11) "Delhi Cantonment" means the area for the time being within the local limits of the Delhi Cantonment Board;
- (15) "drain" includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sewage, offensive matter, polluted water, waste water, rain water or sub-soil water;

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- (15A) "Election Commission" means the Election Commission of the National Capital Territory of Delhi referred to in section 7;
- (15B) "Election Commissioner" means the Election Commissioner of the National Capital Territory of Delhi appointed by the Administrator under section 7;
- (16) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are ordinarily admitted on payment;
- (17) "factory" means a factory as defined in the Factories Act, 1948 (63 of 1948);
- (18) "filth" includes offensive matter and sewage;
- (21) "goods" includes animals;
- (21A) "Government" means the Government of the National Capital Territory of Delhi;
- (22) "house-gully" or "service passage" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or affording access to a latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by municipal employees or other persons employed in the cleansing thereof or in the removal of such matter therefrom;
- (23) "hut" means any building which is constructed principally of wood, bamboo, mud, leaves, grass, cloth or thatch and includes any structure of whatever material made which the Corporation may declare to be a hut for the purposes of this Act;
- (24) "land" includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over any street;
- (25) "licensed architect", "licensed draughtsman", "licensed engineer", "licensed plumber", "licensed surveyor" and "licensed town planner" mean respectively a person licensed under the provisions of this Act as an architect, draughtsman, engineer, plumber, surveyor and town planner;
- (26) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruits, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place notwithstanding that there may be no common regulation for the concourse of buyers and sellers and whether or not any control is exercised over the business of, or the person frequenting, the market by the owner of the place or by any other person;
- (27) "member" in relation to the Corporation means a councillor;
- (28) "municipal authority" means any of the municipal authorities specified in section 44;
- (29) "municipal market" means a market vested in or managed by the Corporation;
- (30) "municipal slaughter house" means a slaughter house vested in or managed by the Corporation;
- (32) "New Delhi" means the area within the boundaries described in the First Schedule;
- (33) "nuisance" includes any act, omission, place, animal or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell, or hearing or disturbance to rest or sleep, or which is or may be dangerous to life or injurious to health or property;
- (34) "occupier" includes—
- (a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
  - (b) an owner in occupation of, or otherwise using his land or building;
  - (c) a rent-free tenant of any land or building;
  - (d) a licensee in occupation of any land or building; and
  - (e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;
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- (35) "offensive matter" includes animal carcasses, kitchen or stable refuse, dung, dirt and putrid or putrefying substances other than sewage;
- (36) "Official Gazette" means the Official Gazette of the Union territory of Delhi;
- (37) "owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant and also includes—
- (a) the custodian of evacuee property in respect of evacuee property vested in him under the Administration of Evacuee Property Act, 1950 (31 of 1950); and
  - (b) the estate officer to the Government of India, the Secretary of the Delhi Development Authority, constituted under the Delhi Development Act, 1957 (61 of 1957), the General Manager of a railway and the head of a Government department, in respect of properties under their respective control;
- (38) "premises" means any land or building or part of a building and includes—
- (a) the garden, ground and out-houses, if any, appertaining to a building or part of a building; and
  - (b) any fittings affixed to a building or part of a building for the more beneficial enjoyment thereof;
- (39) "private street" means any street, which is not a public street and includes any passage securing access to two or more places belonging to the same or different owners;
- (40) "private market" means a market which is not a municipal market;
- (41) "private slaughter house" means a slaughter house which is not a municipal slaughter house;
- (42) "public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not;
- (43) "public securities" means any securities of the Central Government or a State Government or any securities guaranteed by the Central Government or a State Government or any securities issued under this Act or any debentures issued by the Bombay, Calcutta or Madras Municipal Corporation;
- (44) "public street" means any street which vests in the Corporation as a public street or the soil below the surface of which vests in the Corporation or which under the provisions of this Act becomes, or is declared to be, a public street;
- (45) "railway administration" has the meaning assigned to it in the Indian Railways Act, 1890 (9 of 1890);
- (46) "rate layer" means a person liable to pay any rate, tax, cess or licence fee under this Act;
- (47) "rateable value" means the value of any land or building fixed in accordance with the provisions of this Act and the bye-laws made thereunder for the purpose of assessment to property taxes;
- (48) "regulation" means a regulation made by the Corporation under this Act, by notification in the Official Gazette;
- (49) "reside",—
- (a) a person shall be deemed to "reside" in any dwelling house which or some portion of which he sometimes, although not uninterruptedly, uses as a sleeping apartment, and
  - (b) a person shall not be deemed to cease to "reside" in any such dwelling house merely because he is absent from it or has elsewhere another dwelling house in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning to it;
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- (50) "rubbish" includes ashes, broken bricks, broken glass, dust, *malba*, mortar and refuse of any kind which is not filth;
- (51) "rule" means a rule made by the Central Government under this Act, by notification in the Official Gazette;
- (52) "rural areas" means the areas of Delhi which immediately before the establishment of the Corporation are situated within the local limits of the District Board of Delhi established under the Punjab District Boards Act, 1883 (Punjab Act 20 of 1883), but shall not include such portion thereof as may, by virtue of a notification under section 507, cease to be included in the rural areas as herein defined;
- (53) "Scheduled Caste" means any of the Scheduled Castes specified in Part I of the Schedule to the Constitution (Scheduled Castes) (Union Territories) Order, 1951;
- (54) "sewage" means night-soil and other contents of latrines, urinals, cesspools or drains, and polluted water from sinks, bath-rooms, stables, cattle sheds and other like places and includes trade effluents and discharges from manufactories of all kinds;
- (55) "shed" means a slight or temporary structure for shade or shelter;
- (56) "slaughter house" means any place ordinarily used for the slaughter of animals for the purposes of selling the flesh thereof for human consumption;
- (57) "street" includes any way, road, lane, square, court, alley, gully, passage, whether a thoroughfare or not and whether built upon or not, over which the public have a right of way and also the roadway or footway over any bridge or causeway;
- (58) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and in relation to any trade premises means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage;
- (59) "trade premises" means any premises used or intended to be used for carrying on any trade or industry;
- (60) "trade refuse" means the refuse of any trade or industry;
- (61) "urban areas" means the areas of Delhi which are not rural areas;
- (62) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, cycle-rikshaw, auto-rikshaw, motor vehicle and every wheeled conveyance which is used or is capable of being used on a street;
- (63) "ward" means a municipal ward provided by order made under section 5 for the purpose of election of councillors;
- (63A) "Wards Committee" means the Wards Committee referred to in section 50;
- (64) "water course" includes any river, stream or channel whether natural or artificial;
- (66) "workshop" means any premises (including the precincts thereof) other than a factory, wherein any industrial process is carried on;
- (67) "year" means a year commencing on the 1st day of April.
- (68) "Zone" means a Zone referred to in section 3A.
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## Constitution of the Corporation

### 3. Establishment of the Corporation

- (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be a Corporation charged with the municipal Government of Delhi, to be known as the Municipal Corporation of Delhi.
- (2) The Corporation shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by the said name sue and be sued.
- (3) (a) The Corporation shall be composed of the councillors;  
(b) the following persons shall be represented in the Corporation, namely:—
  - (i) ten persons, who are not less than 25 years of age and who have special knowledge or experience in municipal administration, to be nominated by the Administrator:  
**Provided that** the persons nominated under this sub-clause shall not have the right to vote in the meetings of the Corporation;
  - (ii) members of the House of the People representing constituencies which comprise wholly or partly the area of the Corporation and the members of the Council of States registered as electors within the area of the Corporation;
  - (iii) as nearly as possible one-fifth of the members of the Legislative Assembly of the National Capital Territory of Delhi representing constituencies which comprise wholly or partly the area of the Corporation to be nominated by the Speaker of that Legislative Assembly, by rotation, every year:  
**Provided that** while nominating such members, by rotation, the Speaker shall ensure that as far as possible all the members are given an opportunity of being represented in the Corporation at least once during the duration of the Corporation;
  - (iv) the Chairpersons of the Committees, if any, constituted under sections 39, 40 and 45, if they are not councillors.
- (4) Councillors shall be chosen by direct election on the basis of adult suffrage from various wards into which Delhi shall be divided in accordance with the provisions of this Act \*\*\*.
- (5) The total number of councillors shall at the establishment of the Corporation be eighty:  
**Provided that** twelve out of the eighty seats of councillors shall be reserved for the members of the Scheduled Castes.
- (6) Upon the completion of each census after the establishment of the Corporation the number of seats shall be on the basis of the population of Delhi as ascertained at that census and shall be determined by the Central Government by notification in the Official Gazette and the number of seats to be reserved for the members of the Scheduled Castes shall, as nearly as may be, bear the same ratio to the total number of seats as the population of Scheduled Castes bears to the total population of Delhi:

**Provided that** the total number of seats shall in no case be more than one hundred and thirty-four or less than eighty:

Provided further that the determination of seats as aforesaid shall not affect the then composition of the

Corporation until the expiry of the duration of the Corporation:

Provided also that for the first election to the Corporation to be held immediately after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, the provisional population figures of Delhi as published in relation to 1991 census shall be deemed to be the population of Delhi as ascertained in that census:

Provided also that the seats reserved for the Scheduled Castes may be allotted by rotation to different wards in such manner as the Central Government may, by order published in the Official Gazette, direct.

(7) Seats shall be reserved for women belonging to the Scheduled Castes, from among the seats reserved for the Scheduled Castes, the number of such seats being determined by the Central Government by order published in the Official Gazette which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes.

(8) Seats shall be reserved for women, the number of such seats being determined by order published in the Official Gazette by the Central Government which shall not be less than the one-third of total number of seats other than those reserved for the Scheduled Castes:

**Provided that** such seats reserved for women shall be allotted by rotation to different wards in such manner as the Central Government may, by order published in the Official Gazette, direct in this behalf.

### **3A. Division of Delhi into zones**

(1) Delhi shall be divided into the number of zones specified in column (1) of the Fourteenth Schedule and each zone shall be known by the name specified in column 2 of that Schedule and each zone shall extend to the areas comprised in the wards specified against that zone in column (3) of the said Schedule.

(2) The Central Government may, after consultation with the Government, from time to time, by notification in the Official Gazette, alter the names, increase or diminish the area or any zone specified in column (3) of the Fourteenth Schedule.

### **4. Duration of the Corporation**

(1) The Corporation, unless sooner dissolved under section 490, shall continue for five years from the date appointed for its first meeting and no longer.

(2) An election to constitute the Corporation shall be completed—

(i) before the expiry of its duration specified in sub-section (1);

(ii) before the expiration of a period of six months from the date of its dissolution:

**Provided that** where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Corporation for such period.

## Election of Councillors

### 5. Delimitation of wards

- (1) For the purposes of election of councillors, Delhi shall be divided into single-member wards in such manner that the population of each of the wards shall, so far as practicable, be the same throughout Delhi. (2) The Central Government shall, by order in the Official Gazette, determine,—
- the number of wards;
  - the extent of each ward;
  - the wards in which seats shall be reserved for the Scheduled Castes;
  - the wards in which seats shall be reserved for women; and
  - the manner in which seats shall be rotated under sub-sections (6) and (8) of section 3.

### 6. Power to alter or amend delimitation orders

The Corporation, with the previous approval of the Central Government, may, from time to time by order in the Official Gazette, alter or amend any order made under section 5.

### 7. Elections to the Corporation

- (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Corporation shall be vested in the Election Commission of the National Capital Territory of Delhi consisting of an Election Commissioner to be appointed by the Administrator.
- (2) Subject to the provisions of any law made by the Legislative Assembly of the National Capital Territory of Delhi, the conditions of service and tenure of office of the Election Commissioner shall be such as the Administrator may by rules determine:
- Provided that** the Election Commissioner shall not be removed from office except in a like manner and on the like grounds as a Judge of a High Court and the conditions of service of the Election Commissioner shall not be varied to his disadvantage after his appointment.
- (3) The Administrator shall, when so requested by the Election Commission make available to that Commission such staff which the Administrator considers necessary for discharge of the functions conferred on the Election Commission by sub-section (1).

### 7A. Electoral roll for every ward

For every ward there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

### 7B. Electoral registration officers

- (1) The electoral roll for each ward shall be prepared and revised by an electoral registration officer who shall be such officer of Government or the Corporation as the Election Commission may, in consultation with the Government, designate or nominate in this behalf.
- (2) To assist the electoral registration officer in the discharge of his functions under sub-section (1) the Election Commission may employ such persons as it thinks fit.

## 7C. Assistant Electoral registration officers

- (1) The Election Commission may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.
- (2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

## 7D. Registration of electors

The persons entitled to be registered as electors in the electoral roll of an assembly constituency in Delhi as relates to the area comprised within a ward shall be entitled to be so registered in the electoral roll of that ward and the provisions in this behalf in the Representation of the People Act, 1950 (43 of 1950), shall apply to the registration of electors in the electoral roll of a ward as they apply to the registration of electors in the electoral roll of an assembly constituency.

**Explanation.**— In this section, in sub-section (1) of section 7E and in clause (ag) of sub-section (1) of section 31, the expression an assembly constituency has the meaning assigned to it under the Representation of the People Act, 1950 (43 of 1950).

## 7E. Preparation and revision of electoral rolls

- (1) The electoral roll for each ward shall be prepared before each general election in such manner as may be prescribed by rules by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made for the purpose:

**Provided that** if the Election Commission is satisfied that, instead of preparing a fresh electoral roll of a ward before a general election, it would be sufficient to adopt the electoral roll of the assembly constituency for the time being in force as relates to the ward it may, by order, for reasons to be specified therein, direct that the electoral roll of the the assembly constituency for the time being in force as relates to the ward shall, subject to any rules made for the purpose, be the electoral roll of the ward for the general election.

- (2) The electoral roll prepared or adopted, as the case may be, under sub-section (1) shall—
  - (a) unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the manner prescribed by rules by reference to the qualifying date before each bye-election to fill a casual vacancy in a seat allotted to the ward; and
  - (b) be revised in any year in the manner prescribed by rules by reference to the qualifying date if such revision has been directed by the Election Commission:

**Provided that** if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

- (3) Notwithstanding anything contained in sub-section (2), the Election Commission may, at any time, for reasons to be recorded in writing, direct a special revision of the electoral roll for any ward or part of a ward in such manner as it may think fit:

**Provided that** the electoral roll for the ward as in force at the time of the issue of any such direction shall continue to be in force until the completion of the special revision so directed.

**Explanation.**— In this section, the expression "qualifying date" means such date as the Election Commission may, by order, specify in this behalf.

## 7F. Correction of entries in electoral roll

If the electoral registration officer, on an application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll for any ward—

- (a) is erroneous or defective in any particular; or
  - (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within such ward; or
  - (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident within such ward or is otherwise not entitled to be registered in that roll,
- the electoral registration officer shall, subject to such general or special the directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

**Provided that** before taking any action on the ground specified in clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident within such ward or that he is otherwise not entitled to be registered in the electoral roll of such ward, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

## 7G. Inclusion of names in electoral roll

- (1) Any person whose name is not included in the electoral roll of a ward may apply to the electoral registration officer for the inclusion of his name in that roll.
- (2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

**Provided that** if the applicant is registered in the electoral roll of any other ward, the electoral registration officer shall inform the electoral registration officer of that other ward and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

- (3) No amendment, transposition or deletion of any entry shall be made under section 7F and no direction for the inclusion of a name in the electoral roll of a ward shall be given under this section after the last date for making nominations for an election in that ward and before the completion of that election.

## 7H. Appeal

An appeal shall lie within such time and in such manner as may be prescribed by rules to the Election Commission, from any order of the electoral registration officer under section 7F or section 7G.

## 7I. Jurisdiction of civil courts barred

No civil court shall have jurisdiction—

- (a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a ward; or
- (b) to question the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by the Election Commission.

## 8. Qualifications for councillorship

A person shall not be qualified to be chosen as a councillor unless he has attained the age of twenty-one years and his name is registered as an elector in the electoral roll for a ward:



**Provided that** in the case of a seat reserved for the Scheduled Castes, a person shall not be so qualified unless he is also a member of any of the said castes:

Provided further that in the case of a seat reserved for woman, no person other than a woman shall be qualified to be chosen as a councillor.

## 9. Disqualifications for membership of Corporation

- (1) A person shall be disqualified for chosen as, and for being, a councillor, \*\*\* —
- (a) if he is of unsound mind and stands so declared by a competent court;
  - (b) if he is an undischarged insolvent;
  - (c) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
  - (d) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislative Assembly of the National Capital Territory of Delhi;
  - (e) if he is so disqualified by or under any law made by the Legislative Assembly of the National Capital Territory of Delhi;
  - (f) if he holds any office of profit under the Corporation;
  - (g) if he holds any office of profit under the Government or Central Government;
  - (h) if he is a licensed architect, draughtsman, engineer, plumber, surveyor or town planner or is a partner of a firm of which any such licensed person is also a partner;
  - (i) if he is interested in any subsisting contract made with, or any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company or as a member of a co-operative society;
  - (j) if he is retained or employed in any professional capacity either personally or in the name of a firm of which he is a partner or with which he is engaged in a professional capacity, in connection with any cause or proceeding in which the Corporation or any of the municipal authorities is interested or concerned;
  - (k) if he, having held any office under the Government, the Corporation or any other authority, has been dismissed for corruption or disloyalty to the State unless a period of four years has elapsed since his dismissal or the disqualification has been removed by the Election Commission;
  - (l) if he fails to pay any arrears of any kind due by him, otherwise than as an agent, receiver, trustee or an executor, to the Corporation within three months after a notice in this behalf has been served upon him.
- (2) Notwithstanding anything contained in sub-section (1),—
- (b) a person shall not be deemed to have incurred any disqualification under clause (f) or clause (g) of that sub-section by reason only of his receiving—
    - (i) any pension; or
    - (ii) any allowance or facility for serving as the Mayor or Deputy Mayor or as a councillor \*\*\*;or
  - (iii) any fee for attendance at meetings of any committee of the Corporation;
  - (c) a person shall not be deemed to have any interest in a contract or works such as is referred to in clause (i) of that sub-section by reason only of his having a share or interest in—

- (i) any lease, sale, exchange or purchase of immovable property or any agreement for the same; or
  - (ii) any agreement for the loan of money or any security for the payment of money only; or
  - (iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or
  - (iv) the sale to the Corporation or to any municipal authority or any officer or other employee of the Corporation on behalf of the Corporation, of any article in which he regularly trades or the purchase from the Corporation or from any such authority, officer or other employee on behalf of the Corporation, of any article of a value in either case not exceeding five thousand rupees in the aggregate in any year during the period of the contract or work; or
  - (v) the letting out on hire to the Corporation or the hiring from the Corporation of any article of a value not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work; or
  - (vi) any agreement or contract with the Corporation or any municipal authority for any goods or services which the Corporation may generally supply.
- (3) If a person sits or votes as a member of the Corporation when he knows that he is not qualified or that he is disqualified for such membership, he shall be liable in respect of each day on which he so sits or votes to a penalty of three hundred rupees to be recovered as an arrear of tax under this Act.

## 10. Right to vote

- (1) Every person whose name is, for the time being, entered in the electoral roll for a ward shall be entitled to vote at the election of a councillor from that ward.

## 11. General elections of councillors

- (1) A general election of councillors shall be held for the purpose of constituting the Corporation under section 3.
- (3) For the aforesaid purposes the Election Commission shall, by one or more notifications published in the Official Gazette, call upon all the wards to elect councillors in accordance with the provisions of this Act and the rules and orders made thereunder before such date or dates as may be specified in the notification or notifications:

**Provided that** where in any ward a seat has been reserved for the Scheduled Castes, such notification or notifications shall specify that the person to fill that seat shall belong to one of the said castes:

Provided further that where in any ward a seat has been reserved for woman, such notification or notifications shall specify that the person to fill that seat shall be a woman.

## 12. Filling of casual vacancies in councillorship

- (1) When a casual vacancy occurs in the office of a councillor the Election Commission shall, as soon as may be after the occurrence of such vacancy and subject to the provisions of sub-section (2), by a notification in the Official Gazette, call upon the ward concerned to elect a person for the purpose of filling the vacancy in accordance with the provisions of this Act and the rules and orders made thereunder before such date as may be specified in the notification:



**Provided that** no election shall be held to fill a casual vacancy occurring within six months prior to the holding of a general election under section 11.

- (2) If the vacancy be a vacancy in a seat reserved for the Scheduled Castes the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to one of the Scheduled Castes.
- (3) If the vacancy be a vacancy in a seat reserved for women the notification issued under sub-section (1) shall specify that the person to fill that seat shall be a woman.

## 14. Publication of result of election

The names of all persons elected as councillors shall, as far as may be, after each election, be published by the Election Commission simultaneously in the Official Gazette.

### Disputes regarding elections

## 15. Election petitions

- (1) No election of a councillor \*\*\* shall be called in question except by an election petition presented to the court of the district judge of Delhi within fifteen days from the date of the publication of the result of the election under section 14.
- (2) An election petition calling in question any such election may be presented under any of the grounds specified in section 17 by any candidate at such election, by any elector of the ward concerned or by any councillor.
- (3) A petitioner shall join as respondents to his petition all the candidates at the election.
- (4) An election petition—
  - (a) shall contain a concise statement of the material facts on which the petitioner relies;
  - (b) shall, with sufficient particulars, set forth the ground or grounds on which the election is called in question; and
  - (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the verification of pleadings.

## 16. Relief that may be claimed by the petitioner

- (1) A petitioner may claim—
  - (a) a declaration that the election of all or any of the returned candidates is void, and
  - (b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.
- (2) The expression "returned candidate" means a candidate whose name has been published in the Official Gazette under section 14.

## 17. Grounds for declaring elections to be void

- (1) Subject to the provisions of sub-section (2) if the court of the district judge is of opinion—
  - (a) that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as a councillor \*\*\* under this Act, or
  - (b) that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agent, or
  - (c) that any nomination paper has been improperly rejected, or

- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—
- (i) by the improper acceptance of any nomination, or
  - (ii) by any corrupt practice committed in the interests of the returned candidate by a person other than that candidate or his agent or a person acting with the consent of such candidate or agent, or
  - (iii) by the improper acceptance or refusal of any vote or reception of any vote which is void, or
  - (iv) by the non-compliance with the provisions of this Act or of any rules or orders made thereunder, the court shall declare the election of the return candidate to be void.
- (2) If in the opinion of the court, a returned candidate has been guilty by an agent of any corrupt practice, but the court is satisfied—
- (a) that no such corrupt practice was committed at the election by the candidate, and every such corrupt practice was committed contrary to the orders, and without the consent of the candidate;
  - (b) that the candidate took all reasonable means for preventing the commission of corrupt practices at the election; and
  - (c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then, the court may decide that the election of the returned candidate is not void **18.**

#### **Procedure to be followed by the district judge**

The procedure provided in the Code of Civil Procedure, 1908 (5 of 1908), in regard to suits shall be followed by the court of the district judge as far as it can be made applicable, in the trial and disposal of an election petition under this Act.

### **19. Decision of the district judge**

- (1) At the conclusion of the trial of an election petition, the court of the district judge shall make an order—
- (a) dismissing the election petition; or
  - (b) declaring the election of all or any of the returned candidates to be void; or
  - (c) declaring the election of all or any of the returned candidates to be void and the petitioner and any other candidate to have been duly elected.
- (2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed declaration that he himself or any other candidate has been duly elected and the court or the district judge is of opinion—
- (a) that in fact the petitioner or such other candidate received a majority of the valid votes, or
  - (b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes,
- the court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

### **20. Procedure in case of equality of votes**

If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then, the court of the district judge shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

## 21. Finality of decisions

- (1) An order of the court of the district judge on an election petition shall be final and conclusive.
- (2) An election of a councillor \*\*\* not called in question in accordance with the foregoing provisions shall be deemed to be a good and valid election.

## Corrupt practices and electoral offences

## 22. Corrupt practices.—

The following shall be deemed to be corrupt practices for the purposes of this Act:—

- (1) Bribery as defined in clause (1) of section 123 of the Representation of the People Act, 1951 (43 of 1951).
- (2) Undue influence as defined in clause (2) of the said section.
- (3) The systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion or the use of or appeal to, religious symbols or, the use of or appeal to, national symbols such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election.
- (4) The publication by a candidate or his agent or by any other person of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

- (5) The hiring or procuring whether on payment or otherwise of any vehicle or vessel by a candidate or his agent or by any other person for the conveyance of any elector (other than the candidate himself, and the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

**Provided that** the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

**Explanation.—** In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

- (6) The holding of any meeting in which intoxicating liquors are served.
- (7) The issuing of any circular, placard or poster having a reference to the election which does not bear the name and address of the printer and publisher thereof.
- (8) Any other practice which the Central Government may by rules specify to be a corrupt practice.

## 23. Maintenance of secrecy of voting

- (1) Every officer or clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.