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LAW DEPARTMENT

NOTIFICATION

The 26th August, 2020

No.7843–I-Legis-28/2020/L.—The following Ordinance promulgated by the Governor of Odisha on the 26th August, 2020 is hereby published for general information.

ODISHA ORDINANCE NO. 9 OF 2020

THE ODISHA MUNICIPAL LAWS (AMENDMENT) ORDINANCE, 2020

AN

ORDINANCE,

FURTHER TO AMEND THE ODISHA MUNICIPAL ACT, 1950 AND THE ODISHA MUNICIPAL CORPORATION ACT, 2003

WHEREAS the Legislature of the State of Odisha is not in session;

AND WHEREAS the Governor of Odisha is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Odisha Municipal Act, 1950 and the Odisha Municipal Corporation Act, 2003 in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause(1) of article 213 of the Constitution of India, the Governor of Odisha is pleased to make and promulgate the following Ordinance in the Seventy-first Year of the Republic of India:-

CHAPTER I
PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Odisha Municipal Laws (Amendment) Ordinance, 2020

(2) It shall come into force at once.

CHAPTER II

AMENDMENT TO THE ODISHA MUNICIPAL ACT, 1950

Amendment of Section 105.

2. In the Odisha Municipal Act, 1950 (hereinafter referred to as the Municipal Act), in section 105, in sub-section (2), after clause (c), the following clause shall be inserted, namely:- Odisha Act 23 of 1950.

"(d) provide such sum not less than twenty-five per centum of the amount under the head of Capital Expenditure relating to development work of annual Budget for the purpose of providing basic services and infrastructure to slum."

Amendment of section 117.

3. In the Municipal Act, in section 117, in sub-section (1), in clause (xl), the proviso shall be omitted.

Omission of sections 176 to 188A.

4. In the Municipal Act, sections 176 to 188A (both inclusive) shall be omitted.

Amendment of Chapter XIX.

5. In the Municipal Act, in Chapter XIX, for the heading "INDUSTRIES AND FACTORIES (INCLUDING DANGEROUS AND OFFENSIVE TRADES, OCCUPATION OR PROCESSES)", the heading "LICENCE FOR TRADE OR BUSINESS" shall be substituted.

Amendment of section 290.

6. In the Municipal Act, for section 290 including the marginal heading,the following section shall be substituted, namely:-

"Certain trade or business not to be carried on without a licence.

290.(1)No person shall carry on or allowed to be carried on any trade or business except under and in conformity with the terms and conditions of licence granted by the Executive Officer and in accordance with the provisions of the regulation.

(2) Any person who intends to carry on trade or business within the municipal area shall apply for a trade licence to the Executive Officer in the prescribed form containing such particulars as may be prescribed in the rules accompanied by such details and fee as may be prescribed in the regulation.

(3) Notwithstanding anything contained in Chapter XXIII or in any other provisions in this Act, the Executive Officer shall, on receipt of an application for a trade licence under sub-section (2),grant to the applicant a provisional trade licence on the day on which the application is received in the prescribed form, provided the applicant furnishes the required supporting particulars, documents and the fee with the application:

Provided that where the application for trade licence relates to

manufacturing of gun powder or fireworks or storing of any explosive or combustible materials or storing kerosene, petroleum,naptha or any inflammable oil and sprit or any other offensive and dangerous trade, the provisional licence shall be granted only when such application is accompanied by No Objection Certificate or permission or clearance certificate, as the case may be, for such trade, issued by the Competent Authority under the relevant Acts and rules for the time being in force.

Explanation.-For the purposes of this sub-section, the expression "offensive and dangerous trade" includes the trade on Barium Cyanide, BromoBenzyle Cyanide, Calcium Cyanide, Acetic Acid (Glacial), Acetyl Acetone, Metramine, Uritropine, Acetone Cyanohydrin, Acaricides or Barium Carbonate and such other trades notified by the State Government, from time to time, as offensive and dangerous trade.

(4) The provisional trade licence granted under sub-section (3) shall remain valid for a period of three months.

(5) The Executive Officer shall either grant or refuse to grant a trade licence before expiry of the validity of the provisional trade licence.

(6) Where the Executive Officer makes an order for trade licence, the prescribed fee shall be collected for any period not exceeding five years at a time and on such terms and conditions as he may think fit.

(7) The trade licence may be granted for a period not exceeding five years and shall be renewable, from time to time, for a further period not exceeding five years, unless cancelled earlier in accordance with the provisions of this Act:

Provided that the application for renewal of such licence shall be made within thirty days before expiry of the licence.

Explanation.-For the purpose of this sub-section, in case of first grant, the period so granted shall be computed from the date of grant of provisional trade licence.

(8) Where the existing trade licensee has filed the required application for renewal before commencement of the Odisha Municipal Laws (Amendment) Ordinance, 2020 within the time provided under the existing provisions of this Act, it shall be considered for renewal under this section.

(9) Any person aggrieved by order passed by the Executive Officer under sub-section (5) may file an appeal, in such form and within thirty days from the

date of such order, before the District Magistrate concerned.

(10) The provisions contained in this Act or any rule or regulation made thereunder shall continue to apply to the trade licences so far as they are not inconsistent with the provisions of this Chapter".

Omission of section 291.

7. In the Municipal Act, section 291 shall be omitted.

Amendment of section 292.

8. In the Municipal Act, in section 292,—

(a) for the marginal heading, the following shall be substituted, namely:-

"Power of municipality to issue directions for abatement of nuisance"

(b) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1)If in any place where any trade or business is carried on, nuisance is caused by any reason affecting the public health, or movement, the Executive Officer may issue such direction as it thinks fit for the abatement of the nuisance".

(c) sub- section (2) shall be omitted;

Amendment of section 293.

9. In the Municipal Act, in section 293, the words and figure "section 291 or" shall be omitted.

Amendment of section 294.

10. In the Municipal Act, in section 294, –

(a) for the marginal heading, the following shall be substituted, namely:—

"Power of the Executive Officer to enter the place or premises where any trade or business is operational".

(b) for sub-section (1), the following shall be substituted, namely:—

"(1) Subject to the provision of inspection in any other laws for the time being in force, the Executive Officer or any person authorized by him in this behalf, may enter any place or premises where any trade or business is operational".

Amendment of Chapter XX.

11. In the Municipal Act, in Chapter XX, for the heading "MARKET, SLAUGHTER HOUSES AND CART STANDS", the heading "PUBLIC MARKET, PRIVATE MARKET AND SLAUGHTER HOUSES," shall be substituted.

Amendment of section 305.

12. In the Municipal Act, for section 305, the following section shall be

substituted, namely: —

"305. Any person aggrieved by an order of the Municipality under sub-section (3) of section 297, may appeal, within thirty days, against such order to the District Magistrate."

Omission of sections 309 to 312.

13. In the Municipal Act, sections 309 to 312 (both inclusive)along with its heading shall be omitted.

Amendment of section 331.

14. In the Municipal Act, in section 331, in clause (b), for the words "subject to such fee and conditions as the State Government may from time to time by rule direct", the words "subject to such fee and such conditions as may be prescribed in the regulation" shall be substituted.

Amendment of section 334.

15. In the Municipal Act, in section 334, in sub-section (3), for the words "chairperson of the municipality", the words "District Magistrate concerned" shall be substituted.

Amendment of section 337.

16. In the Municipal Act, in section 337, —

(a)in sub-section(1), for the words "any rule or bye-law",the words "any rule or regulation " shall be substituted; and

(b)for sub-section (2), the following sub-section shall be substituted, namely: —

"(2) Save as otherwise expressly provided by or under this Act, for every such licence or permission or any certificate required to be issued under this Act or rules or regulation made thereunder and a fee may be charged at such rate as may be prescribed in the regulation."

Amendment of section 340.

17. In the Municipal Act, in section 340, in sub-section (2), the word and comma "Chairperson," and the words "the Chairperson or" shall be omitted.

Amendment of section 343.

18. In the Municipal Act, in section 343, —

(a) in the opening portion, the words "or its Chairperson" shall be omitted; and

(b) in clause(a), the words "the Chairperson or" shall be omitted.

Amendment of section 344.

19. In the Municipal Act, in section 344, in sub-section (2), for the words "the Chairperson", the words "the Executive Officer" shall be substituted.

Omission of section 346.

20. In the Municipal Act, section 346 shall be omitted.

Amendment of section 350.

21. In the Municipal Act, in section 350, the words and commas ",with the approval of the Chairperson," shall be omitted.

Omission of Schedule III.

22. In the Municipal Act, Schedule III shall be omitted.

CHAPTER-III

AMENDMENT TO THE ODISHA MUNICIPAL CORPORATION ACT, 2003

Amendment of section 137.

23. In the Odisha Municipal Corporation Act, 2003 (hereinafter referred to as the Corporation Act), in section 137, in sub-section (2), after clause (c), the following clause shall be inserted, namely: — Odisha Act 11 of 2003.

"(d) provide such sum not less than twenty-five per centum of the amount under the head of Capital Expenditure relating to development work of annual Budget for the purpose of providing basic services and infrastructure to slum."

Omission of section 549, 550 and 554.

24. In the Corporation Act, sections 549, 550and 554 shall be omitted.

Amendment of section 556.

25. In the Corporation Act, in section 556, for sub-section (1), the following sub-section shall be substituted, namely: —

"(1) The Commissioner or any Officer authorised by him may at any time but at reasonable hours without notice, enter into or upon any premises used for any trade or business in order to satisfy himself as to whether any provision of this Act or any regulation made thereunder or any condition of licence granted under this Act is being contravened and as to whether any nuisance is created upon such premises. "

Amendment of section 609.

26. In the Corporation Act, in section 609, for the word "the Commissioner", the words and comma "an officer not below the rank of Deputy Commissioner as may be authorised by the Commissioner," shall be substituted.

Amendment of section 610.

27. In the Corporation Act, in section 610, for the words "the Commissioner", the words and comma "the officer so authorised in this behalf" shall be substituted.

Amendment of section 611.

28. In the Corporation Act, in section 611,—

(a) in sub-section (1), in the opening line for the words "The Commissioner", the words "The officer so authorised in this behalf", shall be substituted.

(b) in sub-section (2), for the words "the commissioner", the words "The officer so authorised in this behalf" shall be substituted.

Amendment of section 613.

29. In the Corporation Act, in section 613, for the words "the Commissioner",

the words "the officer so authorised in this behalf", shall be substituted.

Amendment of section 614.

30. In the Corporation Act, in section 614,—

(a) in sub-section (1), for the words "the Commissioner", the words "the authorised officer" shall be substituted.

(b) in sub-section (3), for the words "the Chairman of the Standing Committee", the words " the Commissioner" shall be substituted.

Insertion of new Chapter.

31. In the Corporation Act, after Chapter XXIII, the following Chapter shall be inserted, namely:-

"CHAPTER-XXIIIA

LICENCE FOR TRADE OR BUSINESS

Certain trade or business not to be carried on without a licence.

616A(1) No person shall carry on or allowed to be carried on any trade or business except under and in conformity with the terms and conditions of licence granted by an officer not below the rank of Deputy Commissioner authorised by the Commissioner in this behalf (herein after referred to as authorised officer)and in accordance with the provisions of the regulation".

(2) Any person who intends to carry on trade or business within the Corporation area shall apply for a trade licence to the authorised officer in the prescribed form containing such particulars as may be prescribed in the rules accompanied by such details and fee as may be prescribed in the regulation.

(3) Notwithstanding anything contained in Chapter-XXIV or in any other provisions in this Act, the authorised officer shall, on receipt of an application for a trade licence under sub-section (2),grant to the applicant a provisional trade licence on the day on which the application is received in the prescribed form provided the applicant furnishes the required supporting particulars, documents and the fee with the application:

Provided that where the application for trade licence relates to manufacturing of gun powder or fireworks or storing of any explosive or combustible materials or storing kerosene, petroleum, naptha or any inflammable oil and sprit or any other offensive and dangerous trade, the provisional licence shall be granted only when such application is accompanied by No Objection Certificate or permission or clearance certificate, as the case may be, for such trade, issued by the Competent Authority under the relevant Acts and rules for the time being in force.

Explanation.-For the purposes of this sub-section, the expression "offensive and dangerous trade" includes the trade on Barium Cyanide, BromoBenzyle Cyanide, Calcium Cyanide, Acetic Acid (Glacial), Acetyl Acetone, Metramine,

Uritropine, Acetone Cyanohydrin, Acaricides or Barium Carbonate and such other trades notified by the State Government, from time to time, as offensive and dangerous trade.

(4) The provisional trade licence granted under sub-section (3) shall remain valid for a period of three months.

(5) The authorised officer shall either grant or refuse to grant a trade licence before expiry of the validity of the provisional trade licence.

(6) Where the authorised officer makes an order for trade licence, the prescribed fee shall be collected for any period not exceeding five years at a time and on such terms and conditions as he may think fit.

(7) The trade licence may be granted for a period not exceeding five years and shall be renewable, from time to time, for a further period not exceeding five years, unless cancelled earlier in accordance with the provisions of this Act:

Provided that the application for renewal of such licence shall be made within thirty days before expiry of the licence.

Explanation.-For the purpose of this sub-section, in case of first grant, the period so granted shall be computed from the date of grant of provisional trade licence.

(8) Where the existing trade licensee has filed the required application for renewal before commencement of the Odisha Municipal Laws (Amendment) Ordinance, 2020 within the time provided under the existing provisions of this Act, it shall be considered for renewal under this section.

(9) Any person aggrieved by order passed by the authorised officer under sub-section (5) may file an appeal, in such form and within thirty days, before the Commissioner.

(10) The provisions contained in this Act or any rules or regulation made thereunder shall continue to apply to the trade licences so far as they are not inconsistent with the provisions of this Chapter".

Amendment of section 618.

32. In the Corporation Act, in section 618, —

(a) in sub-section (2), for the words " the Commissioner", the words "the officer not below the rank of Deputy Commissioner authorised by the Commissioner" shall be substituted.

(b) in sub-section (3), the words " of the Commissioner" shall be omitted.

Amendment of section 620.

33. In the Corporation Act, in section 620, for sub-section (2), the following

sub-section shall be substituted, namely: —

"(2) Every licence, permission, notice, summon or other document, which is required by this Act or by any rule or regulation to bear the signature of the Commissioner or any other officer authorised by the Commissioner shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or of such officer, as the case may be, stamped thereon"."

Amendment of section 623.

34. In the Corporation Act, in section 623,—

(a) in the opening portion, for the words "or its Mayor or the Commissioner", the words " the Commissioner or the officer not below the rank of Deputy Commissioner authorised by the Commissioner" shall be substituted.

(b) in clause (a), in the opening line, for the words "the Mayor or the Commissioner", the words and comma " the Commissioner, or the officer not below the rank of Deputy Commissioner authorised by the Commissioner," shall be substituted.

Omission of section 626.

35. In the Corporation Act, section 626 shall be omitted.

PROF.GANESHI LAL
GOVERNOR OF ODISHA

Dated the 26th August, 2020

SASHIKANTA MISHRA
Principal Secretary to Government

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