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SINDH ORDINANCE NO.X OF 2000

THE SINDH LOCAL GOVERNMENT ELECTION ORDINANCE, 2000

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SINDH ORDINANCE NO.X OF 2000

THE SINDH LOCAL GOVERNMENT ELECTION ORDINANCE, 2000

[4th October, 2000]

An Ordinance to provide for holding elections for the establishment of legal governments in the Sindh Province.

Whereas it is expedient to provide for holding elections for the establishment of local governments in the Sindh Province.

And whereas, in pursuance of the Proclamation of Emergency dated 14th October, 1999, and under Article 3 (2) of the Provisional Constitution Order No.1 of 1999, dated 14th October, 1999, the Governor of a Province is to act on the instructions of the Chief Executive.

And whereas, under Article 4 of the Provisional Constitution (Amendment) Order No.9 of 1999, the Governor of a Province may, on the instructions of the Chief Executive of Pakistan, issue and promulgate an Ordinance.

And whereas, under the Local government Elections Order, 2000 (No.8 of 2000), the Chief Executive of Pakistan has been pleased to empower the Chief Election Commissioner to conduct local government election in the Province.

And whereas the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in exercise of the aforesaid powers and all other powers enabling him in that behalf, the Governor of the Sindh Province, on the instructions of the Chief Executive of Pakistan, is please to make and promulgate the following Ordinance:

1. **Short title, extent and commencement:** (1) This Ordinance may be called the Sindh Local Government Elections Ordinance, 2000.

(2) In extends to the whole of the Sindh Province.

(3) It shall come into force at once.

2. **Definitions:-** In this Ordinance, unless the context otherwise requires:-

(1) 'district' means a district or an area declared to be a 'city district', under this Ordinance;

(2) 'district government' means local government of a district or a city district;

(3) 'elector' means a person whose name for the time being appears on the electoral roll for a ward prepared or adapted under this Ordinance;

(4) 'Government' means the Government of the Sindh Province;

(5) 'local area' means the area under the jurisdiction of a local government;

(6) 'local government' means a local government, a city district government, a taluka government, a town government and a union government;

(7) 'Deh' means a revenue estate as defined or declared under the Sindh Land Revenue Act, 1967 (W.P. Act XVII of 1967);

(8) 'member' means an elected member of a local elected body, and includes a Nazim and a Naib Nazim;

(9) 'Nazim' means a Zila Nazim, a Taluka Nazim, a Town Nazim or a Union Nazim;

(10) 'peasant' means a person who is a landless farm worker or, one who during the period of five years preceding the year in which the election is held, has been the owner of not more than five acres of land and depends directly on it for his subsistence;

(11) 'worker' means a person, including a worker as defined in the Industrial Relations Ordinance, 1969 (XXIII of 1969), directly engaged or dependent on personal labour for subsistence living;

(12) 'Zila council' means the council of a district or a city district declared under this Ordinance; and

(13) 'Zila Nazim' means a Nazim of a district or a city district.

3. **Local Area.** (1) For the purposes of this Ordinance—

(a) the local areas shall be districts, towns, talukas and unions;

(b) the government may, by notification, declare-

(i) any area comprising one or more dehs and in the case of an area with urban characteristics comprising one or more population census blocks delimited for the last preceding census to be a union; and

(ii) any area to be a town, a taluka or a district.

(2) As far as may be—

(a) the area of a union shall be a territorial unity;
(b) the area of a union shall not cross the limits of a town or a taluka;
(c) the area of a union in a taluka shall comprised whole number of Tapas, or a Tapa may contain a number of whole unions; provided that in specified cases the Government may, for reasons to be recorded, waive the aforesaid conditions;
(d) the area of a union in a city district or in a union with urban characteristics shall comprise a whole number of censes blocks as delimited for the purpose of the last preceding population census;
(e) a taluka or a town shall comprise a number of unions as appropriate; and
(f) the population of unions within a district shall be similar.

(3) Government or an officer authorized by it shall invite objections on proposals relating to delimitation of unions and after giving an opportunity of being heard dispose them of in such manner as may be deemed fit.

4. **Constitution.** (1) Subject to the provisions of this Ordinance, there shall be constituted:-

(a) a district government for a district;

(b) a city district government in a city district;

(c) a taluka government for a taluka;

(d) a town government for a town; and

(e) a union government for a union.

(2) Subject to the provisions of this Ordinance, every local government shall be a body corporate, known as the case may be, by the name of the district, taluka, town or union or by such name or number as the district government may assign, and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

5. **Zila Nazim and Naib Zila Nazim.** There shall be a Zila Nazim and a Naib Zila Nazim of a district.

6. **Zila council**. (1) The Nazims of all union councils in the district shall be members of the Zila council.

(2) In addition to the members specified in sub-section (1), the following percentages of the total number of seats in the Zila council shall be reserved seats:

(a) thirty-three percent for women;
(b) five percent for peasants and workers;
(c) five percent, subject to a minimum of one seat, for minority communities.

(3) The Naib Zila Nazim of the district shall be the speaker of the Zila council.

7. **Taluka council and town council.** (1) All Naib Nazims of union councils in a town or a taluka shall be members of the town council or, as the case may be, of taluka council.

(2) In addition to the members specified in sub-section (1), the following percentages of the total number of seats in the taluka council and the town council shall be reserved seats:-

(a) thirty-three percent for women;
(b) five percent for peasants and workers;
(c) five percent, subject to a minimum of one seat, for minority communities.

(3) In a sparsely populated taluka or, a taluka in a district with a single taluka, government may dispense with the need for constituting a Taluka Council.

(4) There shall be a Nazim and a Naib Nazim of a town council and a taluka council.

(5) The Naib Taluka Nazim and the Naib town Nazim shall be the speaker of the taluka council or the town council; as the case may be.

8. **Union councils.** There shall be twenty one members of a union council as follows:

(a) twelve seats for Muslims, including four seats reserved for women;
(b) six seats reserved for peasants and workers, including two seats for women to represent peasants and workers;
(c) save as otherwise provided, one seat reserved for minority communities;

(d) Union Nazim;
(e) Naib Union Nazim.

9. **Special minority seats.** In a local area where the population of minorities is in excess of ten percent of the total population of that area, reserved seats for minority communities mentioned in the preceding sections shall be allocated in the manner prescribed by the Government.

10. **Franchise.** (1) Member of a union council shall be elected through elections based on adult franchise, and on the basis of separate electorate.

(2) Electoral college for the election of Zila Nazim and Naib Zila Nazim, Town Nazim and Naib Town Nazim, or Taluka Nazim and Naib Taluka Nazim shall be all the members of union councils in the district, town in a city district or a taluka, as the case may be.

(3) Electoral college for the election of reserved seats of women, peasants and workers, and minority population for Zila council, town council, or taluka council shall be all the members of union councils in the district, town in a city district or a taluka, as the case may be.

11. **Manifesto.** (1) The candidates for the seat of a Zila Nazim and a Taluka and town Nazim shall before the election to such office, make public a manifesto containing the policies and programmes he purposes to pursue and implement if elected.

(2) The manifesto prepared under sub-section (1) shall be attached to the nomination paper.

12. **Authority for local government elections.** (I) The local government elections under this Ordinance shall be conducted by the Chief Election Commissioner.

(2) The Chief Election Commissioner may require any person or authority to perform such functions or, render such assistance for the purpose of elections, including preparation of electoral rolls under this Ordinance as he may deem fit.

(3) The Chief Election Commissioner may authorize any of his officers to exercise any of his powers and to perform any of his functions under this Ordinance.

13. **Delimitation of wards.** (1) The ward for the election of a Zila Nazim and a Naib Zila Nazim shall be a district; for a Town Nazim and a Naib Town Nazim a town in a city district, for a Taluka Nazim and a Naib Taluka Nazim a Taluka, and for a Union Nazim and Naib Union Nazim a union.

(2) For the purpose of elections of members of a union council other than a Union Nazim and a Naib Union Nazim, the Chief Election Commissioner shall divide the union into wards, by notification, and in the demarcation of wards shall be guided by the following principles:-

(a) the area comprising a ward shall be a territorial unity;

(b) the number of members to be elected from a ward in the union shall be in accordance with the population of a union;

(c) the village with more population than required for election of a member shall be deemed to be a multi-member ward, and where the total population is not exactly divisible by the number of members to be elected, the reminder shall be disregarded if it is less than one half of the population required for a member;

(d) for the purpose of delimiting a ward and safeguarding the territorial unity of a village habitation, a Deh may be joined with an adjoining Deh, but the Deh or the village shall not be broken.

(e) the union with urban characteristics or situated in a city district may have a minimum of two and maximum of four multi-member wards, and in constituting such wards the blocks delimited for population census shall be grouped; provided that whole number of censes blocks shall be so grouped:

Provided further that the Chief Election Commissioner may, in exceptional cases, and for reasons to be recorded vary the number of seats to be allocated to a ward in such manner as the local circumstances may require.

(3) The population of a local area a ward shall be the population in the last preceding population censes as officially published.

14. **Qualifications for candidates and elected member.** A person shall qualify to be elected or to hold an elective office or membership of a local government, if he,-

a) is a citizen of Pakistan;

b) is at least twenty five years of age;

c) is enrolled as a voter in the electoral roll of the relevant ward;

d) is of good character and is not commonly known as one who violates Islamic injunctions; has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from' major sins; provided that these qualifications shall not apply to a person who is a non- Muslim, but such a person shall have a good reputation;

e) has academic qualifications of not less than matriculation or secondary school certificate or equivalent from a recognized institution, for contesting the election of a Nazim or Naib Nazim.

f) has not been declared by a competent court to be of unsound mind;

g) is not in the service or the Federal, a provincial or a local government or, any statutory body or a body which is controlled by any such government or, in which any of such government has a controlling share or interest, except the holders of elected public office and part-time officials remunerated either by salary or fee; provided that in case of a person who has resigned or retired from such service, a period of not less than six months has elapsed since his retirement;

h) has not been dismissed, removed or compulsorily retired from public service on grounds of moral turpitude;

i) does not possess assets which are inconsistent with his declaration of assets or justifiable means. whether held in his own name or of the dependents or any other person or corporate body in whose name assets are held in trust or under any other formal or informal arrangement whereby the de-facto control of such assets including their sale. transfer or pecuniary interest, is retained by him;

j) has not been adjudged a willful defaulter of any tax or other financial dues owed to the federal, a provincial, or a local government or any financial institution, including utility bills outstanding for six months or more;

k) has not been convicted by a court of competent jurisdiction on a charge of corrupt practice involving moral turpitude or misuse of power or authority under any law for the time being in force;

l) has not been sentenced to imprisonment for more than three months for an offence under any law and, a period of not less than five years has elapsed since his release, and in case of a member or a holder of a public office, has not been sentenced to imprisonment;

m) has not failed to file the required return of election expenses or is not convicted for exceeding the limits of election expenses prescribed under the electoral laws;

n) has not been declared an un-discharged insolvent by any court.

o) does not engage in any transaction involving pecuniary interest with the local government of which he is a member.

p) does not absent himself without reasonable cause from three consecutive meetings of the local government of which he is a member; proved that a member shall not be disqualified if the absence was necessitated by a national emergency or force majeure;

q) does not fail to attend a training course when required to do so by law;

r) has not been and is not involved, in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;

s) has not used for his election the platform, flag, symbol, and financial or material resources or support of political, religious, ethnic or sectarian party, formation or organization.

15. **Non-Party Elections.** (1) No Person contesting election to local government shall, directly or indirectly—

(a) present himself as a candidate or nominee of a political party;

(b) claim, draw or receive any financial or other assistance from any political party for the purposes of the election;

(c) bear, display or carry any document, sign, insignia, flag or any other thing indicating his association with, or affiliation to, a political party;

(d) seek the votes or sympathies of the people on party basis or on the basis of the manifesto of any political party; or

(e) seek the votes or support of the people by attributing direct or indirect party affiliation to any of his opponents.

(2) Whoever—

(a) is found by the Chief Election Commissioner to have contravened the provisions of sub-section (1) shall stand disqualified from being a candidate for election to a local government for a period of four years; or

(b) having been elected as a member of a local government is found by the Chief Election Commissioner to have contravened the provisions of sub-section (1) shall cease forthwith to hold the office of such member and stand disqualified from being a candidate for election to a local government for a period of four years.

16. **Joint candidacy and elections.** (1) A Zila Nazim and a Naib Nazim or a Town Nazim and a Naib Nazim or a Taluka Nazim and a Naib Taluka Nazim or a Union Nazim and a Naib Union Nazim shall contest election in their respective wards as joint candidates.

(2) The Nazim and the Naib Nazim or a district government or a town government or a taluka government securing as joint candidates the highest number of votes shall be declared elected.

(3) In case a Zila Nazim and a Naib Zila Nazim do not secure majority of the total votes of the members of the union councils in the district, there shall be held a fresh election, within one week of the first election, in which the joint candidates for such offices securing the highest and the second highest number of votes shall be contestants, and the joint candidates securing the highest number of votes in the fresh election shall be declared elected.

17. **Allocation of reserved seats.** (1) Reserved seats for the Zila council shall be divided among the towns in a city district or taluka in proportion to the number of unions in such towns or talukas.

(2) A town in a city district or a taluka shall be a multi-member ward for the reserved seats in the Zila council, town council in a city district or taluka council.

18. **Electoral rolls.** (1) The electoral rolls for local government elections shall be prepared by the Chief Election Commissioner in the manner he deems fit. These electoral rolls shall not be invalid by reason of any erroneous description therein of any person listed or of an omission of the name of any person entitled to be enrolled or of inclusion of the name of any person not so entitled.

(2) A person shall be entitled to be enrolled as voter if he—

(a) is a citizen of Pakistan;
(b) is not less than eighteen years of age on the first day of January of the year in which an election is to be held; provided that for the purpose of the first election under this Ordinance, the said date shall be the first day of January of the year 2000;
(c) fulfills such other conditions as the Chief Election Commissioner may specify.

19. **Bar against double membership.** The holder of an elective office may contest election for any other political office; provided that he resigns before filing his nomination papers for election to the new office.

20. **Term of office.** (1) The term of office of a local government shall be three years commencing on the day on which it assumes office:

Provided that a local government notwithstanding the expiry of its term of office, shall continue to hold office until its successor assumes office.

(2) A Zila Nazim, a Naib Zila Nazim, a Town Nazim, a Naib Town Nazim, a Taluka Nazim, a Naib Taluka Nazim, a Union Nazim or a Naib Union Nazim shall not hold the same office for more than two terms.

21. **Notification to be issued.** The result of every election or by-election shall be notified by the Chief Election Commissioner.

ELECTION OFFENCES.

22. **Corrupt practice.** A person is guilty of corrupt practice punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both, if he is guilty of bribery, personation or undue influence.

23. **Bribery.** A person is guilty of bribery, if he directly or indirectly, by himself or by any other person on his behalf.

(1) receives, agrees or contracts for any gratification for voting or refraining from voting, or for being or refraining from being a candidate at, or withdrawing or retiring from an election;

(2) gives, offers or promises any gratification to any person;

(a) for the purpose of inducting--

(i) a person to be or to refrain from being a candidate at an election; or

(ii) a voter to vote, or refrain from voting at any election; or

(iii) a candidate to withdraw or retire from an election; or

(b) for the purpose of rewarding—

(i) a person for having been or for having refrained from being a candidate at an election; or
(ii) a voter for having voted or refrained from voting at an election; or
(iii) a candidate for having withdrawn or retired from an election.

Explanation. In this section, 'gratification' includes a gratification in money or estimable in money and all forms of entertainment or employment for reward.

24. **Personation.** A person is guilty of personation, if he, votes or applies for a ballot paper for voting, as some other whether that person is living or dead or fictitious.

25. **Undue influence.** A person is guilty of undue influence, if he—

(1) in order to compel any person to vote, refrain from voting, or to induce or compel any person to withdraw his candidature at an election, directly or indirectly, by himself or by any other person on his behalf—

(a) makes or threatens to make use of any force, violence or restraint; or
(b) inflicts or threatens to inflict any injury, damage, harm or loss; or
(c) uses any official influence or government patronage; or

(2) on account of any person having voted or refrained from voting, or having withdrawn his candidature, does any of the acts specified in sub-section (1); or

(3) by abduction, duress or any fraudulent device or contrivance—

(a) impedes or prevents the free exercise of the franchise by a voter; or
(b) compels, induces or prevails upon any voter to refrain from voting or compels any voter to vote.

Explanation:- In this section, 'harm' includes social ostracism or ex-communication or expulsion from any caste or community.

26. **Illegal practice.** A person is guilty of illegal practice punishable with fine which may extend to one thousand rupees, if he—

(1) obtain or procures, or attempts to obtain or procure, the assistance of any officer or official of the Federal Government, a Provincial Government or a local government or authority to further or hinder the election of a candidate; or

(2) votes, or applies for a ballot paper for voting at an election knowing that he is not qualified for voting or is disqualified from voting; or

(3) votes, or applies for a ballot paper for voting more than once at any polling station; or

(4) removes a ballot paper or a ballot box from a polling station or destroys, damages or tampers with the ballot-box used at a polling station; or

(5) knowingly induces or procures any person to do any of the aforesaid acts; or,

(6) fails to provide statement of election expenses as required under this Ordinance; or

(7) makes or publishers a false statement—

(a) concerning the personal character of a candidate or his relation calculated to adversely affect the election of such candidate or, for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable ground for believing, and did believe, the statement to be true;

(b) relating to the symbol of a candidate whether or not such symbol has been allocated to such candidate; or

(c) regarding the withdrawal of candidate;

(8) knowingly, in order to support or oppose a candidate lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purpose of conveying voters to or from the polling station, except when a person conveys himself or any member of the household to which he belongs, to or from the polling station; or

(9) Causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

27. **Prohibition of canvassing.** A person is guilty of an offence punishable with fine which may extend to one thousand rupees, if he on the polling day in connection with the election—

(i) Convenes, calls or organizes within a ward any meeting; or

(ii) Within a radius of two hundred meters of the polling station

(a) Canvasses for votes; or

(b) solicits vote of any voter; or

(c) persuades any voter not to vote at the election or for a particular candidate; or

(d) exhibits, except with the permission of the returning officer and at a place reserved for the candidate or his polling agent beyond the radius of one hundred meters of the polling station, any notice, sign, banner or flag designed to encourage the voters to vote, or discourage the voters from voting, for any contesting candidate.

28. **Disorderly conduct near polling station.** A person is guilty of an offence punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, if he—

(1) uses, in such manner as to be audible within the polling station any gramophone, megaphone, loudspeaker or other apparatus for reproducing or amplifying sounds; or

(2) persistently shouts in such manner as to be audible within the polling station; or

(3) does any act which—

(a) disturbs or causes annoyance to any voter visiting a polling station for the purpose of voting; or
(b) interferes with the performance of the duty of a presiding officer, polling officer or any other person performing any duty at a polling station; or

(4) abets the doing of any of the aforesaid acts.

29. **Tempering with papers.** A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he;

(a) Fraudulently defaces or destroys and nomination paper or ballot paper; or

(b) Fraudulently takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other than the ballot paper he is authorized under the rules to put in; or

(c) Without due authority—

(i) Supplies any ballot paper to any person; or

(ii) Destroys, takes, opens or otherwise interferes with any ballot box or packet or ballot papers in use for the purpose of election; or

(iii) break any seal affixed in accordance with the provisions of the rules;

(d) causes any delay in interruption in the beginning, conduct or completion of the procedure required to be immediately carried out on the close of the poll; or

(e) fraudulently or without due authority attempts to do any of the aforesaid acts.

30. **Interference with the secrecy of voting.** A person is guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both, if he:

(I) interferes or attempts to interfere with a voter when he records his vote; or

(2) in any manner obtains or attempts to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted, or

(3) communicates at any time any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted.

31. **Failure to maintain secrecy.** Any candidate, or polling agent attending a polling station, or any person attending the counting of votes, is guilty of an offence punishable with imprisonment which may extend to six months, or with tine which may extend to one thousand rupees, or with both, if he-

(1) fails to maintain or aid in maintaining the secrecy of voting; or

(2) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

32. **Conduct of officials.** A presiding officer, polling officer or ay other officer or clerk performing a duty in connection with an election, or any member of a police force, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both, if he, in the conduct or management of an election maintenance of order at the polling station—

(1) persuades any person to give his vote; or

(2) dissuades any person from giving his vote; or

(3) influences in any manner the voting of any person;

(4) does any other act calculated to further or hinder the election of candidate; or

(5) fails to maintain or aid in maintaining the secrecy of voting; or

(6) communicates, except for any purpose authorized by any law, to any person before the poll is closed any information as to the name or number on the electoral roll of any voter who has or has not applied for a ballot paper, or has or has not voted at a polling station; and or

(7) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

33. **Breach of official duty.** A presiding officer or any other person employed by any such officer in connection with his official duties imposed by or under this Ordinance, is guilty of on offence punishable with fine which may extend to one thousand rupees, if he, without reasonable cause, does of omits to do an act in breach or any such official duty.

34. **Assistance by government servants.** A person in the service of the Federal Government, a Provincial Government, a local government or a body owned or controlled by the Federal or a Provincial Government is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both if he, in any manner, gives any assistance calculated to further or hinder *the election of a candidate*.

35. **Summary trial.** All offences under this Ordinance except the offences under section 22 shall be triable summarily under the Code of Criminal Procedure 1898.

36. **Cognizance.** No court shall take cognizance of the offences under sections 32, 33 and 34 except on the complaint in writing of the returning officer concerned.

37. **Overriding effect.** The provisions of this Ordinance shall have effect notwithstanding anything contained in the Sindh Local Government Ordinance 1979 (XII of 1979) or any other law for the time being in force.

38. **Removal of difficulties.** The Government or the Chief Election Commissioner may by order provide for the removal of nay difficulty which may arise in giving effect to the provisions of this Ordinance.

39. **Rules.** The Government may make rules to give effect to the provisions of this Ordinance.