



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ६, अंक ३७]

गुरुवार, ऑक्टोबर ३०, २०१४/कार्तिक ८, शके १९३६

[पृष्ठे ५, किंमत : रुपये २७.००

असाधारण क्रमांक ९८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

OFFICE OF THE GOVERNOR OF MAHARASHTRA

Raj Bhavan, Malabar Hill, Mumbai 400 035,
dated the 30th October 2014.

Preamble

CONSTITUTION OF INDIA.

No. RB/TC/e-11019(89)(2013)/Notification-4/1120/2014.— The following notification issued by the Governor of Maharashtra is published for the general information :—

Whereas, under sub-paragraph (1) of paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor may, by public notification, direct that any particular Act of Parliament or of Legislature of the State shall not apply to the Scheduled Area referred to in clause (1) of article 244 of the Constitution of India or any part thereof in the State or shall apply to the Scheduled Area or any part thereof in the State subject to the exceptions and modifications specified in the notification;

And whereas, the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) has been enacted with intent to extend the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas, and to ensure a large degree of self-governance to the appropriate Panchayats and the *Gram Sabhas* in the Scheduled Areas ;

And whereas, the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, requires that all the State Acts shall ensure that the appropriate Panchayats and Gram Sabhas are endowed with a number of powers outlined in the said Act ;

And Whereas, it is expedient to bring certain State Acts in consonance with the said Act;

Now, therefore, in exercise of the powers conferred by sub-paragraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Maharashtra hereby makes the following notification, namely :—

NOTIFICATION

CONSTITUTION OF INDIA.

In exercise of the powers conferred by sub-paragraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Maharashtra hereby directs that the Markets and Fairs Act, 1862 (Bom. IV of 1862), India Forest Act, 1927 (16 of 1927), in its application to the State of Maharashtra, the Maharashtra Village Panchayats Act (III of 1959), the Maharashtra Land Revenue Code, 1966 and the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) in its application to the State of Maharashtra, shall apply to the Scheduled Areas referred to in clause (1) of article 244 of the Constitution with the following exceptions or modifications, namely :—

PART I

MODIFICATIONS TO THE MARKETS AND FAIRS ACT, 1862.

In the Markets and Fairs Act, 1862 (Bom. IV of 1862), at the end of Section 4 the following proviso shall be added :

“Provided that in the Scheduled Areas referred to in clause (1) of article 244 of the Constitution of India, no such order permitting the establishment of the proposed market or fair shall be passed without the prior informed consent of the Panchayats at the appropriate level and the Gram Sabha, and on such terms and conditions as they may specify ;

Provided further that the Panchayats at the appropriate level and Gram Sabha may give their opinion within one month from the date of reference for such consent received from the District Magistrate, failing which consent shall be deemed to have been given.

Explanations.—For the purposes of this section,—

(i) “Panchayats at the appropriate level” means:

(a) if the market or fair falls in the jurisdiction of two or more Gram Sabhas, then the Gram Panchayat,

(b) if the market or fair falls in the jurisdiction of two or more Gram Panchayats, then the Panchayat Samiti,

(c) if the market or fair falls in the jurisdiction of two or more Panchayat Samitis, then the Zilla Parishad ;

(ii) “Gram Sabha” shall have the same meaning as assigned to it in Chapter III A of the Maharashtra Village Panchayats Act.”

PART II

MODIFICATIONS TO THE INDIAN FOREST ACT, 1927

In the Indian Forest Act, 1927 (16 of 1927), in its application to the State of Maharashtra,

(i) After Chapter III, the following Chapter shall be inserted, namely :—

“ CHAPTER III A

OF MINOR FOREST PRODUCE IN SCHEDULED AREAS.

28A. (1) Notwithstanding anything contained in this Act, the transit permits, in relation to transportation of minor forest produce in the Scheduled Areas referred to in Clause (1) of article 244 of the Constitution of India shall be modified and given by the Panchayats at the appropriate level and the *Gram Sabha* or a committee thereof.

Provisions for Minor Forest Produce in Scheduled Areas.

(2) All decisions for the collection and sale of minor forest produce in the Scheduled Areas, and the sharing of all sale proceeds shall be taken by the Panchayats at the appropriate level and the concerned *Gram Sabha*.

Explanations.— For the purposes of Chapter III A,—

(i) “ minor forest produce ” in Scheduled Areas shall have the same meaning as assigned to it in the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997,

(ii) “ Gram Sabha ” shall have the same meaning as assigned to in Chapter III A of the Maharashtra Village Panchayats Act.”

PART III

MODIFICATIONS TO THE MAHARASHTRA VILLAGE PANCHAYATS ACT.

In the Maharashtra Village Panchayats Act, (III of 1959),—

(i) in section 54A,—

(a) in clause (f) , after the words “ (Amendment) Act, 1997 ” the words “ and Chapter III A of The Indian Forest Act, 1927 (16 of 1927), in its application to the State of Maharashtra ” shall be inserted,

(b) in clause (j), after the words “ the Panchayat concerned ” the following shall be inserted, namely :—

“ and also to manage fishing activities in minor water bodies within its jurisdiction ” ;

(c) in clause (n),—

(I) after the words “ Panchayat Samiti and Zilla Parishad ” the words “ and to other Departments concerned with the implementation of programmes, projects, and schemes in the social sector ” shall be inserted;

(II) in the Explanation of the term “ social sector ” after the words “ section 45 of the Act ” the words “ and any Department of the State Government executing similar schemes, programs, and projects. ” shall be inserted ;

(ii) in section 54B,—

(a) in clause (h) after the words “minor water bodies” the words “and also to manage fishing activities in minor water bodies within its jurisdiction” shall be inserted;

(b) a new clause (o) shall be inserted after clause (n) as follows :—

“be competent to exercise control over local plans and resources for such plan including the Tribal sub-Plan;

Provided that not less than 5% of the total Tribal sub-Plan funds of the respective annual plan shall be devolved to the Gram Panchayats in Scheduled Areas in proportion to their population;

Provided further that the Panchayat shall utilise these funds for the purpose and to the extent as recommended by the Gram Sabha;

Provided also that in case a Panchayat has more than one Gram Sabha these funds shall be utilized in proportion to the population of the respective Gram Sabhas.”

PART IV

MODIFICATIONS TO THE MAHARASHTRA LAND REVENUE CODE, 1966

In the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), in section 48, after sub-section (9), the following sub-section shall be added, namely :—

“(10) Notwithstanding anything contained in this Act, prior to grant of prospecting license or mining lease for minor minerals and for grant of concession for the exploitation of minor minerals by auction in the Scheduled Areas referred to in clause (1) of article 244 of the Constitution of India, the consent of the *Gram Sabha* or the Panchayats at the appropriate level shall be mandatory.

Explanation.—For the purposes of this sub-section “Gram Sabha” shall have the same meaning as assigned to it in Chapter III A of the Maharashtra Village Panchayats Act.”

PART V

MODIFICATIONS TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974.

In the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), in its application to the State of Maharashtra,—

(i) in section 2, after clause (c), the following clause shall be inserted, namely :—

“(cc) “minor water body” in the Scheduled Areas shall have the same meaning as assigned to it in the Explanation to Section 54 B (h) of the Maharashtra Village Panchayats Act; ”

(ii) in section 2, after clause (f), the following clause shall be inserted, namely :—“(ff) “Scheduled Areas” means the areas referred to in clause (1) of article 244 of the Constitution;”

(iii) in section 25, to sub-section (3), the following proviso shall be added, namely :—

“Provided that, the State Board shall not grant its consent referred to in sub-section (1) in respect of the minor water body in the Scheduled Areas unless prior informed consent of the *Gram Panchayat* is obtained by it.”;

(iv) after section 30, the following section shall be inserted, namely:-

“30A. If the *Gram Sabha* in a Scheduled Area sends a resolution to the State Board stating that there is pollution of the State minor water body in the Scheduled Areas within its jurisdiction, it shall be imperative for the Board to investigate and ensure taking of necessary remedial action under the Act and the rules made thereunder, at the earliest, and in any case, not later than a month from the date of receipt of such resolution.”.

Power of the State Board to take remedial measures in Scheduled Areas.

CH. VIDYASAGAR RAO,

Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

PARIMAL SINGH,
Deputy Secretary to Governor.