

# HARYANA VIDHAN SABHA

Bill No. 10— HLA OF 2023

## THE HARYANA MUNICIPAL CORPORATION (AMENDMENT) BILL, 2023

A

BILL

*further to amend the Haryana Municipal Corporation Act, 1994.*

Be it enacted by the Legislature of the State of Haryana in the Seventy-fourth Year of the Republic of India as follows:-

1. This Act may be called the Haryana Municipal Corporation (Amendment) Act, 2023.

Short title.

2. In section 6 of the Haryana Municipal Corporation Act, 1994 (hereinafter called the principal Act),-

Amendment of section 6 of Haryana Act 16 of 1994.

- (i) for sub-section (1), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 16th May, 2023, namely:-

“(1) The total number of seats for each Corporation shall be fixed by the Government on the basis of the population drawn from the Family Information Data Repository established under the provisions of the Haryana Parivar Pehchan Act, 2021 (20 of 2021) on such date, as may be notified by the Government:

Provided that where the population as drawn from Family Information Data Repository is less than 140 per centum of the number of electors registered in such areas as per the last published Electoral Roll, then the population equal to 140 per centum of the number of voters in the electoral roll of the area shall be considered.

Illustration.- (i) Where the population as per Family Information Data Repository is 150 and the number of voters in a ward as per the last published electoral roll is 100, the population after 140 per centum comes to 140. In this case, the population as per Family Information Data Repository shall be considered being higher.

(ii) Where the population as per Family Information Data Repository is 125 and the number of voters in a ward as per the last published electoral roll is 100, the population after 140 per centum comes to 140. In this case, the population as per last published electoral roll shall be considered being higher.”;

- (ii) in sub-section (4), for the figure “10”, the figure “20” shall be substituted and shall be deemed to have been substituted with effect from the 16th May, 2023;

- (iii) in sub-section (5), for the words "Backward Classes", the words, signs and alphabet "Backward Classes 'A'" shall be substituted shall be deemed to have been substituted with effect from the 16th May, 2023;
- (iv) explanation existing at the end shall be omitted and shall be deemed to have been omitted with effect from the 16th May, 2023.

Amendment of  
section 11 of  
Haryana Act 16 of  
1994.

3. In section 11 of the principal Act,-

- (i) in sub-section (3), for the figures, brackets, signs and word "(1), (2) and (4)", the figures, brackets and word "(1) and (2)" shall be substituted and shall be deemed to have been substituted with effect from the 16th May, 2023;
- (ii) for sub-section (4), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 16th May, 2023, namely :-

"(4) (a) The seats shall be reserved for the Backward Classes 'A' in every Corporation and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in that Corporation as one-half of the proportion of Backward Classes 'A' population to the total population in that Corporation and rounded off to the next higher integer in case the decimal value is 0.5 or more; and such seats shall be allotted by draw of lots among three times of the number of seats, proposed for reservation of Backward Classes 'A', after excluding those seats already reserved for Scheduled Castes, drawn from those seats which are having the largest percentage population of Backward Classes 'A' and also by rotation in the subsequent elections:

Provided that the Corporation shall have at least one member belonging to the Backward Classes 'A' if their population is two per centum or more of the total population of the Corporation:

Provided further that where the number of seats so reserved for Backward Classes 'A' under this sub-section added to the number of seats reserved for the Scheduled Castes exceeds fifty per centum of the total number of seats in that Corporation, then the number of seats reserved for the Backward Classes 'A' shall be restricted to such largest number that shall lead to the

total of the seats reserved for the Backward Classes 'A' and Scheduled Castes not exceeding fifty per centum of the total seats in that Corporation.

Explanation.- (1) For the purposes of reservation of Backward Classes 'A' under this sub-section, the population of the Municipal Corporation area and the population of Backward Classes 'A' in that Municipal Corporation shall be such as drawn from the Family Information Data Repository established under the provisions of the Haryana Parivar Pehchan Act, 2021 (20 of 2021) on such date, as may be notified by the Government.

Explanation.- (2) For the purposes of the second proviso, fifty per centum of the total seats in the Corporation shall be taken as one-half of the total seats of the Corporation rounded up to the next higher integer where the decimal value is 0.5 or more or rounded down to the next lower integer where the decimal value is less than 0.5.

- (b) Not less than one-third of the total number of seats reserved under this sub-section shall be reserved for women belonging to the Backward Classes 'A' and such seats may be allotted by rotation and by lots amongst the wards reserved under this sub-section.”;
- (iii) in sub-section (5), for the words “Backward Classes”, the words, signs and alphabet “Backward Classes 'A' “ shall be substituted and shall be deemed to have been substituted with effect from the 16th May, 2023;
- (iv) in sub-section (7), the sign, figure and brackets “, (4)” shall be omitted and shall be deemed to have been omitted with effect from the 16th May, 2023.
4. In section 267 of the principal Act,-
- (i) for the proviso to sub-section (1), the following proviso shall be substituted, namely:-

Amendment of  
section 267 of  
Haryana Act 16  
of 1994.

“Provided that where an individual or a company applies for preparation or approval of town planning scheme over its land, then the un-built area shall not be declared and no resolution from the Corporation shall be required. In case an application is received from an individual or a company for the town planning scheme, the Commissioner shall forward the same alongwith all relevant documents to the Government within a period of thirty

days from the date of the receipt of the application. However, a resolution from the Corporation shall be required if the Corporation draws a town planning scheme for un-built area and building scheme for built area on its land or jointly with an individual or a company.”;

(ii) in sub-section 2,-

(a) for the sign “.” existing at the end, the sign “:” shall be substituted;

(b) the following proviso shall be added, namely:-

“Provided that public notice shall not be required in case town planning scheme is applied by an individual or a company on its land.”.

Repeal and  
savings.

5. (1) The Haryana Municipal Corporation (Amendment) Ordinance, 2023 (Haryana Ordinance No. 2 of 2023) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

## STATEMENT OF OBJECTS AND REASONS

1. The composition of Municipalities is guided by the reservation policy contemplated in Article 243-T of the Constitution of India, wherein clause (6) provides that 'Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.' Hon'ble Supreme Court of India vide its judgment dated 11.05.2010 in *Dr. K. Krishna Murthy & Ors. Versus Union of India & Anr. (2010) 7 SCC 202* while upholding the constitutional validity of the Article 243-T(6) observed that this provision enables State Legislatures to reserve seats and chairperson posts in favour of backward classes.

2. Hon'ble Supreme Court of India vide its judgment dated 04.03.2021 passed in writ petition (Civil) No. 980 of 2019 titled as *Vikas Kishanrao Gawali Versus State of Maharashtra and others* further observed that the State Legislation cannot simply provide uniform and rigid quantum of reservation of seats for Backward Classes in the Local Bodies across the State, that too without a proper inquiry into the nature and implications of backwardness by an independent Commission. The triple test conditions required to be complied with by the State before reserving seats in the Local Bodies for Backward Classes are as under:-

- (1) To set up a dedicated Commission to conduct contemporaneous rigorous empirical inquiry into the nature and implications of the backwardness qua Local Bodies, within the State;
- (2) To specify the proportion of reservation required to be provisioned, Local Body-wise, in the light of recommendations of the Commission, so as not to fall foul of over breadth; and
- (3) In any case such reservation shall not breach the upper ceiling of 50% vertical reservation in favour of SCs/STs/OBCs taken together.

In another Writ Petition (Civil) No. 278 of 2022 titled '*Suresh Mahajan Versus State of Madhya Pradesh and Another*', the Hon'ble Supreme Court, vide its order dated 10.05.2022, has observed that until the triple test formality is completed 'in all respects' by the State Governments, no reservation for OBCs can be provisioned and directed all the State Governments and the respective State Election Commissions to abide by the same without fail to uphold the constitutional mandate.

Further, Hon'ble Punjab and Haryana High Court passed interim order dated 17.05.2022 in CM-3239-CWP-2022-IN CWP-18977-2021 with CM-3200-CWP-2022-IN CWP-21883-2021 to comply with the orders dated 10.05.2022 passed by the Hon'ble Supreme Court of India.

3. Haryana Backward Classes Commission was constituted vide Government notification dated 12.07.2022 of Welfare of Scheduled Castes and Backward Classes Department, among other functions, to study and recommend the proportion

of reservation for backward classes required to be provisioned in Panchayati Raj Institutions and Municipalities in the State. The Commission has made recommendation to provide reservation for Backward Classes 'A' in the elections of Municipal Corporations for which amendment of Section 11 of the Haryana Municipal Corporation Act, 1994 is required. The seats shall be reserved for the Backward Classes 'A' in every Corporation and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in that Corporation as one-half of the proportion of Backward Classes 'A' population to the total population in that Corporation.

4. The last census in India in which the data on caste was included was conducted in 1931. Since 1951 every census has published the population of Scheduled Castes and Scheduled Tribes only. Thus figures of population of Backward Classes 'A' are not available in the Census. Government has established Family Information Data Repository (FIDR) under the Haryana Parivar Pehchan Act, 2021 (20 of 2021) wherein the information about residents of Haryana constituted in families is available which is dynamically updated and periodically verified. As on 18th August, 2023 a total of 69,00,836 families with 2,76,72,355 number of persons have been registered in FIDR.

5. Hence, data available in FIDR has been considered for purpose of reservation for Backward Classes 'A' in the elections of Municipal Corporations. Reservation of seats for Backward Classes 'A' and fixation of total number of seats for each Corporation shall be done on the basis of population figures including that of Backward Classes 'A' drawn from Family Information Data Repository established under the Haryana Parivar Pehchan Act, 2021 (20 of 2021) on such date as may be notified by the Government.

6. According to elector-population (EP) ratio, for every 1000 persons, the number of eligible electors is nearly 700 in State. As enrolling for Family Id is a voluntary process and there is a likelihood that in certain pockets a majority of residents may not have registered in FIDR, thus it has also been considered that where the population as drawn from Family Information Data Repository is less than 140 per centum of the number of electors registered in such areas as per the last published Electoral Roll, the population shall be considered equal to 140 per centum of the number of voters in the last published Electoral Roll of the area. Further, the limit for variation of population in wards of a Corporation is proposed to be increased from 10 per centum to 20 per centum above or below the average population per ward.

7. To comply with the third condition of the triple test laid down by the Hon'ble Supreme Court of India, the total reservation in seats for Scheduled Castes and Backward Classes 'A' shall not exceed 50 per centum of the total number of seats in a Corporation. If so happens then the number of seats reserved for Backward Classes 'A' shall be restricted to such largest number that shall lead to total seats reserved for Scheduled Castes and Backward Classes 'A' not exceed 50 per centum of the total number of seats in that Corporation.

8. For incorporating the recommendation of Haryana Backward Classes Commission to provide eight per centum reservation for Backward Classes 'A' in the offices of Mayors in the State of Haryana, a provision has been made under Rule 71(7) of the Haryana Municipal Corporation Election Rules, 1994 in consultation with the State Election Commission, Haryana.
9. Hence, for fixation of total number of seats in the Corporations and for provisioning the reservation to the Backward Classes 'A' in the seats of each Corporation, an amendment is required to be carried out in Section 6 and Section 11 of the Haryana Municipal Corporation Act, 1994.
10. Further Urban Local Bodies Department grant approval of Town Planning Scheme within the area of municipal corporations in the State under the provision of Section 267 of the Haryana Municipal Corporation Act, 1994.
11. The proviso under the sub-section (1) of the Haryana Municipal Corporation Act, 1994 provided that where an individual or a company applies for preparation/ approval of town planning scheme over its own land, then the un-built area shall not be declared. The corporation shall pass a resolution for approval of town planning scheme within sixty days from the date such proposal is put up for its consideration for the first time, otherwise the Commissioner shall forward the proposal of the town planning scheme directly to the State Government.
12. Further sub-section (2) of Section 267 of the Haryana Municipal Corporation Act, 1994 provided that when a scheme has been drawn up under the said provision the Corporation shall give public notice of such scheme and shall at the same time intimate a date not less than thirty days from the date of such notice by which any person may submit to the Corporation in writing any objection or suggestion with regard to such scheme which he may wish to make.
13. The above mentioned provision related to 'resolution from the corporation' and 'requirement of public notice' discourages and delay the process of the grant of Town Planning Scheme. Further the T&CP Department grant license within municipal area and outside the municipal area under the provision of The Haryana Development and Regulation of Urban Areas Act, 1975 (Haryana Act No. 8 of 1975) but there is no such condition in the said Act or policies to pass the resolution from the house and requirement of public notice.
14. Therefore with an objective of increasing the availability of quality of affordable housing, hence there is requirement to amend the provision related to requirement of 'resolution from the house' and 'requirement of public notice' in the Haryana Municipal Corporation Act, 1994. This will also help in getting the regulatory approvals in hassle free manner.
15. Therefore, it has been proposed that the existing proviso in sub-section (1) of section 267 of the Haryana Municipal Corporation Act, 1994 may be substituted from the proposed provision that if town planning scheme is applied from an individual or a company then the resolution from the corporation is not required

and resolution is only required if the Corporation draws a town planning scheme for the unbuilt area and built up scheme for the built area on the corporation land or jointly with an individual or a company. Accordingly, after the sub section (2) of Section 267 of the Haryana Municipal Corporation Act, 1994 proviso may be inserted that in case Town Planning Scheme is applied by an individual or a company on its own land then public notice is not required to be issued.

DR. KAMAL GUPTA,  
Urban Local Bodies Minister, Haryana.

CHANDIGARH:  
The 23rd August, 2023

R. K. NANDAL,  
Secretary.

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**N. B.**— The above Bill was published in the Haryana Government Gazette (Extraordinary), dated the 23rd August, 2023, under proviso to rule 128 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly.



## ANNEXURE

### Extract from the Haryana Municipal Corporation Act, 1994.

**6. Fixation of seats of Corporation.** – (1) After every official census, the total number of seats shall be fixed by the Government on the basis of latest census figures. In case certain area is included, or excluded from the limits of a Corporation, the population shall be ascertained on the spot in respect of such area and shall be added to, or excluded from the latest census figures of that Corporation for the purpose of re-fixation of seats.

(2) XXX    XXX    XXX    XXX    XXX

(3) XXX    XXX    XXX    XXX    XXX

(4) The population of each ward, as far as practicable, should be the same throughout the Corporation with a variation upto 10 percent above or below the average population per ward.

(5) Wards reserved for the members of Scheduled Castes and Backward Classes shall, as far as practicable, be located in those areas where the proportion of their population to the total population of the Corporation is the largest.

**Explanation**– Here “population” means the population as ascertained locally by the staff, deputed by the Commissioner, after going from door to door in the Corporation.

#### **11. Reservation of seats.-**

(1) XXX    XXX    XXX    XXX    XXX

(2) XXX    XXX    XXX    XXX    XXX

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes) of the total number of seats to be filled by direct election in the Corporation, shall be reserved for women and such seats may be allotted by rotation and by lots to different wards in the Corporation except those falling under sub-sections (1), (2) and (4).

(4) Two seats in the Corporation shall be reserved for the persons belonging to Backward Classes which shall be allotted in such wards as having maximum population of persons belonging to Backward classes.

(5) The office of Mayor shall be filled up from amongst the members belonging to the general category, Scheduled Castes, Backward Classes and women by rotation and by lots in the manner as may be prescribed.

(6) XXX    XXX    XXX    XXX    XXX

(7) The reservation of seats under sub-sections (1), (2), (4) and (5) shall be reviewed after every decennial census.

(8) XXX    XXX    XXX    XXX    XXX

**267. Building Scheme.-**

(1) XXX XXX XXX XXX XXX

Provided that where an individual or a company applies for preparation/ approval of town planning scheme over its own land, then the un-built area shall not be declared. The corporation shall pass a resolution for approval of town planning scheme within sixty days from the date such proposal is put up for its consideration for the first time, otherwise the Commissioner shall forward the proposal of the town planning scheme directly to the State Government.

(2) When a scheme has been drawn up under the provision of subsection (1), the Corporation shall give public notice of such scheme and shall at the same time intimate a date not less than thirty days from the date of such notice by which any person may submit to the Corporation in writing any objection or suggestion with regard to such scheme which he may wish to make.

Modification in the Bill other than the Haryana Municipal Corporation (Amendment) Ordinance, 2023 (Haryana Ordinance No. 2 of 2023) promulgate by the Governer.

In section 267 of the principal Act,-

- (i) for the proviso to sub-section (1), the following proviso shall be substituted, namely:-

“Provided that where an individual or a company applies for preparation or approval of town planning scheme over its land, then the un-built area shall not be declared and no resolution from the Corporation shall be required. In case an application is received from an individual or a company for the town planning scheme, the Commissioner shall forward the same alongwith all relevant documents to the Government within a period of thirty days from the date of the receipt of the application. However, a resolution from the Corporation shall be required if the Corporation draws a town planning scheme for un-built area and building scheme for built area on its land or jointly with an individual or a company.”;

- (ii) in sub-section 2,-

(a) for the sign “.” existing at the end, the sign “:” shall be substituted ;

(b) the following proviso shall be added, namely :-

“Provided that public notice shall not be required in case town planning scheme is applied by an individual or a company on its land.”.

