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EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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NEW DELHI, MONDAY, FEBRUARY 5, 2024/MAGHA 16, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced on 5th February 2024:—

BILL NO. 15 OF 2024

A Bill to prevent unfair means in the public examinations and to provide for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Public Examinations (Prevention of Unfair Means) Act, 2024. Short title and commencement.

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

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “candidate” means a person who has been granted permission by the public examination authority to appear in public examination and includes a person authorised to act as a scribe on his behalf in the public examination;

(b) “communication device” shall have the same meaning assigned to it in clause (ha) of sub-section (1) of section 2 of the Information Technology Act, 2000; 21 of 2000.

(c) “competent authority” shall mean the Ministry or a Department of the Central Government administratively concerned with the public examination authority;

(d) “computer network”, “computer resource” and “computer system” shall have the meanings respectively assigned to them in clauses (j), (k) and (l) of sub-section (1) of section 2 of the Information Technology Act, 2000; 21 of 2000.

(e) “conduct of public examination” shall include all the procedures, processes and activities, as may be prescribed, for being adopted for the conduct of public examination;

(f) “institution” means any agency, organisation, body, association of persons, business entity, company, partnership or single proprietorship firm, by whatever name it may be called, which is other than the public examination authority and the service provider engaged by such authority.

Explanation.—For the purposes of this clause, it is clarified that “company” includes a company as defined in clause (20) of section 2 of the Companies Act, 2013; or a limited liability partnership firm as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; 18 of 2013.
7 of 2009.

(g) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(h) “organised crime” means an unlawful activity committed by a person or a group of persons indulging in unfair means in collusion and conspiracy to pursue or promote a shared interest for wrongful gain in respect of a public examination;

(i) “person associated with a service provider” means a person who performs services for or on behalf of such service provider irrespective of whether such person is an employee or an agent or a subsidiary of such service provider, as the case may be;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “public examination” means any examination conducted by the public examination authority, as specified in the Schedule, or conducted by such other authority as may be notified by the Central Government;

(l) “public examination authority” means an authority as specified by the Central Government by a notification, from time to time for conducting the public examinations;

(m) “public examination centre” means such premises, which is selected by the service provider or otherwise selected by the public examination authority, to be used for conduct of public examination and which, amongst others, may include any school, computer centre, institution, any building or part thereof and the same shall include the entire periphery and land appurtenant thereto which may be used for security and other related reasons for conduct of the public examinations; and

(n) “service provider” means any agency, organisation, body, association of persons, business entity, company, partnership or single proprietorship firm, including its associates, sub-contractors and provider of support of any computer resource or any material, by whatever name it may be called, which is engaged by the public examination authority for conduct of public examination.

(2) Words and expressions used herein but not defined and defined under any other law for the time being in force, shall have the same meanings as assigned to them in those laws.

CHAPTER II

UNFAIR MEANS AND OFFENCES

3. The unfair means relating to the conduct of a public examination shall include any act or omission done or caused to be done by any person or group of persons or institutions, and include but not be restricted to, any of the following acts for monetary or wrongful gain—

(i) leakage of question paper or answer key or part thereof;

(ii) participating in collusion with others to effect leakage of question paper or answer key;

(iii) accessing or taking possession of question paper or an Optical Mark Recognition response sheet without authority;

(iv) providing solution to one or more questions by any unauthorised person during a public examination;

(v) directly or indirectly assisting the candidate in any manner unauthorisedly in the public examination;

(vi) tampering with answer sheets including Optical Mark Recognition response sheets;

(vii) altering the assessment except to correct a *bona fide* error without any authority;

(viii) willful violation of norms or standards set up by the Central Government for conduct of a public examination on its own or through its agency;

(ix) tampering with any document necessary for short-listing of candidates or finalising the merit or rank of a candidate in a public examination;

(x) deliberate violation of security measures to facilitate unfair means in conduct of a public examination;

(xi) tampering with the computer network or a computer resource or a computer system;

(xii) manipulation in seating arrangements, allocation of dates and shifts for the candidates to facilitate adopting unfair means in examinations;

(xiii) threatening the life, liberty or wrongfully restraining persons associated with the public examination authority or the service provider or any authorised agency of the Government; or obstructing the conduct of a public examination;

(xiv) creation of fake website to cheat or for monetary gain; and

(xv) conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain.

4. No person or group of persons or institutions shall collude or conspire to facilitate indulgence in any such unfair means. Conspiracy for unfair means.

5. (1) No person, who is not entrusted or engaged with the work pertaining to the public examination or conduct of public examination or who is not a candidate, shall enter the premises of the examination centre, with intent to disrupt the conduct of the public examination. Disruption to conduct public examination.

(2) No person authorised, engaged or entrusted with the duties to conduct public examination shall, before the time fixed for opening and distribution of question papers—

(a) open, leak or possess or access or solve or seek assistance to solve such question paper or any portion or a copy thereof in unauthorised manner for monetary or wrongful gain;

(b) give any confidential information or promise to give such confidential information to any person, where such confidential information is related to or in reference to such question paper for monetary or wrongful gain.

(3) No person, who is entrusted or engaged with any work pertaining to public examination shall, except where he is authorised in furtherance of his duties so to do, reveal or cause to be revealed or make known to any other person any information or part thereof which has come to his knowledge for any undue advantage or wrongful gain.

Other offences.

6. If any person or group of persons or institution commits any unfair means or offence under sections 3, 4 and section 5, the service provider shall forthwith report the offence to the concerned police authorities and also inform the public examination authority:

Provided that if the service provider resorts to unfair means and commits the offence or is involved in facilitating an offence, the public examination authority shall report the same to the concerned police authorities.

No premises other than examination centre shall be used for public examination.

7. It shall be an offence for the service provider or any person associated with the service provider to cause any premises, other than the examination centre, authorised by the public examination authority, to be alternatively used for the purpose of holding public examination, without the written approval of the public examination authority:

Provided that nothing contained in this section shall be an offence where any change in the examination centre without prior consent of the public examination authority is due to any *force majeure*.

Offences in respect of service providers and other persons.

8. (1) Any person, including the person associated with a service provider, shall be deemed to have committed an offence if he individually or in collusion with any other person or group of persons or institutions assists any person or group of persons or institutions in any manner unauthorisedly in the conduct of public examination.

(2) Service provider or any person associated with it shall be deemed to have committed an offence if he fails to report incidence of any unfair means or commission of any offence.

(3) Where an offence committed by a service provider is, *prima facie*, established during investigation to have been committed with the consent or connivance of any director, manager, secretary or other officer of such service provider, such person shall also be liable to be proceeded against:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under the Act, if he proves, that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

CHAPTER III

PUNISHMENT FOR OFFENCES

Cognizable offences.

9. All offences under this Act, shall be cognizable, non-bailable and non-compoundable.

Punishment for offences under this Act.

10. (1) Any person or persons resorting to unfair means and offences under this Act, shall be punished with imprisonment for a term not less than three years but which may extend to five years and with fine up to ten lakh rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed, as per the provisions of the Bharatiya Nyaya Sanhita, 2023:

45 of 2023. Provided that until the Bharatiya Nyaya Sanhita, 2023 is brought into force, the
45 of 1860. provisions of the Indian Penal Code, shall be applicable in place of the said Act.

(2) The service provider shall also be liable to be punished with imposition of a fine up to one crore rupees and proportionate cost of examination shall also be recovered from such service provider and he shall also be barred from being assigned with any responsibility for the conduct of any public examination for a period of four years.

(3) Where it is established during the investigation that offence under this Act has been committed with the consent or connivance of any Director, Senior Management or the persons in-charge of the service provider firm, he shall be liable for imprisonment for a term not less than three years but which may extend to ten years and with fine of one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed as per the provisions of the Bharatiya Nyaya Sanhita, 2023:
45 of 2023.

45 of 2023. Provided that until the Bharatiya Nyaya Sanhita, 2023 is brought into force, the
45 of 1860. provisions of the Indian Penal Code, shall be applicable in place of the said Act.

(4) Nothing contained in this section shall render any such person liable to any punishment under the Act, if he proves, that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

11. (1) If a person or a group of persons including the examination authority or service provider or any other institution commits an organised crime, he shall be punished with imprisonment for a term not less than five years but which may extend to ten years and with fine which shall not be less than one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed as per the provisions of the Bharatiya Nyaya Sanhita, 2023:
45 of 2023. Organised crimes.

45 of 2023. Provided that until the Bharatiya Nyaya Sanhita, 2023 is brought into force, the
45 of 1860. provisions of the Indian Penal Code, shall be applicable in place of the said Act.

(2) If an institution is involved in committing an organised crime, its property shall be subjected to attachment and forfeiture and proportionate cost of examination shall also be recovered from it.

CHAPTER IV

INQUIRY AND INVESTIGATION

12. (1) An officer not below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police shall investigate any offence under this Act. Officers empowered to investigate.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the powers to refer the investigation to any Central Investigating Agency.

CHAPTER V

MISCELLANEOUS

13. The Chairperson, Members, officers and other employees of the public examination authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of the Bharatiya Nyaya Sanhita, 2023:
45 of 2023. Members, officers and employees of public examination authority to be public servants.

45 of 2023. Provided that until the Bharatiya Nyaya Sanhita, 2023 is brought into force, the
45 of 1860. provisions of the Indian Penal Code, shall be applicable in place of the said Act.

14. No suit, prosecution or other legal proceedings under this Act, shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers: Protection of action taken in good faith by any public servant.

Provided that the public servants in the service of any public examination authority shall be subject to administrative action in terms of service rules of such public examination authority:

Provided further that nothing shall prevent proceeding against such public servants where, *prima facie* case exists for establishing commission of an offence under this Act.

Provisions of this Act to be in addition to other laws.

15. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force:

Provided that the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law in force.

Power to make rules.

16. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions 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) to lay down procedures, processes and activities for being adopted for conduct of the public examination;

(b) any other matter which is to be or may be prescribed.

Laying of rules.

17. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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, the rule shall, thereafter 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.

Power to remove difficulties.

18. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions within three years, not inconsistent with the provisions of this Act, as appear to it to be necessary for removal of difficulty.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

CHAPTER VI

AMENDMENT TO THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 1944

Amendment of Ordinance 38 of 1944.

19. In the Criminal Law (Amendment) Ordinance, 1944, in the Schedule, after serial number 5 and entries relating thereto, the following serial number and entries shall be inserted, namely:—

“6. An offence punishable under the Public Examinations (Prevention of Unfair Means) Act, 2024.”.

THE SCHEDULE

[See section 2 (k)]

ANY EXAMINATION CONDUCTED BY—

1. Union Public Service Commission.
2. Staff Selection Commission.
3. Railway Recruitment Boards.
4. Institute of Banking Personnel Selection.
5. Ministries or Departments of the Central Government and their attached and subordinate offices for recruitment of staff.
6. National Testing Agency.
7. Such other authority as may be notified by the Central Government.

STATEMENT OF OBJECTS AND REASONS

Government has introduced several reforms to enhance transparency in examinations for recruitment as well as admission to higher education institutions. These, *inter alia*, include introducing self-attestation; shortening examination cycle (from 18-22 months to 6-10 months); doing away with interviews for recruitment to Group 'C' and 'D'; introduction of computer based tests and issuance of appointment letters through digital means under "*Rojgar Mela*".

2. Malpractices in public examinations lead to delays and cancellation of examinations adversely impacting the prospects of millions of youth. At present, there is no specific substantive law to deal with unfair means adopted or offences committed by various entities involved in the conduct of public examinations by the Central Government and its agencies. Therefore, it is imperative that elements that exploit vulnerabilities of examination system are identified and effectively dealt with by a comprehensive Central legislation.

3. The objective of the Bill is to bring greater transparency, fairness and credibility to the public examination systems and to reassure the youth that their sincere and genuine efforts will be fairly rewarded and their future is safe. The Bill is aimed at effectively and legally deterring persons, organised groups or institutions that indulge in various unfair means and adversely impact the public examination systems for monetary or wrongful gains. Candidate as defined in the Bill shall not be liable for action within the purview of the Bill and shall continue to be covered under the extant administrative provisions of the concerned public examination authority.

4. The Bill shall serve as a model draft for States to adopt at their discretion. This would aid States in preventing the criminal elements from disrupting conduct of their State level public examinations.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

DR. JITENDRA SINGH.

The 29th January, 2024.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill provides for definitions used in the Bill. Item (e) of sub-clause (1) of clause 2 provides for the definition of the expression "conduct of public examination" which empowers the Central Government to prescribe the procedures, processes and activities, for being adopted for the conduct of public examination.

2. The matters in respect of which rules may be made in accordance with the provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

BILL No. 18 OF 2024

A Bill further to amend the Jammu and Kashmir Panchayati Raj Act, 1989 (IX of 1989), the Jammu and Kashmir Municipal Act, 2000 (XX of 2000) and the Jammu and Kashmir Municipal Corporation Act, 2000 (XXI of 2000).

WHEREAS the Legislative Assembly of the Union territory of Jammu and Kashmir is not in existence and proclamation made by the Government of India *vide* number S.O 3937 (E), dated the 31st October, 2019, in terms of section 73 of the Jammu and Kashmir Reorganisation Act, 2019 is in force;

34 of 2019.

AND WHEREAS in terms of the aforesaid Proclamation, the powers of the Legislature of the Union territory of Jammu and Kashmir shall be exercisable by or under the authority of Parliament.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Jammu and Kashmir Local Bodies Laws (Amendment) Act, 2024.

Short title and commencement..

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

CHAPTER II

AMENDMENTS TO THE JAMMU AND KASHMIR PANCHAYATI RAJ ACT, 1989

Amendment
of section 2.

2. In section 2 of the Jammu and Kashmir Panchayati Raj Act, 1989 (hereafter in this Chapter referred to as the Panchayati Raj Act), in sub-section (1), after clause (l), the following clause shall be inserted, namely:—

Jammu and
Kashmir Act
IX of 1989.

‘(la) “Other Backward Classes” means the Other Backward Classes declared by the Government of the Union territory of Jammu and Kashmir from time to time in accordance with sub-clause (iii) of clause (o) of section 2 of the Jammu and Kashmir Reservation Act, 2004;’.

Jammu and
Kashmir Act
XIV of 2004.

Substitution of
section 2A.

3. For section 2A of the Panchayati Raj Act, the following section shall be substituted, namely:—

Construction
of reference
of certain
expressions
by certain
other
expressions.

‘2A. Throughout the Act, for the words “District Planning and Development Board” and “District Panchayat Officer” wherever they occur, the words “the District Development Council” and “Assistant Commissioner of Panchayat” shall respectively be substituted.’.

Amendment
of section 4.

4. In section 4 of the Panchayati Raj Act, in sub-section (3),—

(a) in the first proviso,—

(i) in clause (a), the word “and” occurring at the end shall be omitted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

“(b) the Scheduled Tribes; and

(c) the Other Backward Classes;”;

(iii) in the long line, after the words “or of the Scheduled Tribes in that Panchayat area”, the words “or of the Other Backward Classes in that Panchayat area” shall be inserted;

(b) in the second proviso,—

(i) in clause (a), for the words “or, as the case may be, the Scheduled Tribes;”, the words “or the Scheduled Tribes or the Other Backward Classes, as the case may be,” shall be substituted;

(ii) in clause (b), for the words “and the Scheduled Tribes”, the words “the Scheduled Tribes and the Other Backward Classes” shall be substituted.

Amendment
of section 27.

5. In section 27 of the Panchayati Raj Act, in sub-section (3),—

(a) in the first proviso,—

(i) in clause (a), the word “and” occurring at the end shall be omitted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

“(b) the Scheduled Tribes; and

(c) the Other Backward Classes;”;

(iii) in the long line, after the words “or of the Scheduled Tribes in that district”, the words “or of the Other Backward Classes in that district” shall be inserted;

(b) in the second proviso,—

(i) in clause (a), for the words “or, as the case may be, the scheduled tribes;”, the words “or the Scheduled Tribes or the Other Backward Classes, as the case may be,” shall be substituted;

(ii) in clause (b), for the words “or the Scheduled Tribes”, the words “or the Scheduled Tribes or the Other Backward Classes” shall be substituted.

6. In section 36A of the Panchayati Raj Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

Amendment
of section
36A.

“(2) The salary, allowance and other conditions of service of the State Election Commissioner shall be such as the Lieutenant Governor may, by rules, determine:

Provided that if a person who, immediately before the date of assuming office as the State Election Commissioner is in receipt of or has received or has become entitled to receive a pension, other than a disability pension, in respect of any previous service under the Government of India or under the Government of a State or under the Government of a Union territory, his pay in respect of service as State Election Commissioner shall be reduced—

(a) by the amount of that pension; and

(b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

(3) The travelling allowance, provision of rent-free accommodation, conveyance facilities, medical facilities available to a person at the time of retirement or at the time of his appointment as State Election Commissioner, so far as may be, shall be admissible to him.

(4) The power to grant or refuse leave to the State Election Commissioner and to revoke or curtail leave granted to him, shall vest in the Lieutenant Governor.”.

7. For section 36B of the Panchayati Raj Act, the following section shall be substituted, namely:—

Substitution of
section 36B.

“36B. The State Election Commissioner shall not be removed from his office except in like manner and on the like ground as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.”.

Removal of
State Election
Commissioner.

8. In section 36D of the Panchayati Raj Act, in sub-section (2),—

Amendment
of section
36D.

(a) for the opening portion “The Commission shall have power to”, the opening portion “The Commission referred to in sub-section (1) shall” shall be substituted;

(b) in clause (b), for the words “give such directions”, the words “by order give such directions” shall be substituted;

(c) in clause (c), for the word “delegate”, the words “by order, delegate, subject to such restrictions mentioned therein,” shall be substituted.

9. In section 39 of the Panchayati Raj Act, after clause (iii), the following clause shall be inserted, namely:—

Amendment
of section 39.

“(iv) such other grounds as may be determined by the State Election Commission.”.

10. In section 45A of the Panchayati Raj Act,—

Amendment
of section
45A.

(a) in sub-section (4),—

(i) in clause (a), the word “and” occurring at the end shall be omitted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

“(b) for the Scheduled Tribes; and

(c) for the Other Backward Classes,”;

(iii) in the long line, after the words “or of the Scheduled Tribes in the district”, the words “or of the Other Backward Classes in the district” shall be inserted;

(b) in sub-section (5), for the words “or, as the case may be, the Scheduled Tribes,”, the words “or the Scheduled Tribes or the Other Backward Classes, as the case may be,” shall be substituted;

(c) in sub-section (6), for the words “Scheduled Castes and the Scheduled Tribes”, the words “Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted.

CHAPTER III

AMENDMENTS TO THE JAMMU AND KASHMIR MUNICIPAL ACT, 2000

Construction of reference of certain expressions by certain other expressions.

11. Throughout the Jammu and Kashmir Municipal Act, 2000, (hereafter in this Chapter referred to as the Municipal Act), for the words “Chief Electoral Officer” and “Backward Classes”, wherever they occur, the words “State Election Commission” and “Other Backward Classes” shall respectively be substituted.

Jammu and Kashmir Act XX of 2000.

Amendment of section 2.

12. In section 2 of the Municipal Act,—

(a) clause (1) shall be omitted;

(b) after clause (27), the following clause shall be inserted, namely;—

‘(27a) “Other Backward Classes” means the Other Backward Classes declared by the Government of the Union territory of Jammu and Kashmir from time to time in accordance with sub-clause (iii) of clause (o) of section 2 of the Jammu and Kashmir Reservation Act, 2004;’;

(c) after clause (29b), the following clause shall be inserted, namely:—

‘(29bb) “State Election Commission” means the Commission constituted under section 36 of the Jammu and Kashmir Panchayati Raj Act, 1989;’.

Jammu and Kashmir Act XIV of 2004.

Jammu and Kashmir Act IX of 1989.

Amendment of section 11A.

13. In section 11A of the Municipal Act,—

(a) in sub-section (1), for the words “the Scheduled Castes and the Scheduled Tribes”, the words “the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted;

(b) in sub-section (2), for the words “the Scheduled Castes or the Scheduled Tribes”, the words “the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes” shall be substituted;

(c) in sub-section (3), for the words “the Scheduled Castes and the Scheduled Tribes”, the words “the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted;

(d) in sub-section (3A), for the words “Scheduled Caste or Scheduled Tribe Certificate”, the words “Scheduled Caste or Scheduled Tribe or Other Backward Class Certificate” shall be substituted; and;

(e) for sub-section (4), the following sub-section shall be substituted, namely,—

“(4) The State Election Commissioner shall be the competent authority for the purposes of this section.”.

14. In section 282 of the Municipal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 282.

“(2) The Commission referred to in sub-section (1) shall—

(i) require any person, including an officer or an employee of the Government of the Union territory of Jammu and Kashmir, subject to any privilege which may be claimed by that person under any law for the time being in force in the Union territory of Jammu and Kashmir, to furnish information on any matter which, in the opinion of the Commission, may be useful for or relevant to the subject of enquiry;

(ii) by order, give such directions to the officers and employees of the Government of the Union territory of Jammu and Kashmir, or any other statutory body or society as it considers necessary to ensure smooth and efficient conduct of elections under this Act;

(iii) by order, delegate, subject to such restrictions mentioned therein, any of its powers to such officers and employees of the Government of the Union territory of Jammu and Kashmir;

(iv) determine and delimit the municipalities in accordance with the provisions of this Act;

(v) regulate its own procedure, including the fixing of time and place of its sittings; and

(vi) exercise such other powers as may be determined by the Government of the Union territory of Jammu and Kashmir, from time to time.”

15. After section 282 of the Municipal Act, the following section shall be inserted, namely:—

Insertion of new section 282A.

“282A. Sections 36, 36A, 36B, 36C, 37 and section 39 of the Panchayati Raj Act [as amended by the Jammu and Kashmir Local Bodies Laws (Amendment) Act, 2024] shall, *mutatis mutandis*, apply to this Act.”

Application of certain provisions of Jammu and Kashmir Panchayati Raj Act. 1989.

CHAPTER IV

AMENDMENTS TO THE JAMMU AND KASHMIR MUNICIPAL CORPORATION ACT, 2000

Jammu and Kashmir Act XXI of 2000.

16. Throughout the Jammu and Kashmir Municipal Corporation Act, 2000 (hereafter in this Chapter referred to as the Municipal Corporation Act) for the words “Chief Electoral Officer” and “Backward Classes”, wherever they occur, the words “State Election Commission” and “Other Backward Classes” shall respectively be substituted.

Construction of reference of certain expressions by certain other expressions.

17. In section 2 of the Municipal Corporation Act,—

Amendment of section 2.

(a) clause (1) shall be omitted;

(b) clause (6) shall be omitted;

(c) after clause (37), the following clause shall be inserted, namely:—

‘(37a) “Other Backward Classes” means the Other Backward Classes declared by the Government of the Union territory of Jammu and Kashmir from time to time in accordance with sub-clause (iii) of clause (o) of section 2 of the Jammu and Kashmir Reservation Act, 2004;’

Jammu and Kashmir Act XIV of 2004.

(d) after clause (59), the following clause shall be inserted, namely:—

‘(59a) “State Election Commission” means the Commission constituted under section 36 of the Jammu and Kashmir Panchayati Raj Act, 1989.’.

Jammu and
Kashmir Act
IX of 1989.

Insertion of
new section
9A.

Application
of certain
provisions of
Jammu and
Kashmir
Panchayati
Raj Act, 1989
and Jammu
and Kashmir
Municipal
Act, 2000.

Amendment
of section
10A.

18. After section 9 of the Municipal Corporation Act, the following section shall be inserted, namely:—

“9A. Sections 36, 36A, 36B, 36C, 37 and section 39 of the Panchayati Raj Act and sub-section (2) of section 282 of the Municipal Act [as amended by the Jammu and Kashmir Local Bodies Laws (Amendment) Act, 2024] shall, *mutatis mutandis*, apply to this Act.”.

19. In section 10A of the Municipal Corporation Act,—

(a) in sub-section (1), for the words “the Scheduled Castes and the Scheduled Tribes”, the words “the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted;

(b) in sub-section (2), for the words “the Scheduled Castes or the Scheduled Tribes”, the words “the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes” shall be substituted;

(c) in sub-section (3), for the words “the Scheduled Castes and the Scheduled Tribes”, the words “the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted;

(d) in sub-section (3A), for the words “Scheduled Caste or Scheduled Tribe Certificate”, the words “Scheduled Caste or Scheduled Tribe or Other Backward Class Certificate” shall be substituted; and

(e) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The State Election Commissioner shall be the competent authority for the purpose of this section.”.

STATEMENT OF OBJECTS AND REASONS

The Jammu and Kashmir Local Bodies Laws (Amendment) Bill, 2024 seeks to amend certain provisions of the Jammu and Kashmir Panchayati Raj Act, 1989, the Jammu and Kashmir Municipal Act, 2000 and the Jammu and Kashmir Municipal Corporation Act, 2000 (the Acts) in consonance with the provisions of the Part IX and Part IXA of the Constitution.

2. Part IX and Part IXA of the Constitution relates to “the Panchayats” and “the Municipalities”. Clause (6) of articles 243D and 243T of the Constitution empowers the Legislature of a State to make provision for reservation of seats in any “Panchayat” and “Municipality” in favour of backward classes of citizens. However, the Acts of the Union territory of Jammu and Kashmir has no provision for reservation of seats for “Other Backward Classes” in the Panchayats and the Municipalities.

3. According to articles 243K and 243ZA of the Constitution, the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats and Municipalities is vested in a “State Election Commission” consisting of a “State Election Commissioner”. The similar provision was incorporated in the Jammu and Kashmir Panchayati Raj Act, 1989. However, as per Municipal laws of the Union territory of the Jammu and Kashmir the conduct of all elections to the Municipalities and Municipal Corporations lies with “the Chief Electoral Officer” of Jammu and Kashmir.

4. Proviso to clause (2) of article 243K of the Constitution envisages that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment. But, section 36B of the Jammu and Kashmir Panchayati Raj Act, 1989 provides that the State Election Commissioner shall not be removed from his office except by an order made by the Lieutenant Governor on the ground of proved misbehaviour or incapacity after an inquiry conducted by a sitting or a retired judge of the High Court, on a reference made to him by the Lieutenant Governor. The provisions pertaining to State Election Commissioner in the Jammu and Kashmir Panchayati Raj Act, 1989 are at variance with the provisions of the Constitution.

5. In order to provide reservation to the “Other Backward Classes” in the Panchayats and the Municipalities in the Union territory of Jammu and Kashmir and to bring consistency in the local bodies laws of the Union territory of Jammu and Kashmir with the provisions of the Constitution, it has become necessary to amend certain provisions of the Acts and to introduce a Bill in Parliament, namely, the Jammu and Kashmir Local Bodies Laws (Amendment) Bill, 2024. With this, justice will be ensured to the citizens of Other Backward Classes of Jammu and Kashmir for the first time after 75 years of independence.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;

AMIT SHAH.

The 2nd February, 2024.

FINANCIAL MEMORANDUM

The Jammu and Kashmir Local Bodies Laws (Amendment) Bill, 2024, if enacted, would not involve any expenditure either recurring or non-recurring from and out of the Consolidated fund of India.

UTPAL KUMAR SINGH
Secretary-General.