

PART I
THE GAUHATI MUNICIPAL CORPORATION CORPORATION ACT, [1971]¹
[Assam Act 1 of 1973]²
(Published in the Assam Gazette, Extraordinary, dated the 18th January, 1973)

Whereas it is expedient to constitute a Municipal Corporation for the City of Gauhati, be it enacted in the Twenty-second year of the Republic of India as follows:

PART I
CHAPTER I
PRELIMINARY

1.Short title, application and commencement.-(1) This Act may be called the Gauhati Municipal Corporation Act, [1971]³

(2)Except as in hereinafter otherwise expressly provided it extends to the City of Gauhati.

(3)The provisions of this Act, except this Section, which shall come into force at once, shall come into force on such date⁴ as the State Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provisions.

2. Repeal of enactments and savings .- (1) As from the date of establishment of the Corporation, the Assam Municipal Act, 1956, [and]⁵ [the Panchayat Raj, Act, 1972]⁶ shall cease to have effect within the city. The Corporation shall be deemed to have been constituted with effect from the date of the first meeting of the elected Councillors held after the completion of the first general election under section 45.[The Assam Town and Country planning Act, 1959 shall apply and be in force within the territorial limits of the Corporation with effect from the date of coming into force of the Gauhati Municipal Corporation (Amendment) act, 1979.]⁷

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1. Subs, for “1969” by Assam Act XI of 1979.
 2. Received the assent of the President on the 1st January,1973, published in the Assam Gazette, Extraordinary, dated 18th January, 1973.
 3. Subs. For “1969” by Assam Act XI of 1979.
 4. Section 1 of the Act came into force w.e.f. 18.1.1973. All other sections of the Act came into force w.e.f. 15.02.1974 the date of the first meeting of the elected Councillors after the first General Election (vide Notification No. MA. 21/73/13, dated 11.2.1974, published in the Assam Gazette, Extraordinary, dated 13.2.1974.
 5. The word “and” substituted for the comma “,” by the Assam Act XI of 1979, w.e.f. 11.5.1979.
 6. Subs.for the words and figures “the Panchayat Act, 1959 and the Assam Town and Country Planning Act, 1959” by assam Act XI of 1979, w.e.f. 11.05.1979.
 7. Added by Assam Act XI of 1979, w.e.f. 11.5.1979.

(2) Notwithstanding the provisions of sub-section (1) of this section, —

(a) Any appointment, notification, order, scheme, rule, form notice or bye-law made or issued, and any licence or permission granted under any of the enactments referred to in sub-section (1) of this section and in force immediately before the establishment of the Corporation, shall continue to be in force and be deemed to have been made issued or granted under the provisions of this Act unless and until it is superseded by any appointment notification, order, scheme, rule, form, notice or bye-law made or issued or any licence or permission granted under the provisions of this Act;

(b) All debts, obligations and liabilities incurred. All contracts entered into and all matters and things engaged to be done by, with or for the Municipal Board or Town Committees functioning in the city before such establishment shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Corporation or the Municipal authority concerned;

(c) All budget estimates, assessment, valuations, measurements or divisions made by any of the aforesaid local authorities shall continue to be in force and be deemed to have been made under the provisions of this Act unless and until they are superseded by any budget estimate assessment, valuation, measurement or division made by the Corporation or the Municipal authority concerned under the said provisions;

(d) All properties, movable and immovable and all interest of whatsoever nature and kind therein, vested in any of the aforesaid local authorities immediately before such establishment shall, with all rights of whatsoever description used, enjoyed or possessed by any such body or authority, vest in the Corporation;

(e) All rates, taxes, fees, rents and other sums of money due to any of the aforesaid local authorities immediately before such establishment shall be deemed to be due to the Corporation;

(f) All rates, taxes, fees, rents fares and other charges shall, until and unless they are varied by the Corporation, continue to be levied at the same rate at which they were being levied by the aforesaid local authorities immediately before such establishment;

(g) All suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against any of the aforesaid local authorities may be continued by or against the Corporation; and

Every employee serving under the aforesaid local authorities immediately before such establishment shall become an employee of the Corporation with such designation as the Corporation may determine and hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have held the same if the Corporation had not been established and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Corporation:

Provided that the tenure, remuneration and the terms and conditions of service of any such employee shall not be altered to his disadvantage:

Provided further that any service rendered by any such employee before the establishments of the Corporation shall be deemed to be service rendered under the Corporation.

3. Definitions. For the purpose of this Act, unless there is anything repugnant in the subject of context.

- (1) "Assessment list" means the municipal assessment list prescribed by Section 156 and includes any list subsidiary thereto;
- (2) "Bakery or baking louse" means any place where bread, biscuits, confectionery and such other things are baked for the purpose of sale;
- (3) "Budget grant" means the total sum entered on the expenditure side of a Budget Estimate under a major head and which has been finally adopted by the Corporation and includes any sum by which such budget grant may be increased or reduced by transfer from or to other heads in accordance with the provisions of this Act, rules, regulations and bye-laws made there under;
- (4) "Building" includes a shop, house, hut, out-house, garage shed, privy, urinal, other roofed structure or stable for whatsoever purpose and of whatsoever material constructed and also a wall, but does not include a tent or other merely temporary shelter or shed erected on ceremonial or festive occasions;
- (5) "Building line" means a line which is in rear of the street-alignment and to which the main wall of a building abutting on a street may lawfully extend and beyond which no portion of the building may extend except as prescribed;
- (6) "Bye-law" means a bye-law made under this Act;
- (7) "Carriage" means any wheeled vehicle with springs or other appliances acting as springs, of a kind ordinarily used for conveyance of human beings and includes jinrickshaws, cycle-rickshaws, bicycles and tricycles but does not include perambulators and in particular does not include any motor vehicle as defined in the Assam Motor Vehicles Taxation Act, 1936;
- (8) "Cart" means any cart, hackney, or wheeled vehicle with or without spring, which is not a carriage as defined under sub- section (7);
- (9) "City of Gauhati" or "City" means the area within the boundaries to be specified by the State Government on this behalf and duly notified in the official Gazette from time to time as required under Section 42 of this Act.
- (10) "Commissioner" means the Commissioner appointed under Section 29 and includes a person appointed to officiate as Commissioner;
- (11) "Company" means a company including an existing company, private company and public company, as defined in the Companies Act, 1956 (Central Act I of 1956), and includes a Co-operative Society registered or deemed to have been registered under the Co-operative Society Act, 1959 (Assam Act I of 1960) or any re-enactment thereto;
- (12) "Compost manure" means the produce prepared from offensive matter, rubbish and sewage by subjecting them to the process of compost making in the manner prescribed by rules;
- (13) "Conservancy" means the removal and disposal of sewage, offensive matter and rubbish;
- (14) "Corporation" means the Municipal Corporation of Gauhati;
- (15) "Cream" means the portion of milk rich in milk-fat which has risen to the surface

of milk on standing and has been removed or which has been separated from milk by centrifugal force;

(16) “Cubical content” when used with reference to the measurement of a building means the space contained within the external surface of its walls and roof and the upper surface of the floor of its lowest or only storey;

(17) “Dairy” includes any farm, cattle-shed, cowhouse, from which milk-store, milk-shop or other places —

(a) From which milk is supplied for sale, or

(b) In which milk is kept for purposes of sale or used for manufacture or preparation for sale of say of the following articles:

(i) Butter,

(ii) Ghee,

(iii) Curds, and

(v) Dried, sterilised or condensed or tinned milk; but does not include —

(a) A shop or other place in which milk is sold for consumption on the premises only, or

(b) A shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place.

(18) “Dairy man” includes any occupier of a dairy, any cow-keeper who trades in milk, or any seller of milk whether wholesale or by retail;

(19) “Dairy produce” includes milk, butter, ghee, curd, buttermilk, cream, cheese and any and every product of milk.

(20) “Dangerous disease” means —

(a) Small-pox, cholera, dysentery, plague, tuberculosis, leprosy, enteric fever, diphtheria, cerebrospinal meningitis and syphilis; and

(b) Any other epidemic, endemic or infectious disease which the State Government may, by notification in the official Gazette, declare to be a dangerous disease for the purposes of this Act;

(21) “Domestic purposes”: — Supply of water for domestic purposes shall not be deemed to include a supply:—

(a) For animals or for washing carriage where such animals or carriages are kept for sale or hire;

(b) For any trade, manufacture or business other than those concerned with the manufacture or supply of articles of good and drink for human beings;

(c) For fountains;

(d) For watering gardens, roads or paths;

(e) For any ornamental or mechanical purpose;

(f) For building purposes;

(22) “Drain” includes a sewer a house drain, a drain of any other description, a tunnel a culvert, a ditch a channel, and any other device for carrying off sullage, sewage offensive matter, polluted water, rain water or sub-soil water;

1[(22-a) “Advertisement Prohibited Zone” means and includes an area or plot or ward or part of a ward, land on road side or river side, or such other sites or places within the Corporation as may be notified by Government from time to time;]”

(23) “Eating house” means any premises to which the public are admitted and whether any kind of food is prepared and or supplied to the public for consumption on the premises for the profit or gain or any person owning or having an interest in or managing such premises;

(24) “Entertainment” includes any exhibition, performance amusement, game or sport to which persons are usually admitted on payment;

(25) “Erect or re-erect” any building includes:—

(a) Any material alteration or enlargement of any building;

(b) The structural conversion into a place for human habitation of a building not originally constructed for human habitation;

(c) The structural conversion into more than one place for human habitation of a building originally constructed as one such place;

(d) The structural conversion of two or more places of human habitations into a great number of such places;

(e) Such alteration of the internal arrangement of a building as effects and alteration in its sanitary or drainage arrangement or affects its stability;

(f) The addition of any rooms, buildings, out houses or other structures to a building;

(g) The reconstruction of the whole or any part of the external walls of a building or the renewal of the posts of a wooden building;

(26) “Essential Service” means and includes services concerning health, sanitation and water supply organisation of the Corporation and also any other services declared or notified by the Corporation with approval of State Government from time to time as essential service;

(27) “Examiner” means the Examiner of Local Accounts, Assam and includes officer subordinate to him assigned for the purpose of Audit;

(28) “Factory” means a factory as defined in the Factories Act, 1948;

(29) “Fifth” includes night-soil, sewage and all offensive matters;

(30) “Financial Year” means the year commencement on the first day of April;

(31) “Food”, notwithstanding anything contained in the Prevention of Food Adulteration Act, 1954, includes every article used for food or drink by man other than drugs or water, and any article, which ordinarily enters into or is used in the composition or preparation of human food and also includes confectionery, flavouring, and colouring matter and spices and condiments;

(32) “Goods” includes animals;

(33) “Government” means the Government of the State of Assam;

(34) “Half year” means half of financial year;

(35) “Holding” means land held under one title or agreement and surrounded by one set of boundaries:

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse, or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act;

Explanation — Holdings separated by a road or other means of communication shall be deemed to be adjoining within the meaning of this provision:

Provided also that where land has been let out to occupants in separate parcels paying rents separately, each such parcel shall be treated as a distinct holding in spite of such parcels of land being held under one title.

(36) “House” means any hut, shop, warehouse, workshop, a masonry or framed building;

(37) “House-gully” means a passage or strip of land constructed, set apart, or utilised for the purposes of serving as a drain or affording access to a latrine, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal employee or persons employed in the cleansing thereof or in the removal of such matter there from and includes the air-space above such passage or land;

(38) “Hut” means any building which is constructed principally of wood, bamboo, mud, leaves, grass, cloth or thatch and includes any structure of whatever material made which the Corporation may declare to be a hut for the purposes of this Act;

(39) “Inhabitant” used with reference to a local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein;

(40) “Land” includes benefit to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and also land covered by water;

(41) “Latrine” means a place set apart for defeating or urinating or both and includes a closet of the dry or water carrying type and urinal;

(42) “Lay-out” means any area or plot of land demarcated or marked out into regular and convenient bits or divisions to utilise, sell, lease out or otherwise dispose of the same as sites for the construction of buildings and includes a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street;

(43) “Local authority” means the Municipal Corporation of Gauhati and also includes Municipal Boards, Town Committees, Panchayats and Development Authorities;

(44) “Lodging House” means a house in which visitors or other persons are lodged for hire for a night or more and where there is community of eating or sleeping accommodation;

(45) “Market” means any place where persons assemble for the sale and purchase of articles intended for food or drink or livestock or other merchandise;

(46) “Municipal Authority” means any of the Municipal Authorities specified in sub-section (2) of Section 4 of this Act;

(47) “Municipal drain” means a drain vested in the Corporation;

(48) “Municipal market” means a market belonging to or maintained by the Corporation;

(49) “Municipal Office” means the principal Office of the Corporation;

(50) “New Building” means and includes —

(a) Any building constructed or in the process of construction after the commencement of this Act;

(b) Any building which having collapsed or having been demolished or burns down for more than one-half of its cubical content is reconstructed wholly or partially after the commencement of this Act, whether the dimensions of the reconstructed building are same as those of the original building or not;

(c) Any building not originally constructed for human habitation after the commencement of this Act;

Explanation: — Clause (b) applies whether more than half the cubical content has collapsed or been demolished or burnt down at the same time or at different times.

(51) “Notification” means a notification published in the Official Gazette of the Government of Assam;

(52) “Nuisance includes any Act, commission palace or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep, or which is or may be dangerous to life injurious to health or property;

(53) “Occupier” means —

(a) Any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the building in respect of which such rent is paid or is payable;

(b) An owner in occupation of, or other wise using the land or building;

(c) A rent-fee tenant of any land or building;

(d) A licensee in occupation of any land or building;

(e) Any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(54) “Octroi” means a tax on the entry of goods into the limits of the city for consumption use of sate therein;

(55) “Offensive matter” includes animal carcass kitchen refuse and table refuse, dung, dirt and putrid or putrefying substances other than sewage;

(56) “Owner” includes —

(a) The person for the time belong receiving the rent of any land or building or of any part of any land or building whether on his own account or as agent or trustee for any person or society of for any religious or charitable purposes, or as a receiver, or who would so receive such rent if the land, building or part thereof were let to a tenant; and

(b) The person for the time being in charge part of the animal or vehicle, in connection with which the word is used;

(57) “Premises” means any land or building or part of a building and includes—

(a) The garden, ground and out-houses, it any, appertaining to a building or part of a building; and

(b) Any fittings affixed to a building or part of a building for the more beneficial enjoyment thereof;

(58) “Prescribed” mean prescribed under the provisions of this Act, rules, regulation, and byelaws;

(59) “Private lay-out” means a lay-out formed by an individual or body of persons whether incorporated or not;

(60) “Private road” means any street, road, square, court, alley or passage which is not a public road and includes a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premise;

(61) “Privy” means place for easing nature;

(62) “Public street” means any street, road, lane, gully, alley, passage pathway, square or court whether a thoroughfare or not, over which the public have a right of way, and includes —

(a) The roadway over any public bridge or cause way;

(b) The footway attached to any such street public bridge or causeway; and

(c) The drains attached to any such street, public bridge or causeway, and where there is no drain attached to any such street, shall unless the contrary is shown, be deemed to include also, all land up to the outer wall of the premises abutting on the street, or, if a street alignment has been fixed, then up to such alignment;

(63) “Rate” means —

- (a) The tax up to the rateable value of holdings;
- (b) License fees;
- (c) The water tax;
- (d) The lighting tax;
- (e) The drainage tax;
- (f) The scavenging tax;
- (g) The tax on private markets;

(64) “Rateable value” means the value of any land or building fixed in accordance with the provisions of this and the bye- laws made there under for the purpose of assessment to property tax;

(65) “Regulation” means a regulation made by the Corporation under this Act by notification in the official Gazette;

(66) “Reside” —

(a) A person shall be deemed to ‘reside’ in any dwelling house or hut which, or some portion of which, he sometimes, although not uninterruptedly, uses as a sleeping apartment; and

(b) A person shall not be deemed to cease to ‘reside’ in any such dwelling house or hut merely because he is absent from it or has elsewhere another dwelling house or hut in which he resides if there is the liberty of returning to it at any time and no abandonment of the intention of returning to it;

(67) “Rubbish” means dust, ashes, broken bricks, broken glass, mortar and refuse of any kind, which is not “offensive matter” as defined in this section;

(68) “Rule” means a rule made under this Act;

(69) “Scavenger” means a person employed in collecting or removing filth, in cleansing drains, latrines, or slaughterhouse or in driving carts used for the removal filth;

(70) “Schedule” means the Schedule appended to this Act;

(71) “Scheduled Caste” means any of the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950, for the time being in force;

(72) “Scheduled Tribes” means any of the tribes specified in the Constitution (Scheduled Tribes) Order, 1950, for the time being in force;

(73) “Sewage” means night-soil and other contents of privies, urinals, cesspools or drains and includes trade effluents and discharges from manufactories of all kinds;

(74) “Shed” means a slight or temporary structure for shade or shelter;

(75) “Slaughter-house” means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat;

- (76) "Street" includes any way, road, lane, square, court, alley, gully, passage, whether a thorough fare or not and whether built upon or not over which the public have a right of way and also the roadway or foot way over any bridge or causeway;
- (77) "Street line" means the line dividing the land comprised in and forming part of a street from the adjoining land;
- (78) "Tax" includes any toll, rate, cess, fee or other impost leviable under this Act;
- (79) "Trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises and in relation to any trade premises means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage;
- (80) "Trade premises" means any premises used or intended to be used for carrying on any trade or industry;
- (81) "Trade refuse" means the refuse of any trade or industry;
- (82) "Vehicle" includes a carriage, cart, van, dray truck, handcart, bicycle, tricycle, cycle-rickshaw, auto-rickshaw, motor vehicle and every wheeled conveyance, which is used or is capable of being used on a street;
- (83) "Ward" means a municipal ward provided by order made under Section 43 for the purpose of election of councillors;
- (84) "Water Course" includes any rivers, stream or channel whether natural or artificial;
- (85) "Water Works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water trucks, sluices, mains, pipes culverts, hydrants, stand pipes and conduits and all lands, buildings, machinery, bridges and things, used for, or intended for the purpose of supplying water;
- (86) "Workshop" means any premises (including the precincts thereof) other than a factory, wherein any industrial process is carried on;
- (87) "Year" means a year commencing on the 1st day of April.
- 1[(88) " State Finance Commission" means the Finance Commission constituted under Article 243-I of the Constitution of India;
- (89) " State Election Commission" means the Election Commission constituted by the Government of Assam and as referred to the Article 243-ZA of the Constitution of India.]

PART II
CONSTITUTION AND GOVERNMENT ADMINISTRATION OF THE CORPORATION
Chapter II
THE MUNICIPAL AUTHORITIES

4. Municipal Authorities

(1) There shall be a Corporation charged with the Municipal Administration of the city of Gauhati to be known as the Municipal Corporation of Gauhati.

1. Ins. By the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act XXVI of 1994), Section 2, w.e.f. 5. 5.1994.

(2) For the efficient performance of the functions of the Corporation there shall be the following Municipal Authorities under the Corporation, namely —

- ¹[(a) Corporation;
- (b) Mayor;
- (c) mayor-in-Council;
- (d) Ward Committee;
- (e) Area Sabha; and
- (f) Commissioner.]

The Corporation

5. Constitution of the Corporation. – ²[(1)(a)(i) There shall be one councillor for every population of at least 20,000 subject to a maximum of 31 members.]

(ii) Government may nominate not more than two persons having special knowledge or experience in Municipal administration, as members who shall have the right to attend and speak at all meetings of the Corporation but shall not have the right to vote. Such persons shall not be deemed to be Councillors for the purposes of this Act.

(iii) The members of the House of people and the members of the Assam Legislative Assembly representing the Constituencies which comprise fully or partly the Corporation Area, shall be the ex-officio members of the Corporation ³[***] ⁴[and who shall have the right to attend and speak at all meetings of the Corporation and shall have the right to vote.]

(iv) The members of the Council of States registered as electors within the Corporation area shall be the ex-officio members of the Corporation ⁵[and who shall have the to attend and speak at all meetings of the Corporation and shall have the right to vote.]

(v) Reservation of seats in the Corporation for the Scheduled Castes and Scheduled Tribes and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the Corporation as the population of the Scheduled Caste in the Corporation area or the Scheduled Tribes in the Corporation area bears to the total population of that area per the latest census figures and such seats may be allotted by rotation to different wards of the Corporation :

Provided that not less than one-third of the total number of seats reserved under this sub- section shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes :

Provided further that not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and Scheduled Tribes) of the total number of seats

1.Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2009, Act No. XVI of 2009, Section 2, w.e.f. 28.08.2009.

2.Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2009, Act No. XVI of 2009, Section 3, w.e.f. 28.08.2009.

3.Omitted by the Guwahati Municipal Corporation (Amendment) Act, 2005, Section 2, w.e.f. 07.03.2005.

4.Ins. by the Guwahati Municipal Corporation (Amendment) Act, 2005, Section 2, w.e.f. 07.03.2005.

5.Ins. by the Guwahati Municipal Corporation (Amendment) Act, 2005, Section 2(ii), w.e.f. 07.03.2005.

to be filled by direct election in the Corporation shall be reserved for women and such seats may be allotted by rotation to different wards of the Corporation :

¹[Provided further that the office of the Mayor shall be reserved for the Scheduled Caste, the Scheduled Tribes and women on roster basis and six per cent, four per cent and forty per cent of the roster points shall be reserved for the Scheduled Castes, the Scheduled Tribes and women respectively in the manner set out in the Fifth Schedule :

Provided further that the State Government may, from time to time, review the implementation of reservation and take adequate measures including increase or decrease of percentage mentioned in preceding proviso :

Provided also that the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Corporation shall continue as long as special representation for the Scheduled Castes and the Scheduled Tribes continue to be provided for in the Constitution of India.]

²[(vi) Seats reserved Scheduled Castes and the Scheduled Tribes under sub-clause (v), shall be determined by the State Government by order published in the official Gazette :

Provided that such seats reserved for Scheduled Castes and the Scheduled Tribes may be allotted by rotation to different wards in such manner as the State Government may, by order published in the official Gazette, direct.

(vii) The number of seats reserved for women belonging to Scheduled Castes and the Scheduled Tribes form amongst the seats reserved for Scheduled Castes and the Scheduled Tribes under first proviso to sub-clause (v) shall be determined by the State Government by order published in the official Gazette ;

Provided that such seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes may be allotted by rotation to different wards in such manner as the State Government may, by order published in the official Gazette, direct.

(viii) The number of seats reserved for women belonging to general category under second proviso to sub-clause (v) shall be determined by the State Government by order published in the official Gazette ;

Provided that such seats reserved for women belonging to general category may be allotted by rotation to different wards in such manner as the State Government may, by order publishing in the official Gazette, direct.

³[(ix) The term of office of the Mayor and the Deputy Mayor shall be one year from the date of their elections.]]

(b) All the Councillors shall be elected by direct election on the basis of adult suffrage as stipulated in the Representation of the People Act, 1950 (Central Act, XLIII of 1950) from various wards into which the city shall be divided in accordance with the provisions of this Act and the rules made thereunder.

1. Third proviso below (v) substituted vide Assam Act, XXII of 1995.

2. Clauses (vi) to (ix) inserted vide Assam Act XIII of 1995.

3. Clauses (ix) substituted vide Assam Act XXII of 1995.

Explanation — For the purposes of this Act, “population” shall mean the population as ascertained at the latest census of which the relevant figures have been published.

(2) Incorporation of Corporation.- The Corporation shall be the name of the Municipal Corporation of Gauhati be a body corporate and have perpetual succession and a common Seal and may be such name sue and be sued.

(3) Power of Corporation as regard movable & immovable property. - The Corporation shall have power to acquire and hold property, both movable and immovable within or without the limits of the city, and subject to the provisions of this Act, the rules and bye-laws made thereunder, to transfer or to acquire any property and to contract and do all other things necessary for the purpose of this Act.

COMMENT

Election – Mayor or Deputy Mayor .- The date of election and term of office of Mayor or Deputy Mayor would mean the date of publication of result of the election in the Official Gazette. [Abdul Mazid v. State of Assam, 2006 (Supp) 1 GLT 521].

6. General Power of the Corporation.- (1) Subject to the provision of this Act and rules and bye-law made thereunder, the Municipal administration of the city shall vest in the Corporation, and the Corporation shall be entitled to exercise or discharge any powers, duties and functions expressly assigned by or under this Act or any other Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), it shall be the duty of the Corporation to consider all periodical statements of receipts and disbursements and all progress reports and pass such resolutions thereon as it thinks fit.

7. Matter to be provided by Corporation.- It shall be incumbent on the Corporation to make adequate provision by any means or measures which it is lawfully competent to use or take for each of the following matters, namely —

- (1) The construction, maintenance and cleaning of drains and drainage works and public latrines urinals and similar conveniences;
- (2) The construction and maintenance of works and means for providing a supply of water for public and private purposes;
- (3) The scavenging, removal and disposal of filth rubbish and other obnoxious or platted matters;
- (4) The reclamation of unhealthy localities the removal of noxious vegetation and generally the abatement of all nuisances;
- (5) The regulation of places for the disposal of the dead and the provision and maintenance of places for the said purpose;
- (6) The registration of births and deaths;
- (7) Public vaccination and inoculation;
- (8) Measures for preventing and checking the spread of dangerous and contagious diseases;

- (9) The establishment and maintenance of hospitals, dispensaries and maternity and child welfare centres and the carrying out of other measures necessary for public medical relief;
- (10) The construction and maintenance of municipal markets and slaughterhouses and the regulation of all markets and slaughterhouses;
- (11) The regulation and abatement of offensive or dangerous trades or practices;
- (12) Maintenance of fire brigade and the protection of life and property in case of fire;
- (13) The securing or removal of dangerous building and places;
- (14) The construction, maintenance, alternation and improvement of public roads, streets, bridge, culverts, causeways and the like;
- (15) The removal of obstructions and protections and unauthorised occupation in or upon streets, bridges and other public places;
- (16) The naming and numbering of streets and premises, correction and installing of statues of important personalities;
- (17) The maintenance of a Municipal Corporation office and of all public monuments and open spaces and other property vesting in the Corporation;
- (18) The establishment and maintenance of cattle pounds;
- (19) The construction and maintenance of residential quarters for the Corporation staff including conservancy staff;
- (20) The maintenance of ambulance service;
- (21) The provision of Public Park, garden, playgrounds and recreation grounds;
- (22) The lighting, watering and cleansing of public streets and other public places;
- (23) Subject to adequate provision being made for the matter specific above the provisions of relief to destitute persons in the city in times of famine and scarcity and the establishment and maintenance of relief working in such times;
- (24) Taking of measures against food adulteration including milk, ghee, mustard oil, rice, atta, and other food stuff; and
- (25) The fulfilment of any other obligation imposed by or under this Act or any other law for the time being in force.

8. Matters which may be taken by Corporation at its discretion.- Subject to any law, rule or regulation in force the Corporation may in its discretion provide from time to time, solely or partly for all or any of the following matters namely: —

- (1) The establishment, adding or maintenance of educational institutions, libraries, museums, art galleries, botanical or zoological collection;
- (2) The establishment and maintenance of and aid to, stadium, gymnasias and places for sports and games;

- (3) The planting and care of trees on roadsides, and elsewhere;
- (4) The surveys of buildings and lands;
- (5) The registration of marriages;
- (6) The taking of a census of population;
- (7) The civil reception to persons of distinction;
- (8) The providing of music or other entertainments in public place or places of public resort;
- (9) The holding of fairs and exhibitions;
- (10) The organisation maintenance or management of institutions within or without the city, for the care of persons who are destitute infirm, sick or incurable, or for the care and training of blind, deaf, music or otherwise disabled persons or of handicapped and uncared for children;
- (11) The organisation, maintenance or management of maternity and infant welfare homes or centres;
- (12) The purchase and maintenance of dwelling houses for Corporation employees;
- (13) Any measures for the welfare for the Corporation employees or any class of them including the sanctioning of loan to such employee or any class of them for construction of houses and purchase of vehicles;
- (14) The organisation or management of chemical or bacteriological laboratories for the examination or analysis of ware, food adulteration and drugs for the detection of adulteration or of causes of discuses or for research connected with the public health and medical relief;
- (15) The establishment and maintenance of veterinary hospitals;
- (16) The organisation, construction, maintenance and managements of swimming pools, public houses, bathing place and other institutions designed for the improvement of public health;
- (17) Dairies or farms within or without the city for the supply, distribution and processing of milk products for the benefit of the residents of the city;
- (18) The provision of milk to expectant or nursing mothers or infants or school children;
- (19) The construction and maintenance in public street or places drinking fountains for human being and water through for animals;
- (20) The regulation of lodging houses, camping grounds and rest houses in the city;
- (21) The construction, establishment and maintenance of theatres, cinemas, petrol pumps and other public buildings;

- (22) The organisation and maintenance of shops or stalls for meeting the daily necessities of life in times of scarcity.
- (23) The prevention of cruelty to animals;
- (24) Contributions towards and public fund raised for the relief of human suffering or for the public welfare;
- (25) The acquisition and maintenance of grazing grounds and the establishment and maintenance of breeding stud;
- (26) Establishing and maintaining a farm or factory for the disposal of sewage;
- (27) The construction and maintenance of warehouses and godowns;
- (28) The construction and maintenance or regulation of garages, sheds and stands for vehicles and cattle buyers;
- (29) The organisation and management of cottage industries, handicraft centres and sales emporia;
- (30) Establishing labour welfare centres for its employees and subsidising the activities of any association, union of club or crèche of such employees by grant of loans for its general advancement;
- (31) The maintenance of a band orchestra;
- (32) Establishing or assisting in the establishment of information centres, wherefrom the public may readily obtain information concerning services, available within the city, provided by the Corporation or by Government and any other information relating to Municipal Administration affecting the city;
- (33) Subject to conditions or restrictions, if any as the Government may specify —
 - (i) Arranging for the publication, within its area, of information on questions relating to Municipal Administration;
 - (ii) Arranging for the delivery of lectures and addresses and the holding of discussions on such questions and arranging for this purpose display of books, cinematograph, films or models or the holding of exhibitions relating to such questions;
- (34) Preparing or joining in the preparation or contributions to the cost of the preparation of pictures, films, models or exhibition to be displayed or held as aforesaid;
- (35) With the consent of the Government contributing towards the expenses of any Co-operative organisation carrying on activities within the area of the Corporation, for the purpose of promoting the development of trade, industry or commerce therein;
- (36) The acquisition of immovable or movable property for any of the purposes before mentioned including payment of the cost of investigation, surveys or examinations in relation thereto for the construction or adaptation of buildings necessary for such purposes;

(37) Any measure not herein before specifically mentioned, likely to promote public safety, health, convenience or general welfare;

(38) The regulation of trade and commerce within the limits of the City Corporation;

(39) The regulation of the distribution of electric power within the city;

(40) The regulation of streams, nallas and pipe carrying water, rubbishes and effluents through the city; [***]

(41) The doing of anything the expenditure whereof is declared by the Corporation to be an appropriate charge on the Corporation Fund.

²(42) Urban planning including town planning;

(43) Regulation of land use and construction of buildings;

(44) Planning for economic and social development;

(45) Slum improvement and upgradation;

(46) Urban poverty alleviation.]

9. ³[Mayor-in Council] and Commissioner to give effect to resolutions of Corporation.- The Mayor, the ⁴[Mayor-in Council] and the Commissioner shall give effect to every resolution of the Corporation unless such resolution relates to a matter in which, under the provisions of this Act or the Rules, bye-laws and regulations made thereunder the decision of the Mayor, the Standing Committee or the Commissioner as the case may be, is final.

10. Power of Corporation to call for extracts proceedings etc.- The Corporation or the Mayor may at any time call for the proceedings of a ⁵[Mayor –in-Council] or of any Committee or for any return, statement, accounts of report connected with and matter with which such Committee is empowered to deal.

11. Power of Corporation and ⁶[Mayor –in-Council] for requisition of Commissioner’s records.- (1) The Corporation or the ⁷[Mayor –in-Council] may at any time require the Commissioner—

(a) To produce any record correspondence, plan or other document which is in his possession, or under his control as Chief Officer;

1. Omitted by the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act No. XXVI of 1994), Section 4 (i), w.e.f. 5.5.1994.

2. Ins. by the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act No. XXVI of 1994), Section 4 (ii), w.e.f. 5.5.1994.

3. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, Section 3, w.e.f. 9.3.2006.

4. Ibid.

5. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, Section 3, w.e.f. 9.3.2006.

6. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, Section 3, w.e.f. 9.3.2006.

7. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, Section 3, w.e.f. 9.3.2006

(b) to furnish any return, plan, estimate, statement, account of statistics connected with the Municipal Administration;

(c) To furnish a report by himself or to obtain from any Head of Department subordinate to him and furnish with his own remarks thereon a report upon any subject connected with the Municipal Administration.

(2) The Commissioner shall comply with every such requisition unless in his opinion immediate compliance therewith [would]¹ be prejudicial to the interest of the [Corporation]² or of the public, in which case he shall make a declaration in writing to that effect and shall, if required by the Commissioner or the Standing Committee, at the case may be, refer the case to the [Government]³ whose decision shall be final.

12. Appointment of Joint Committee.- (1) The Corporation may, and if so required by Government shall join with a local authority or authorities in appointing a Joint Committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.

(2) A Joint Committee may include persons who are not members of the Local Authorities concerned but who may in their opinion possess special qualifications for serving on such Committees:

Provided that the number of such persons shall not exceed one third of the total number of members of the Joint Committee.

(3) The constitution of a Joint Committee shall be by means of regulations which shall not, except in the cases referred to in sub-sections (6) (7) have effect unless assented to by each of the Local Authorities concerned.

(4) The regulations shall determine —

(a) The total number of members of the Joint Committee;

(b) The number who shall be members of the Local Authorities concerned and the number who may be outsiders;

(c) The persons who shall be members of the Joint Committee or the manner in which he shall be elected or appointed;

(d) The person who shall be the Chairman of the Joint Committee or the manner in which he shall be elected or appointed;

(e) The terms of office of members and Chairman;

(f) The powers, being powers exercisable by one or more of the Local Authorities concerned, which may be exercised by the Joint Committee; and

(g) The procedure of the Joint Committee;

1. Subs. for the word "could" vide *ibid.*

2. Subs. for the word "Commissioner" vide *ibid.*

3. Subs. for the word "Commissioner" vide *ibid.*

(5) Regulations made under sub-section (3) and (4) may be varied or revoked, provided that all the Local Authorities concerned assent to such variation or revocation;

(6) If the Government take action under sub-section (1), they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-sections (3) and (4);

(7) If any difference of opinion arises between Local Authorities under any of the foregoing provisions of this section, it shall be referred to the Government whose decision shall be final.

Provided that, if the Local Authority concerned is a Cantonment Authority any such decision shall not be binding unless it is confirmed by the Central Government.

13. Duties and powers of individual Councillor.- Any Councillor may call the attention of the proper Authority to any neglect in the execution of the municipal works, to any waste of municipal property, or to the wants of any locality, and may suggest any improvements which he considers desirable.

(2) Every Councillor shall have the right to interpolate the Mayor on matters connected with the Municipal Administration subject to such regulations as may be framed by the Corporation.

14. Mayor Deputy Mayor or Councillor not to receive remuneration.- Neither the Mayor nor the Deputy Mayor nor any Councillor shall receive or be paid from the funds at the disposal of or under the control of Corporation any salary or other remuneration for services rendered by him in any capacity whatsoever:

Provided that nothing in this section shall apply to the payment of any conveyance allowance or travelling allowance or daily allowance to the Mayor or the Deputy Mayor or any Councillor by the Corporation at such rate as may be determined by rules made by the State Government in this behalf.

¹[15. Election of Deputy Mayor, Presiding Officer and Deputy Presiding Officer.-

²[(1) The Corporation shall at its first meeting after the first day of January each year, elect—

(a) One of its Councillors to be the Mayor; and

(b) One of its Councillors other than the Mayor to be the Deputy Mayor;]

(2) The Corporation shall at its ³[second] meeting to be presided over by the Mayor, elect the Presiding officer and Deputy Presiding officer of the Corporation from amongst the elected Councillors for a period of two years and six months.

15-A. Constitution of Mayor- in- Council.- (1) There shall be a Mayor-in Council for the Corporation which shall be constituted by the Mayor from amongst the elected Councillors within fifteen days from the date of making oath.

1. Subs. By the Guwahati Municipal Corporation (Amendment) Act, 2006, Section 5, w.e.f. 9.3.2006.

2. Subs. By the Guwahati Municipal Corporation (Amendment) Act, 2009, Act No. XVI of 2009, Section 4, w.e.f. 28.8.2009.

3. Subs. By the Guwahati Municipal Corporation (Amendment) Act, 2009, Act No. XVI of 2009, Section 4 (ii), w.e.f. 28.8.2009.

(2) The Mayor-in Council shall consist of the Mayor and the Deputy Mayor and seven members of elected Councillors, to be nominated by the Mayor. The Members of the Mayor-in Council shall hold office during the pleasure of the mayor.

15-B. Removal of Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of a Committee.- (1) the Government may at any time remove a of Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, if his continuance as a of Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, as the case may be, is not, in the opinion of the Government, desirable in the public interest or in the interest of the Corporation or if it is found that he is incapable of performing his duties or he is working against the provisions of this Act or rules may thereunder.

(2) As a result of the order of removal of Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, as the case may be, has been removed from the office of Councillor also. At the time of passing order under sub-section(1), the Government may also pass such order that the of Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee as the case may be, shall be disqualified to hold the office of Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, as the case may be, for the next term:

¹[(3) Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee as the case may be, may be removed from his office by way of a no-confidence motion approved by a simple majority of the elected Councillors in a meeting of the Corporation requisitioned for the purpose by not less than one third of the Councilors on the ground of his proved misbehavior or in capacity or corruption or financial irregularities or activities against the public interest or against the interest of the Corporation or activities contrary to the provisions of this Act or the rules may thereunder.

(4) in the event of removal of the Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, as the case may be, under sub-section (3), the Corporation shall elect one of each Councillors other than the removed Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, as a Mayor or Deputy Mayor or Presiding Officer or Deputy Presiding Officer or Chairman of any Committee, as the case may be, within 15 days of such removal, for the remaining term of the Corporation.

(5) In case of a meeting requisitioned for removal of Presiding Officer, the requisition shall be submitted to the Deputy Presiding officer of the Corporation and Deputy Presiding officer shall preside over the requisitioned meeting.]

Provided that no such order under this section shall be passed unless a reasonable opportunity of being heard is given .]

16. Resignation of Mayor.- (1) The Mayor may resign his office by giving notice in writing to the Corporation and his resignation shall take effect from the date on which it is placed before the Corporation.

(2) The Deputy Mayor may resign his office by giving notice in writing to the Mayor and his resignation shall take effect from the date on which it is received by the Mayor.

1. Ins. By Guwahati Municipal Corporation (Amendment) Act, 2009, (Act No. XVI of 2009), Section 5, w.e.f. 28.8.2009.

17. Prerogative of the Mayor.- (1) The Mayor is the head of the Corporation and shall be responsible to the Corporation and he shall have full access to all the records of the Corporation and shall obtain reports from the Commissioner on any matter connected with the administration of the Corporation.

(2) All correspondence between the Corporation and Government or other authority shall be conducted by the Commissioner:

[Provided that no letter shall be sent to the Government by the Commissioner without sending a copy thereof to the Mayor on receipt of which the Mayor may furnish his view, if any, to the Government.]¹

²[(3) The mayor shall, for convenient transaction of the business of the Corporation, allocates among the members of the Mayor-in- Council, such business and in such a manner as he thinks fit.]

³**18. Function of Mayor and Presiding Officer.-** (1) The Mayor or in his absence , the Deputy Mayor, shall preside over all meetings of the Mayor-in-Council of the Corporation and his decision and rulings in conducting the proceedings of the meetings shall be final.

(2) The Presiding Officer or in his absence, the Deputy Presiding Officer, shall preside over all the meeting of the Corporation and shall be solely responsible for maintenance of discipline in the meetings of the Corporation.]

19. Functions of Deputy Mayor.- (1) When the office of the Mayor is vacant his functions shall devolve upon the Deputy Mayor until a new Mayor is elected.

(2) When the Mayor is absent from his duty on account of illness or any other cause, the powers, duty and functions [other than the prerogatives of the Mayor]⁴ Mayor shall be exercised and performed by the Deputy Mayor.

(3) The Mayor may, by an order in writing delegate any of his functions to the Deputy Mayor.

THE STANDING COMMITTEE

20. Constitution of Standing Committee.- There shall be Standing Committee dealing respectively with, —

(i) Taxation and Finance, and Planning and Development (or Standing Finance Committee);

(ii) Public works;

(iii)⁵[x x x], Conservancy and Water Supply;

(iv) Assessment, Markets and Trades;

1. Subs. By the Assam Act XI of 1979, w.e.f. 11.5.1979.

2. Ins. vide the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 6, w.e.f. 9.3.2006.

3. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 7, w.e.f. 9.3.2006.

4. Ins. By the Assam Act XI of 1979, w.e.f. 11.5.1979.

5. Omitted by the Guwahati Municipal Corporation (Amendment) Act, 2005 (Act No. XXXV of 2005), Section 2(i), w.e.f. 7.9.2005.

(v) Appeals.

¹[(vi) Public Health, Sanitation and Environment;]

²[(vi) Planning and Development including matters related to Disaster Management, building, permission, license etc.

(viii) Any other matter related to the Corporation.]

³[20-A. Constitution of Area Sabhas and Ward Committees and their function.-

The Area Sabhas and Ward Committee of the Corporation shall be constituted under the Assam Nagara Raj Act, 2007, and shall discharged then duties and functions in accordance with the provisions of the said Act.]

⁴[21. Filling up of vacancy in Mayor-in-Council.- When a vacancy occurs in Mayor-in-Council the Mayor shall fill up the vacancy as soon as may be by the nomination of another Councillors.]

22. Function of ⁵[Mayor-in Council].- the Corporation shall by regulations framed for the purpose determine the powers and duties of each ⁶[Mayor-in Council] and may by such regulations provide for a conference of two or more Standing Committees or a Joint Committee for any purpose in respect of which they may be jointly interested.

23. Special powers of ⁷[Mayor-in Council].- (1) The Standing Committee dealing with finance and taxation, etc. (hereinafter referred to as the ⁸[Mayor-in Council] in addition to the powers, duties, and function determined under the regulation referred to in Section 22,-

(a) shall supervise the utilization of the budget grants;

(b) shall have access to the accounts of the Corporation and may require the Commissioner to furnish any explanation which it considers to be necessary as to the receipts and expenditure of the Municipal Fund;

1. Ins. vide the Guwahati Municipal Corporation(Amendment) Act,2005 (Act No. XXXV of 2005), Section 2(ii), w.e.f. 7.9.2005.

2. Ins. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 8, w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. XVI of 2009), Section 6, w.e.f. 28.8.2009.

4. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 9, w.e.f. 9.3.2006.

5. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

6. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

7. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

8. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

(c) may conduct a monthly audit of the Municipal accounts and shall be bound to check the monthly abstract or receipts and disbursements for the preceding month as furnished by the Commissioner;

(d) may recommend to the Corporation the writing off of the account of any loss of, or of any depreciation caused to, municipal property which appears to the Committee to be irrecoverable.

¹[24. X X X]

25. Delegation of powers to Commissioner by ²[Mayor-in Council].- In any case in which it is provided by this Act or any other law that the Commissioner may take action subject to the approval, sanction, consent or concurrence of a ³[Mayor-in Council], the Committee may, by resolution in writing , authorize him to take action in anticipation of its approval, sanction, consent or concurrence subject to such conditions, if any, as may be specified in such resolution.

³[26. X X X]

⁴[27. X X X]

⁶[28. X X X]

THE COMMISSIONER

29. Appointment of Commissioner.- Immediately after coming into force of this Act the State Government shall depute and appoint an officer of sufficient seniority and experience as Commissioner of the Corporation on such terms and conditions, as the former may determine. He shall not be a member of the Corporation, but shall be a whole time officer of the Corporation and shall have the right to attend all the meetings of the Corporation without any right of voting.

30. Power and function of first Commissioner.- Notwithstanding anything contained in this Act, the first Commissioner appointed by Government under Section 29, shall perform only such functions under this Act as are specifically notified by the Government for the purpose of holding of the first general election of the Councillors and convening of the first meeting of the Corporation for the election of Mayor, Deputy Mayor and Members of ⁷[Mayor-in-Council] under Section 15 and for convening of the first meeting of the Standing Committee for electing Chairman and Deputy Chairman under Section 26 and shall thereafter perform all functions of the Commissioner under the Act.

1.Omitted vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 10, w.e.f. 9.3.2006.

2. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

4.Omitted vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 10, w.e.f. 9.3.2006.

5. Omitted vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 10, w.e.f. 9.3.2006.

6. Omitted vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 10, w.e.f. 9.3.2006.

7. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

31. Salary and allowances of Commissioner.- The pay and allowances of the Commissioner as may from time to time be fixed by the State Government, shall be paid in the first instance from the consolidated fund of the State. The whole of the pay and allowances paid to the Commissioner and the contributions towards his leave salary and pension to the extent required shall be credited monthly to the State fund by the Corporation.

32. Leave of Commissioner.- (1) Leave may be granted to the Commissioner by the State Government on the recommendation of Mayor.

(2) Whenever such leave is granted to the Commissioner the State Government shall appoint another person to officiate as Commissioner in his place.

33. Appointment of officiating Commissioner in case of death, resignation or removal.- If any vacancy occurs in the office of the Commissioner on account of death, resignation or removal the State Government may appoint another person to officiate as Commissioner in his place for a period not exceeding two months pending the appointment of Commissioner under Section 29.

34. Power of Commissioner.-Subject, whenever it is hereinafter expressly directed, to the sanction of the Corporation or the ¹[Mayor-in-Council], as the case may be, and subject to all other restrictions, limitations and conditions hereinafter imposed, the executive power for the purposes of carrying out the provisions of this Act shall be vested in the Commissioner, who shall also perform all the duties and exercise all the powers specially imposed or conferred on him otherwise.

COMMENT

Power of Commissioner to change the promotion policy.- Commissioner has no authority to change the promotion policy, it is only the Corporation who can change the policy.[Naresh Ch. Goswami v. Gauhati Municipal Corporation, Gauhati and another, 1996 (1) GLT 319.]

35. Emergency Power of the Commissioner.- The Commissioner may in case of emergency direct the execution of any work or doing of any act which would ordinarily require the approval, sanction concurrence or consent of the Corporation or the Mayor and the immediate execution or the doing of which is, in his opinion necessary for the service or safety of the public, or for the prevention of extensive damage to any property of the Corporation, and may direct that expenses for executing the work or of doing the act shall be paid from the Municipal Fund, provided that the Commissioner shall report forthwith to the Mayor, the action taken under this section and the reason thereof.

36. Custodian of Records.- The Commissioner shall be responsible for the custody of all records of the Corporation including all papers and documents connected with the proceedings of the Corporation, the Standing Committees and other Committees, and shall arrange for the performance of such duties relative to the proceedings of the said bodies as they may respectively impose.

37. Delegation of Commissioner's ordinary power.- The Commissioner may delegate to the holder of any municipal office any of hi ordinary powers, duties or functions

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

except those conferred or imposed upon or vested in him by the following provisions, namely, sub-section (1) of Section 41, Section 52, Section 119, sub-section (1) of Section 136, Section 337, Sections 342 to 345 (inclusive) and Section 372.

Provided that :—

- (a) Such delegation shall be in writing and shall specify the name or official designation of the person to whom the delegation is made;
- (b) Such delegation is reported to the Mayor;
- (c) The Commissioner shall not delegate his power under Section 97 to make, on behalf of the Corporation, any contract involving in expenditure exceeding one thousand rupees;
- (d) When the Commissioner delegates under this section any power or duty which is exercisable or is required to be performed subject to the approval of any other authority, the Commissioner shall send a copy of the order of delegation to such authority.

38. Power of the Commissioner exercisable with the approval of the ¹[Mayor-in-Council].- Whenever the Commissioner takes any action in anticipation of the approval, sanction, consent or concurrence of the Corporation in pursuance of the powers delegated to him under Section 35 he shall forthwith inform the Mayor.

39. Reservation of control in respect of power delegated.- The exercise or discharge by any municipal officer of any powers, duties or functions delegate to him under Section 37 shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the Commissioner and shall also be subject to his control and revision.

40. Delegation of Commissioner's emergency powers.- The Commissioner may on his own responsibility and by an order in writing authorise the Health Officer the Engineer, the Revenue Officer or any other officer who is the head of a department working under the Commissioner, or any person in temporary charge of the duties of any of he offices aforesaid to exercise the emergency powers conferred upon him by Section 35.

ADMINISTRATION REPORT

41. Submission of all Administration report to Government.- (1) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government, the Commissioner shall prepare a detailed administration report on the preceding year in such form as the Government may prescribe.

(2) The Corporation shall consider the report and forward the same to the Government with their resolution thereon, if any.

(3) Copies of the administration report shall be kept for sale at the municipal office.

CHAPTER III ELECTION OF COUNCILLORS

42. Declaration of local areas as Gauhati city.- (1) For the purposes of this ct the areas within the limits to be specified by the State Government in this behalf and duly notified in the Official Gazette shall constitute the city of Gauhati.

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

(2) The Government may, from time to time after consultation with the Corporation, by a notification in the official Gazette, after the limits so as to include therein, or to exclude therefrom, such area as is specified in the notification.

(3) The power to issue a notification under sub-section 2 shall be subject to be following conditions namely —

(a) A draft of the proposed notification shall be published in the official Gazette for the information of all persons likely to be affected thereby inviting objections and suggestions within 60 days from the date of such publication as may be specified in such notification;

(b) A copy of the draft notification shall be referred to the Corporation for expressing its views thereon within the period specified in such notification; and

(c) Such draft shall not be further proceeded with until after the period specified in the notification has expired;

(d) On the expiry of the period specified in the notification issued under clause (a) of the sub-section and after considering any objection or suggestion which may be received by Government within the specified period of the said notification, the State Government may by notification within a period of six months from the expiry of the period specified in the notification referred to above include the proposed area or any part thereof in the Corporation or exclude it therefrom.

43. Delimitation of wards.- (1) For the purposes of election of councillors the Corporation with the approval of the Government shall,-

(a) Divide the city into such member of wards as there are councillors to be elected; and

(b) Determine the extent of each ward.

(2) Each ward shall return one councillor and all the electors of a ward shall be entitled to vote for election of a councillor from that ward.

44. Power to alter or amend delimitation order.- The Government may from time to time after consulting the Corporation, by order published in the official Gazette, after or amend any orders made by the Corporation under Section 43.

45. Election of Councillors.- The election of Councillors shall be held in the prescribed manner.

46. Qualifications for Councillorship.- ¹[A person shall not be qualified to be chosen as a councillor unless-

(i) His name is registered as an elector in the electoral roll for any ward in the city;and

(ii) He furnishes a declaration in the form of an affidavit, in the format as appended in the Sixth Schedule, at the time of filing nomination paper, containing the following information, which shall be made public by the respective returning officers by displaying a copy of the affidavit on the Notice Board of his office-

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act,2003 (Act No. VII of 2004), Section 2, w.e.f. 2.3.2004.

(a) Whether the candidate has been convicted/acquitted/discharged of any criminal offence in the past and if convicted, whether he was punished with imprisonment or fine;

(b) Prior to six months of filing of nomination whether the candidate is accused in any pending case, of any offence punishable with imprisonment for a term of two years or more, and in which charge is framed or cognizance has been taken by the Court. If so, the details thereof;

(c) The assets (immovable, movable, bank balances etc.) of a candidate and of his/her spouse and, that of dependents;

(d) Liabilities, if any, particularly whether there are any overdues of any public Financial Institutions or Government dues;

(e) The educational qualifications of candidate.]

47. Disqualifications for Councillorship of Corporation.- (1) A person shall be disqualified for being chosen as, and for being, a councillor —

(a) If he is of unsound mind and stands so declared by a competent court;

(b) If he is an undischarged insolvent;

(c) If he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State;

(d) If he holds any office of profit under the Government or under the Corporation or under any other local authority;

(e) If he has in proceedings for questioning the validity or regularity of an election been found to be guilty of—

(i) Any corrupt practice, or

(ii) Any offence punishable under section 171-E or Section 171-F of the Indian Penal Code unless a period of five years has elapsed since the date of the finding or the disqualification has been removed either retrospectively or prospectively by the Government.

(f) If he has been sentenced on conviction by a criminal court to imprisonment for any of the offences referred to in clause

(g) If he is directly interested in any subsisting contract made with, or any work being done for the Corporation except as a shareholder (other than a director) in an incorporated company or as a member of a Co-operative society;

(h) If he is retained or employed in any professional capacity either personally or in the name of a firm of which he is a partner or with which he is engaged in a professional capacity in connection with any cause or proceedings in which the Corporation or any of the municipal authorities is interested or concerned;

(i) If he fails to pay any arrears of any kind, due from him, otherwise than as an agent, receiver, trustee or an executor, to the Corporation within three months after a notice in this behalf has been served upon him.

¹[(j) If he is so disqualified by or under any law for the time being in force for the purpose of elections to the Assam Legislative Assembly:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one year;

(k) If he is disqualified by or under any law made by the Assam Legislative Assembly.]

(2) Notwithstanding anything contained in sub-section (1), —

(a) A person shall not be deemed to have incurred any disqualification under clause (d) of that sub-section by reason only of his receiving —

(i) Any person; or

(ii) Any allowance or facility for serving as the Mayor or Deputy Mayor or as a Councillor; or

(iii) Any fee for attending a meeting of any committee of the Corporation;

(b) A disqualification under clauses (e) and (f) of sub-section (1) shall not take effect until three months have elapsed since the date of such disqualification or if within the period of limitation for submitting an appeal or petition for revision is brought in respect of the conviction or sentence, until that appeal or petition is disposed of; or

(c) A person shall not be deemed to have any interest in a contract or work such as is referred to in clause (h) of that sub-section by reason only of his having share or interest in —

(i) Any lease, sale, exchange or purchase of immovable property or any agreement for the same; or

(ii) Any agreement for the loan of money or any security for the payment of money' or

(iii) Any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or

(iv) The sale to the Corporation or to any municipal authority or any employee of the Corporation on behalf of the Corporation of any article in which he regularly trades or the purchase from the Corporation or from any such authority, or any such employee on behalf of the Corporation, of any article of a value in either case not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work; or

1. Ins. vide the Guwahati Municipal Corporation(Amendment) Act, 1994 (Act No.XXVI of 1994), Section 7, w.e.f. 5.5.1994.

(v) The letting out on hire to the Corporation or the hiring from the Corporation of any article of a value not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work; or

(vi) Any agreement or contract with the Corporation or any municipal authority for taking water of electricity or any other thing which the Corporation may generally supply.

(3) If a person sits or votes as a Councillor of the Corporation when he knows that he is not qualified or that he is disqualified to be a councillor he shall be liable in respect of each day on which he sits or votes to a penalty of two hundred and fifty rupees to be recovered as an arrear of tax under this Act.

48. Disqualities from continuing as ¹[Mayor, Deputy mayor, Presiding Officer and Deputy Presiding Officer] Councillor.- (1) If a ²[Mayor, Deputy mayor, Presiding Officer and Deputy Presiding Officer] Councillor,-

(a) Becomes disqualified for being a member by reason of the provisions of Section 47; or

(b) Absents himself during three successive months from the meetings of the Corporation except from temporary illness or other cause to be approved by the Corporation; or

(c) Absents himself from, or is unable to attend, the meetings of the Corporation during six successive meetings for any cause whatever, whether approved by the Corporation or not;

he shall cause to hold office as such and the government, may, by notification in the Official Gazette, declare his seat to be vacant.

(2) When a Councillor ceases to hold office as such the Commissioner shall at once intimate in writing the fact to such Councillor and the Government, and report the same to the Corporation at its next ensuing meeting.

COMMENTS

Disqualification-Mayor.- Allegation that respondent remained absent in three successive meetings of corporation and thereby attracted disqualification to remain Councillor under Section 48(1)(b) her nomination for post of Mayor should have been rejected by Presiding Officer. [Sumit Das v. Gauhati Municipal Corporation, 2008 (2) GLT 470]

Disqualification of Councillor on failure to attend meetings of the Corporation during three successive months.- ‘three successive months’ construed to mean ‘ three successive meetings’. [Sumit Das v. Gauhati Municipal Corporation, 2008 (2) GLT 470].

49. Right to vote and Method of voting.- (1) Every person whose name is, for the time being entered in the electoral roll for a ward, prepared in the prescribed manner, shall be entitled to vote at the election of a Councillor from that ward.³[X X X]

1. Ins. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 11, w.e.f. 9.3.2006.

2. Ins. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 11, w.e.f. 9.3.2006.

3. Deleted the word “Mayor and Deputy Mayor from Guwahati City” by the Guwahati Municipal Corporation (amendment) Act, 2009, Section 7, w.e.f. 28.8.2009.

(2) Voting shall be by secret ballot and every elector shall have one vote.

50. General election of Councillors.- A general election of Councillors shall be held for the purposes of constituting the Corporation under Section 5.

¹[X X X]

(2) A bye-election shall be held for the purposes of filling up vacancies arising in the offices of the Councillors.

51. Notification for election of Councillors.- For the purposes of constituting the Corporation, the Commissioner shall, by one or more notifications published in the Official Gazette, call upon all the wards to elect Councillors in accordance with the provision of this Act and the rules and orders made thereunder before such date or dates as may be specified in the notification or notifications.

52. Vacancy in office Councillor.- When a vacancy occurs in the office of a Councillor, the Commissioner shall, as soon as may be, after the occurrence of such vacancy by a notification in the Official Gazette call upon the ward concerned to elect a person for the purpose of filling the vacancy:

Provided that no election shall be held to fill a vacancy occurring within six months prior to the holding of general election under Section 50 (1).

53. Procedure if election falls or it set aside.- (1) If at a general election or a subsequent bye-election held to fill a vacancy no Councillor is elected or an insufficient number of Councillors are elected or the election of any or all of the Councillors is set aside under this Act and there is no other candidate or candidates who can be deemed to have been elected in his place or their places, the Commissioner shall fix another day for holding a fresh election and fresh election shall be held accordingly in the prescribed manner.

(2) A Councillor elected under this section shall be deemed to have been elected to all a vacancy.

54. Procedure on failure of election in case of equality of votes.- If at a general election or an election held to fill a vacancy there is an equality of votes between two or more candidates, the Commissioner shall decide by drawing lots which candidate shall be deemed to have been elected.

² [55. The term of the Corporation shall be for five years and shall continue from the date of first meeting after publication of the result of the general election under section 56. The term of the office of a Councillor shall be co-terminus with the term of the Corporation.]

1. The sentence "No person shall simultaneously contest for the post of Councillor, Mayor and Deputy Mayor" which was inserted vide the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006) is deleted by the Guwahati Municipal Corporation (Amendment) Act, 2009, Section 8, w.e.f. 28.8.2009.

2. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act No. XXVI of 1994), Section 8, w.e.f. 5.5.1994.

56. Publication of results of election.- The names of all persons elected as Councillors shall as soon as may be after such election be published by the Government in the official Gazette:

Provided that the names of all Councillors elected at a general election shall be as published as far as possible simultaneously.

57. Oath or affirmation by Councillors.- (1) Every Councillor shall before taking his seat make and subscribe at a meeting of the Corporation an oath or affirmation according to the following form, namely: —

“I.A.B. having been elected ¹[nominated] a Councillor of the Municipal Corporation of the city of Gauhati do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.”

(2) If a person sits or votes as a Councillor before he has complied with the requirements of sub-section (1) he shall be liable in respect of each day on which he so sits or votes to a penalty of two hundred and fifty rupees to be recovered as an arrear of tax under this Act.

58. Resignation of office by Councillor.- Any Councillor may be writing under his hand addressed to the Mayor resign his office and such resignation shall take effect from the date on which it is accepted by the Mayor.

TRIAL OF ELECTION PETITIONS

59. Definitions.- In this chapter unless there is anything repugnant in the context —

- (a) “Costs” mean all costs charges and expenses of or incidental to the trial of an election petition;
- (b) “Corrupt practice” means any of the practices so defined in the Representation of Peoples” Act, 1951 as amended from time to time;
- (c) “Election” means an election held under the provisions of this Act or of any rules made thereunder; and
- (d) “Advocate” means any person entitled to appear and plead for another in a Civil Court and includes a Pleader, a vakil and an Attorney of High Court.

60. Election petition.- (1) No election shall be called in question except by an election petition presented in accordance with the provisions of this section

(2) Such election petition shall be presented to the prescribed authority within forty-five days from the date on which the result of the election is notified;

1. Ins. by the Guwahati Municipal Corporation(Amendment) Act, 1994 (Act No. XXVI of 1994), Section 9, w.e.f. 5.5.1994.

- (3) An election petition calling in question any such election may be presented on one or more of the grounds specified in Section 62, by any candidate at such election or, by any elector of the ward concerned;
- (4) An election petition —
- a. Shall contain concise statement of the material facts on which the petitioner relies;
 - b. Shall with sufficient particular set forth the ground or grounds on which the election is called in question;
 - c. Shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings; and
 - d. Shall be accompanied by a sum of rupees two hundred and fifty for election petition.

COMMENT

Challenge to election of Mayor.- Election petition before District Judge only remedy to Challenge election. [Sumit Das v. Guwahati Municipal Corporation, **2008 (2) GLT 470**].

61. Appointment of District Judge.- The procedure provided in the Code of Civil Procedure, 1908 (5 of 1908) in regard to the suits shall be followed by the Court of the District Judge as far as it can be made applicable in the trial and disposal of an election petition under this Act.

62. Ground for declaring election to be void.- (1) Subject to the provisions of subsection (2) if the District Judge is of opinion —

- (a) That on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as a Councillor under this Act, or
- (b) That any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agent; or
- (c) That any nomination paper has been improperly rejected; or
- (d) That the result of the election, in so far as it concerns a returned candidate, has been materially affected —
 - (i) By the improper acceptance of any nomination; or
 - (ii) By any corrupt practice committed in the interests of the returned candidate by a person other than that candidate or his agent or a person acting with the consent of such candidate or agent; or
 - (iii) By the improper acceptance or refusal of any vote or reception of any which is void; or
 - (iv) By the non-compliance with the provisions of this Act or of any rules or orders made;

(v) The District Judge shall declare the election of the returned candidate to be void.

(2) If in the opinion of the District Judge, the agent of a returned candidate has been guilty of any corrupt practice but the Judge is satisfied —

(a) That no such corrupt practice was committed at the election by the candidate and every such corrupt practice was committed contrary to the order; and without the consent of the candidate;

(b) That the candidate took all reasonable means for preventing the commission of corrupt practices at the election; and

(c) That in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents;
then the District Judge may decide that the election of the returned candidate is not void,

63. Decision of the District Judge.- (1) At the conclusion of the trial of an election petition, the District Judge shall make an order —

(a) Dismissing the election petition; or

(b) Declaring the election of all or any of the returned candidates to be void; or

(c) Declaring the election of all or any of the returned candidates to be void and the petitioner and any other candidate to have been duly elected.

(2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed declaration that he himself or other candidate has been duly elected and the District Judge is of opinion,-

(a) That in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) That, but for the votes obtained by the returned candidate, the petitioner or such other candidate would have obtained a majority of the valid votes;

the District Judge shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be to have been duly elected.

(2) The District Judge after pronouncing orders made under this section shall send a copy thereof to the Corporation and the Government.

(3) Every order of the District Judge under this section shall take effect as soon as it is pronounced by him:

Provided that an application may be made to the District Judge's Court for stay of operation of an order made by him under this Section before the expiration of the time allowed for appealing therefrom and the District Judge may, on sufficient cause being shown and on such terms and conditions as he may think fit stay operation of the order, but on application for stay should be made to the District Judge after an appeal has been preferred to the High Court:

Provided further that where by any such order the election of a returned candidate is declared to be void, acts and proceedings in which that candidate has, before the date of the order, participated as a member of the Corporation shall not be invalidated by reason of that order.

64. Appeals from the order of District Judge.- (1) An appeal shall lie from every order passed by the District Judge under section 63 to the High Court.

(2) The High Court shall subject to the provisions of this Act have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this section as if it were an appeal from the original decree passed by a Civil Court situated within the local limits of its civil appellate jurisdiction.

(3) Such appeal shall be preferred within a period of forty-five days from the date of the order of the District Judge under section 63;

Provided that the High Court may entertain as appeal after the expiry of the said period of forty-five days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within such period:

Provided further that where an appeal has been preferred against an order made under this section, the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.

(4) The decision of the High Court on an appeal under this section shall be final and conclusive.

65. Execution of orders as to costs.- Any order as to costs under the provisions of this Chapter may be produced before the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

66. Maintenance of secrecy of voting.- Every officer or clerk, agent or other person, who performs any duty in connection with recording or counting of votes at an election, shall maintain and aid in maintaining the secrecy of the voting and shall not, except for some purpose authorised by or under any law, communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term, which may extend to three months or with fine, or with both.

CHAPTER IV
MUNICIPAL OFFICERS AND STAFF

67. Appointment of officers of the Corporation.- (1) The Corporation may appoint proper persons, including officers on deputation from State Government to be the Chief Engineer, the Collector the Chief Accounts and Audit Officer, the Chief Health Officer, the Municipal Secretary and such other posts, on such other terms and conditions as may be determined in this behalf.

(2) An officer referred to in sub-section (1) may be appointed on probation before he is confirmed in the post.

(3) The qualifications, salary, allowance, the period of probation, if any, the period of service, the age of superannuation and all other conditions of service of the officers referred to in sub-section (1) shall be prescribed by rules made by the Corporation.

(4) (a) The appointment of every officer referred to in sub-section (1) shall be subject to the approval of the State Government.

(b) If the State Government does not communicate its approval to the appointment of any officer referred to in sub-section (1) within 45 days from the date of receipt of the communication from the Corporation, the appointment shall be deemed to have been approved.

(c) If the State Government refuses to approve the appointment of any officer referred to in sub-section (1), the Corporation shall make a fresh appointment to the post of such officer within forty-five days from the date of receipt or the communication refusing such approval, and in the event of the failure of the Corporation to make a fresh appointment within such time, the State Government may appoint a person to the post of such officer:

Provided that pending the approval of the appointment by the State Government as aforesaid, the Corporation may appoint a person to such post for a temporary period on salary and allowances not exceeding those provided for such officer.

68. Power and duties of Municipal Secretary.- The Municipal Secretary shall be the Secretary of the Corporation and also of the Standing Committee and shall, —

(a) Perform such duties as he is directed by or under this Act to perform and such other duties in and with regard to the Corporation and Standing Committee as shall be required of him by those bodies respectively;

(b) Have the custody of all papers and documents connected with the proceedings of —

(i) The Corporation and any Committee appointed by the Corporation under Section 86;

(ii) The ¹[Mayor-in-Council] and any sub-committee thereof;

(c) Prescribe, subject to such direction as the Standing Committee may from time to time give, the duties of the officer and employees immediately subordinate to him; and

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

(d) Subject to the orders of the ¹[Mayor-in-Council] exercise supervision and control over the act and proceedings of the said officers and employees and subject to the regulations, dispose of all questions relating to the service, remuneration and privileges of the said officers and employees.

Explanation — Where a municipal officer or employees immediately before the commencement of this Act was holding a post tenable for a limited period; nothing in this Act shall be deemed to extend the term of his office beyond such period.

69. Schedule of posts.- (1) The Commissioner shall from time to time prepare and lay before the ²[Mayor-in-Council] a schedule setting for the designation and grades of the officers and staff other than those mentioned in sub-section (1) of Section 67 who should in his opinion constitute the Corporation establishment indicating the salaries, fees and allowances payable to them.

(2) The ³[Mayor-in-Council] may either approve or amend such schedule as he thinks fit and shall lay such schedule before the Corporation for its consideration and approval.

(3) The Corporation may sanction such schedule with or without modifications as it thinks fit and may from time to time amend it either of its own motion or after ascertaining the opinion of the ⁴[Mayor-in-Council].

70. Persons not included in Schedule not to be appointed.- (1) No officer or employee shall be entertained in any department of the Municipal Corporation unless he has been appointed under Section 67 or his office and emoluments are included in the Schedule for the time being in force prepared and sanctioned under Section 69.

(2) Nothing in this section shall be construed as affecting the right of the Corporation or the Commissioner to make any temporary appointment for a period not exceeding six months which it or he is empowered to make under this Act.

71. Authority empowered to make appointment.- Subject to other provisions of this Act, appointment to the Corporation establishment shall be made ⁵[by the Commissioner in all cases with approval of Mayor]
[(a)(b)]⁶

72. Appointment to be made on the recommendation of the Municipal Service Commission.- (1) Appointment to posts referred to in sub-section (1) of section 67 and to posts carrying a maximum salary not below one thousand rupees per month should be made on the recommendation of the Assam Public Service Commission.

1. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

5. Ins. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 14, w.e.f. 9.3.2006.

6. Omitted by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 14, w.e.f. 9.3.2006.

(2) Appointments to posts carrying maximum salary not below [five hundred]¹ rupee but below one thousand rupees per month shall be made on the recommendation of the Municipal Service Commission;

(3) The Municipal Service Commission shall hold examination periodically for recommending candidates for appointment to posts mentioned in the Schedule referred to in section 69, the maximum salary of which is not below [five hundred]² rupees but below one thousand rupees per month;

(4) Notwithstanding anything contained in sub-section (2), if the appointment authority proposes that any particular vacancy, the maximum salary of which is not below two hundred and fifty rupees but below one thousand rupees per month, should be filled up by promotion from subordinate ranks, then the Municipal Service Commission shall decide whether such vacancy shall be filled up by promotion or by direct recruitment and in the latter case shall invite applications and take such other steps as it may consider necessary for the purpose of recommending candidates for appointment to the vacancy;

(5) Notwithstanding anything contained in sub-section (1), (2), (3) and (4) it shall not be necessary to consult that Public Service Commission and the Municipal Service Commission, where a vacancy in a post is not likely to exceed [four]³ months or if the post is created for a temporary period not likely to exceed six months.

(6) Appointments to posts, the maximum salary of which is below [five hundred]⁴ rupees per month shall be made by the Commissioner with the approval of the Corporation subject to regulations relating to such appointment as may be framed by the Municipal Service Commission, and approved by the Corporation:

[Provided that notwithstanding anything contained in the principal Act, during the period of suppression, appointments to posts carrying any salary shall be made by the Commissioner with the approval of the state Government.]⁵

COMMENTS

Appointment of authority.- During the period of supersession, there is substitution of functionaries, but the Corporation is not merged with the State Government and the latter does not become the appointing authority. [Gouri Ram Kalita v. State of Assam, 1991 (2) GLR 252.]

Suspension of employee-Power of Corporation.- It has been held that Corporation can pass an order of interim suspension against its employee when a departmental enquiry is contemplated or is pending against him. [Gouri Ram Kalita v. State of Assam, 1991 (2) GLR 252.]

73. Constitution of Municipal Service Commission.- (1) The Corporation shall, as soon as may be after the commencement of this Act, constitute a Municipal Service Commission consisting of,-

(a) A Chairman who shall be a member of the State Public Service Commission, deputed by such Commission from time to time;

1. Subs. for “two hundred and fifty” by Assam Act XI of 1979 w.e.f. 11.5.1979.

2. Ibid.

3. Subs. for “three” vide Assam Act XI of 1979 w.e.f. 11.5.1979.

4. Subs. for the words “two hundred and fifty” vide ibid.

5. Ins. vide Assam Act X of 1983, w.e.f. 1.8.1983.

- (b) The Secretary to the Government of Assam Municipal Administration Department or his nominee and
- (c) Two Councillors selected by the Corporation.

¹[(1-A) Whenever a Corporation is superseded under Section 425 of the principal Act, the office of membership held by the two Councillors under clause (c) of the preceding sub-section shall be held,-

(2) The Corporation shall by rules made in this behalf provide for —

- (a) The manner in which the Commission shall perform the duties imposed upon it by or under the Act; and
- (b) The number of members of the staff of the Commission and their conditions of service.

74. Powers of ²[Mayor –in- Council] to made regulations.- (1) Subject to other provisions of this Act, the Corporation may, in consultation with the ³[Mayor –in- Council] and the Municipal Services Commission, frame regulations —

- (a) Fixing the amount and nature of security, if any, to be furnished;
- (b) Regulating the grant of leave, leave allowance and officiating allowance;
- (c) Regulating the grant of pension, bonus and gratuities;
- (d) Regulating the grant of travelling allowance and house-rent allowance;
- (e) Regulating the fixation of initial pay on a time-scale of pay;
- (f) Regulating compassionate allowance and gratuities to municipal officers and staff and families of deceased municipal officers and staff;
- (g) Establishing and maintaining provident or annuity fund and making contributions thereto compulsory by both the municipal employees and the Corporation;
- (h) Prescribing the qualification for employment of municipal officer and staff;
- (i) Regulating conduct of municipal officer and staff; and
- (j) General prescribed the condition of service of municipal officers and staff;

Provided that in framing regulations as aforesaid express provision shall be made so as to ensure that any money payable to a municipal officer or staff upon his retirement from any provident fund or annuity fund or as gratuity shall be paid to him within six months of such retirement.

1. Ins. By Assam Act XI of 1979, w.e.f. 11.5.1979.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

(2) The Corporation may, in accordance with the regulations framed under sub-section (1) grant —

(a) Pensions, allowances, bonuses and gratuities to municipal officers and staff; and

(b) Compassionate allowances and gratuities to members of the families of deceased municipal officers and staff and may also supplement contributions to a provident fund or an annuity fund in accordance with the said regulations.

(3) Subject to any regulations framed under sub-section (1), the Commissioner may grant leave of absence to any municipal officer or staff:

Provided that the Commissioner shall not grant leave of absence for any period exceeding one month to any municipal officer or staff ¹[the maximum of whose scale of pay is not below five hundred rupees] without obtaining the sanction of the ²[Mayor – in- Council] to such leave.

Explanation: — For the purposes of this Chapter the family of a municipal officer or staff shall be deemed to include his wife, children, father, mother, brother or sister, dependent upon him for support.

75. Punishment of Municipal officer or staff.- (1) Every Municipal officer and staff may be fined, reduced in rank suspended or dismissed for any breach of departmental rules or discipline or for carelessness, negligence of duties or other misconduct by the authority by whom such officer or staff is appointed, as may be provided for in the [regulation]³ to be made in this behalf.

⁴[(2) (a) In the case of a Municipal officer or staff the maximum of whose pay scale does not exceed one thousand rupees per mensem, an appeal shall lie to the Standing Finance Committee:

(b) In the case of a Municipal officer or staff the maximum of whose pay scale does not exceed one thousand rupees per mensem, an appeal shall lie to the State Government.]

CHAPTER V
CONDUCT OF BUSINESS
TRANSACTION OF BUSINESS BY THE CORPORATION

76. Meeting.- (1) The Corporation shall meet ⁵[not less than once in four months] for the transaction of business.

1. Subs. for the words “not appointed by the Commissioner” by Assam Act XI of 1979, w.e.f. 11.5.1979.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006, Section 3, w.e.f. 9.3.2006.

3. Subs. for the word “rules” by Assam Act XI of 1979, w.e.f. 11.5.1979.

4. Subs. by Assam Act XI of 1979, w.e.f. 11.5.1979.

5. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 15(i), w.e.f. 9.3.2006.

2) The ¹[Presiding Officer] or, in his absence, the ²[Deputy Presiding Officer] may, whenever he thinks fit, and shall upon a requisition made in writing by any ³[one third of the] Councillors, call a meeting of the Corporation.

COMMENT

Disqualification of Mayor.- Election being part of meeting of the corporation and respondent having attended one of the meeting falling within three successive months construing dates of holding meeting as the months, cannot be said to have earned disqualification. [Sumit Das v. Gauhati Municipal Corporation, 2008 (4) GLT 918].

77. First meeting after general election.- The first meeting of the Corporation after the general election of Councillors shall be held as early as possible but not later than six weeks from the date of announcement of the results of the election and shall be convened by the District Magistrate (Executive).

78. Notice of meeting and business.- A notice of meeting along with a list of the business to be transacted at every meeting except at an adjourned meeting shall be delivered at registered address of each Councillor at least five days before the time fixed for such meeting and not business shall be brought before, or transacted at, any meeting other than the business of which notice has been so given:

Provided that any Councillor may send or deliver to the Municipal Secretary notice of any resolution going beyond matters mentioned in the notice given of such meeting so as to reach him at least three days before the date fixed for the meeting and the Municipal Secretary shall with all possible despatch take steps to circulate such resolution to every Councillor in such manner as he may think fit.

Explanation: — In this section, “Registered address” means the address for the time being entered in the register of addresses of Councillors maintained in this behalf by the Municipal Secretary.

79. Votes of Majority decisive.- (1) All matters required to be decided by the Corporation shall, save as in this Act otherwise provided, be determined by a majority of the Councillors voting at the meeting before which the matter is brought.

(2) The voting shall be by show of hands provided that the Corporation may, subject to such rules as may be made by it, resolve that any question or class of questions shall be decided by ballot.

(3) At any meeting, unless a poll be demanded by at least five members, a declaration by the Presiding Officer of such meeting that a resolution has been carried or lost and an entry to that effect in the minute of the meeting shall, for the purpose of this act, be conclusive evidence of the fact without proof. of the number or the proportion of the votes recorded in favour of or against such resolution.

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 15(ii), w.e.f. 9.3.2006.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 15(ii), w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 15(ii), w.e.f. 9.3.2006.

(4) If a poll be demanded, the votes of all the members present who desire to vote shall be taken under the direction of the Presiding Officer of the meeting, and the result of such poll shall be deemed to be the decision of the Corporation at such meeting.

80. Presiding Officer at meeting.- (1) The ¹[Presiding Officer], or, in his absence, the ²[Deputy Presiding Officer], shall preside at every meeting of the Corporation and shall have a second or casting vote in all cases of equality of votes and his ruling in conducting the proceedings of the meeting shall be final.

(2) In the absence of the ³[Presiding Officer] and the ⁴[Deputy Presiding Officer], the Councillors present at the meeting shall choose one of their members to preside, who shall in case of equality of votes have a second or casting vote.

(3) The Presiding Officer of any meeting at which a quorum of the Councillors is present may with the consent for a majority of the members present adjourn the meeting.

(4) The President Officer in an abnormal situation arising in a meeting, may adjourn the same if in his opinion the situation demand adjournment or ask the Councillor or Councillors responsible for the abnormal situation to leave the House and on his or their refusal to do so may have him or them removed by the Marshall appointed by the Corporation.

COMMENT

Meetings.- There is no distinction between meetings envisaged under Sections 80 and 81 of the Act. [Sumit Das v. Gauhati Municipal Corporation, 2008(4) GLT 918].

81. ⁵[X X X]

82. Provision as to Councillors having pecuniary interest in any contract, etc. with Corporation.- (1) If a Councillor has any pecuniary interest direct or indirect in any contract or employment or other matter and is present in a meeting of the Corporation or of a Committee at which the contract or other matter is the subject of consideration, he shall at the meeting as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on any question with respect to the contract or other matter:

Provided that this section shall not apply to an interest which a member may have as a rate-payer or inhabitant of the area or an ordinary consumer of gas, electricity or water, or to an interest in any matter relating to the terms on which the right to participate in any service including the supply of goods is offered to the public.

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 16(i), w.e.f. 9.3.2006.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 16(i), w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 16(ii), w.e.f. 9.3.2006.

4. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 16(ii), w.e.f. 9.3.2006.

5. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 17, w.e.f. 9.3.2006.

(2) For the purpose of this section a person shall be treated as having indirectly a pecuniary interest in a contract, employment or other matter, if he or any nominee of his is a member of any company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the employment or other matter under consideration or if he is a partner or is in employment of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the employment or other matter under consideration:

Provided that —

(i) This sub-section shall not apply to a membership of or employment under any public body; or

(ii) A member of a company or other body shall not by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(3) In the case of married persons living together, the interest of one spouse shall be deemed for the purpose of this section to be also the interest of the other spouse;

(4) A general notice given to the Mayor by a Councillor to the effect that he or his spouse is a member of a specified company or he or his spouse is a partner or in the employment of a specified person, shall unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract, employment or other matter relating to the company or other body or to that person which may be the subject of consideration after the date of the notice.

(5) The Municipal Secretary shall record in a book to be kept for the purpose particulars of any disclosure made under sub-section (1) and of any notice given under sub-section (4) and the book shall remain open at all reasonable hours for the inspection of any Councillor.

83. Meeting to ordinarily open to Public.- (1) Every meeting shall be open to the public, unless a majority of the Councillors present at the meeting decide by a resolution that any enquiry or deliberation pending before the Corporation shall be held in private.

(2) The Corporation may make rules for regulating the administration of the members of the public to its meetings and for the removal by force, if necessary, of any member of the public admitted to a meeting under such rules, for interrupting or disturbing the proceeding of the meeting.

84. Quorum.- (1) No business shall be transacted at any meeting of the Corporation unless such meeting has been called by ¹[Presiding Officer] or ²[Deputy Presiding Officer] or by a person authorised to sign a requisition, nor unless a quorum shall be present.

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 18(i), w.e.f. 9.3.2006.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 18(ii), w.e.f. 9.3.2006.

(2) The quorum necessary for the transaction of business at a meeting shall be ¹[one-third] of the total number of Councillors of the Corporation when any of the following subjects are to be disposed at such meeting: —

(i) Scale of establishment and salaries.

(ii) The framing of regulation and byelaws under sections 415 and 416.

(iii) The annual budget estimates.

(iv) The appointment or the fixing of the pay of allowance of a paid Secretary, Engineer, Water Works Superintendent, Health Officer, Assessor or other officers.

(v) Imposition of Taxes, fees and tolls under section 144 of the Act.

²[(vi) X X X]

(vii) Raising of a loan.

(viii) The subject of a meeting specially convened for the purpose.

(ix) Any other subject prescribed by regulation and byelaw framed in this behalf.

(3) ³[X X X]

(4) If at any meeting the prescribed quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the ⁴[Presiding Officer] or and three days notice of such adjourned meeting shall be given.

(5) The Councillors present at such adjourned meeting for transaction of business other than those mentioned in sub-section (2) shall form a quorum whatever their number may be.

COMMENT

Nomination.- Without any notification declaring respondent to have been disqualified to remain as Councillor, Presiding Officer was left with no option but to accept nomination of respondent. [Sumit Das v. Gauhati Municipal Corporation, 2008(4) GLT 918].

85. Power of Corporation to make rules.- The Corporation any make rules for the conduct of the business at its meeting.

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 18(ii), w.e.f. 9.3.2006.

2. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 18(ii), w.e.f. 9.3.2006.

3. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 18(iii), w.e.f. 9.3.2006.

4. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 18(iv), w.e.f. 9.3.2006.

86. Special Committees and other Committees.- (1) The Corporation may from time to time, by specific resolutions, constitute a Special Committee consisting of such Councillors as it thinks fit to enquire into a report up or any matter to be specified in such resolution which may arise in connection with any of the powers, duties and functions of the Corporation and which is not at the time under consideration by a ¹[Mayor-in-Council].

(2) The Corporation may at any time, constitute any other Committee for any purpose it thinks fit.

87. Provisions relating to Special Committees.- (1) Every Special Committee shall conform to any instructions that may from time to time be given to it by the Corporation.

(2) The Corporation may at any time dissolve or alter the constitution of any Special Committee, and may also at any time withdraw from any Special Committee any of the powers, duties and functions delegated to it.

(3) In the absence of the Chairman from any meeting the members of the Special Committee shall choose one of their numbers to preside over the meeting.

(4) The report of every Special Committee shall as soon as may be practicable, be laid before the Corporation which may thereupon take such action as it thinks fit, or may refer back the matter to the Special Committee for further investigation and report.

TRANSACTION OF BUSINESS BY STANDING AND OTHER COMMITTEES

88. Presiding Officers at meetings of the ²[Mayor-in-Council].- (1) The ³[Mayor] or in his absence the ⁴[Deputy Mayor] shall preside at every meeting of a ⁵[Mayor-in-Council].

(2) ⁶[X X X]

89. ⁷[X X X]

90. ⁸[X X X]

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006, Section 3, w.e.f. 9.3.2006.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 19(i), w.e.f. 9.3.2006.

4. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 19(i), w.e.f. 9.3.2006.

5. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

6. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 19(ii), w.e.f. 9.3.2006.

7. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 20, w.e.f. 9.3.2006.

8. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 21, w.e.f. 9.3.2006.

MINUTES AND REPORTS OF PROCEEDINGS

91. Keeping of minutes and Proceedings.- Minutes, in which shall be recorded the names of the members present at and the proceedings of, each meeting of the Corporation and of every ¹[Mayor-in-Council], Special Committee or Joint Committee, respectively, shall be drawn up and entered in a book to be kept for that purpose, duly signed by the presiding officer, and shall thereafter, be laid before the next, meeting of the Corporation or of such Committee, as the case may be, for confirmation.

Copy of the proceedings of the each meeting shall be circulated amongst the members well ahead of the next meeting.

92. Forwarding of minutes and reports in proceedings to State Government.- (1) The Commissioner shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the Corporation, within ten days from the date on which the minutes of the proceedings of such meeting were signed as provided in section 91.

(2) The State Government may also in any case call for a copy of any paper or all the papers which were laid before the Corporation or the standing Committee or Special Committee or Joint Committee as the case may be and the Commissioner shall forward to the State Government a copy of such paper or all such papers.

VALIDATION

93. Validation of acts and Proceedings.- (1) No act done or proceedings taken under this Act shall be questioned on the ground merely of —

- (a) The existence of any vacancy in, or any defect in the constitution of, the Corporation, or any Standing Committee or Special Committee or Joint Committee, or
- (b) Any Councillor having voted or taken part in any proceedings in contravention of section 82, or
- (c) Any defect or irregularity not effecting the merits of the case.

(2) Every meeting of the Corporation, or of any Standing Committee or Special Committee or Joint Committee the minutes of the proceedings of which have been duly signed and confirmed as prescribed in section 91 shall be deemed to have been duly convened and to be free from all defects or irregularity.

WORKS AND CONTRACTS

94. Execution of works.- The Corporation may determine either generally for any class of cases or specially for any particular case whether the Commissioner shall execute the work by a contract or otherwise ²[or by Public-Private-Partnership (PPP) mod or Joint Venture].

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Ins. by the Guwahati Municipal Corporation(Amendment) Act, 2005 (Act No.XXXV of 2005), Section 3, w.e.f. 7.9.2005.

¹[95. Power of Commissioner, Mayor, Mayor-in-Council and Corporation.- (1) The Commissioner may sanction any estimate for a particular work the amount of which does not exceed Rs. 10.00 Lakhs or rupees.

(2) The Commissioner may sanction any estimate which exceeds Rs. 10.00 Lakhs and does not exceed Rs. 50.00 Lakhs, with the approval of the Mayor.

(3) The Commissioner may sanction any estimate which exceeds Rs. 50.00 Lakhs and does not exceed Rs. 01.00 Crore, with the approval of the Mayor-in-Council.

(4) The Commissioner may sanction any estimate which exceeds Rs. 01.00 Crore ,with the approval of the Corporation.

(5) The Commissioner shall refer the estimate project to the Government which exceeds Rs. 5.00 Crore with the suggestions, views and approval of the Corporation.]

²[96. X X X]

97. Certain provisions relating to execution of contracts.- (1) With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect, namely: —

(a) Every contract shall be made on behalf of the Corporation by the Commissioner.

(b) No contract for any purpose, which in accordance with any provisions of this Act or any rules made thereunder the Commissioner may not carry out without the sanction of one or the other municipal authority, shall be made by him unless such sanction has been given;

³[(c) X X X]

⁴[(d) X X X]

(2) The foregoing provisions of this section shall apply to every variation or discharge of a contract as well as to an original contract.

98. Manner of Execution.- 1) Every contract entered into by the Commissioner on behalf of the Corporation shall be entered into in such manner and form as prescribed in this behalf:

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 22, w.e.f. 9.3.2006.

2. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 23, w.e.f. 9.3.2006.

3. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 24, w.e.f. 9.3.2006.

4. Omitted by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 24, w.e.f. 9.3.2006.

Provided that (a) the common seal of the Corporation shall be affixed to every contract which, if made between private persons should require to be sealed and (b) every contract for execution of any work or the supply of the materials or goods shall be in writing, shall specify, —

- (i) The work to be done or the materials or goods to be supplied, as the case may be;
- (ii) The amount to be paid for such work, materials or goods, and
- (iii) The time within which the contract or specified portion thereof shall be carried out.

(2) The common seal of the Corporation shall remain in the custody of the Commissioner.

(3) No contract executed otherwise than as provided in this section shall be binding on the Corporation.

99. Tender.- (1) At least seven days before entering into any contract for the execution of any work or the supply of any materials of goods which will involve an expenditure exceeding ¹ [five lakhs] rupees, the Commissioner shall give notice by an advertisement inviting tenders for such contract subject to the approval of the ² [Mayor-in-Council] concerned.

Explanation — In this sub-section the expression “contract” includes cash purchases.

(2) On receipt of the tenders made in pursuance of the notice given under sub-section (1) the Commissioner may, subject to the provisions of sections 95, 96 and 97 accept any tender which appears to him to be most advantageous.

100. Security for performance of contract.- The Commissioner shall ordinarily take sufficient security for due performance of every contract into which he enters under this Act.

CHAPTER VI

MUNICIPAL PROPERTY AND LIABILITY

101. Acquisition of property.- The Corporation shall, for the purpose of this Act, have power to acquire and hold movable and immovable property, or any interest therein whether within or without the limits of the city.

102. Acquisition of immovable property by agreement.- Whenever the Corporation decides to acquire any immovable property for the purpose of this Act, the Commissioner shall acquire such property on behalf of the Corporation by agreement on such terms and at such price as may be approved by the ³[Mayor-in-Council].

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2003 (Act No.IX of 2003), Section 5, w.e.f. 3.5.2003, for the words “five thousand”.

2. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

103. Procedure when immovable property cannot be acquired by agreement.- (1) Whenever the Commissioner is unable to acquire any immovable property by agreement under section 102, the Government may, in its discretion, upon the application of the Commissioner, made with the approval of the ¹[Mayor-in-Council] and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act of 1894.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be paid by the Corporation.

104. Provisions governing disposal of Municipal Property.- With respect to the disposal of property belonging to the Corporation the following provision shall have effect, namely:

(a) The Commissioner, may, in the interest of Corporation dispose of by sale, letting out on hire or otherwise, any movable property belonging to the Corporation not exceeding ²[ten thousand] rupees in value in each instance or grant a lease of any immovable property belonging to the Corporation including any right of fishing or gathering and taking fruit, and the like, for any period not exceeding twelve months at a time.

The Commissioner shall bring all such transactions to the notice of the ³[Mayor-in-Council] within 15 days of their execution.

(b) With the sanction of the ⁴[Mayor-in-Council] the Commissioner may dispose of by sale, letting out on hire or otherwise any movable property belonging to the Corporation of which the value does not exceed ⁵[thirty thousand] rupees; and may with the like sanction grant a lease of any immovable property belonging to the Corporation, including any such right as aforesaid, for any period exceeding one year or sell or grant as lease in perpetuity of any immovable property belonging to the Corporation the value or premium whereof does not exceed ⁶[twenty thousand] rupees.

(c) With the sanction of the Corporation the Commissioner may lease, sell, jet out on hire or otherwise convey any property, movable or immovable, belonging to the Corporation,

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2003 (Act No.IX of 2003), Section 6(i), w.e.f. 3.5.2003, for the words "one thousand".

3. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2003 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2003 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

5. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2003 (Act No.IX of 2003), Section 6(ii), w.e.f. 3.5.2003, for the words "five thousand".

6. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2003 (Act No.IX of 2003), Section 6(iii), w.e.f. 3.5.2003, for the words "three thousand".

(d) The consideration for which any immovable property or any right belonging to the Corporation may be sold, leased or otherwise transferred shall not be less than the current market value thereof.

(e) The sanction of the ¹[Mayor-in-Council] or of the Corporation under clause (b) or clause (c) may be given either generally for any class of cases or especially in any particular case.

(f) The provision of this section and the rules made under this Act shall apply to such disposal of property belonging to the Corporation.

Provided that —

(a) No property vesting in the Corporation for the purpose of any specific trust shall be leased, sold or otherwise conveyed in such a manner that the purpose for which it is held will be prejudicially affected; and

(b) No property transferred to be Corporation by the Government shall be leased, sold or otherwise conveyed in any manner contrary to the terms of the transfer, except with the prior sanction of the Government.

105. Decision on claims to property by or against Corporation.- (1) Where any immovable property or any right in or over any such property is claimed by or on behalf of the Corporation, or by any person as against the Corporation, the Collector may after formal inquiry, of which due notice has been given pass an order deciding the claim.

(2) The Corporation or any person aggrieved by an order passed by the Collector under sub-section (1) may, notwithstanding anything contained in any law for the time being in force, within one year from the date on which the Corporation or such person had due notice of such order, institute a suit in any competent Civil Court to set aside such order and/or to grant a relief in lieu thereof.

106. Property vested in Corporation.- Subject to any special reservation made or to any special conditions imposed by the Government, all property of the nature hereinafter specified and situated within the city, shall vest, in and be under the control of the Corporation and with all other property which has already vested, or may herewith vest in the Corporation, shall be held and applied by it for the purposes of this Act that is to say,—

(a) All public town-walls, gates, markets, slaughter houses, manure and nightsoil depots and public buildings of every description which have been constructed or are maintained by the local authorities prior to the establishment of the Corporation;

(b) All public streams, springs, and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith, or appertaining thereto and also any adjacent land (not being private property) appertaining to any public tank or well;

(c) All public sewers and drains, and all sewers drains, culverts and water courses in or under any public street, or constructed by or for the Corporation along side any public street, and all works, materials and things appertaining thereto.

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

- (d) All dust, dirt, dung ashes refuse, animal matter or filth or rubbish of any kind or dead bodies of animals collected by the Corporation from the street houses, privies, sewers, cesspools or elsewhere or deposited in places fixed by the Corporation.
- (e) All public lamps, lamp-posts and apparatus connects therewith or appertaining thereto;
- (f) All land or other property transferred to the Corporation by the Government or acquired by gift, purchase or otherwise for local public purposes;
- (g) All public streets, not being land owned by the Government and the payments, stone and other materials thereof and also trees growing on, and erections, materials, implements and things provided or such streets.

107. Map of immovable property.- The Corporation shall maintain a register and a map of all immovable property of which it is the proprietor or which vests in it or which it holds in trust.

108. Resumption by Government.- The Government may resume any immovable property transferred to the Corporation by it or by any local authority, where such property is required for a public purpose, without payment of any compensation other than the amount paid by the Corporation for such transfer and the market value at the date of resumption of any buildings or works subsequently erected or executed thereon by the Corporation with the intention that such buildings or work should be permanent:

Provided that compensation need not be paid for buildings or works constructed or erected in contravention of the terms of the transfer.

109. Management of public institutions.- (1) The management, control and administration or every public institution maintained out of the Municipal Fund shall vest in the Corporation.

(2) When any public institution has been placed under the direction, management and control of the Corporation, all property, endowments and funds belonging thereto shall be held by the Corporation in trust for the purposes to which such property, endowments and funds were lawfully applicable, at the time when the institution was so placed:

Provided that the extent of the independent authority of the Corporation in respect of any such institution may be prescribed by the Government:

Provided also that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890. (VI of 1890)

PART III
CHAPTER VII
FINANCE
THE MUNICIPAL FUND

110. Municipal Fund.- Save as otherwise provided in this Act the balance at the credit of the Gauhati Municipal Board or any other local authority in the city immediately before the establishment of the Corporation and all moneys realised or realisable under this Act and all moneys otherwise received by the Corporation shall be credited to a fund which shall called “the Municipal Fund” and which shall be held by the Corporation in trust for she purpose of this Act.

111.Receipt of moneys and deposit in Bank.- All moneys payable to the credit of the Municipal Fund shall be forthwith paid in to the State Bank of India to the credit of an account, which shall be styled “the account of the Municipal Fund of the Corporation of Gauhati.”

112.Application of Municipal Fund.- (1) The moneys from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying out the purpose of this Act, or the payment of which duly directed or sanctioned by or under any of the provisions of this Act.

(2) Such moneys shall likewise be applied in payment of all sums payable out of this Municipal Fund under any other enactment or the time being in force.

113. Drawal of the Municipal Fund.-(1) No payment shall be made by the State Bank of India out of the Municipal Fund except up on a cheque signed by the Commissioner.

(2) Except in the case of salaries upto three hundred rupees, which may be paid in cash, payment of any sum due by the Corporation exceeding one hundred rupees in amount shall be by means of a cheque signed as provided in sub-section (1) and the in any other way.

(3) Payment of any sum due by the Corporation not exceeding one hundred rupees in amount may be made in cash.

114. Restriction on expenditure from Municipal.- Except as hereinafter provided on payment of any sum out of the Municipal Fund shall be made by the Commissioner unless the expenditure of the same is covered by a current budget grant is still available notwithstanding any reduction or transfer thereof which may have been made under the provisions of this Act:

Provided that this section shall not apply to payments made in the following classes of cases, namely: —

- (a) Refunds of taxes and other moneys, which are authorised by this Act;
- (b) Repayments of moneys belonging to contractors or other persons and held in deposit and of moneys collected or credited to the Municipal Fund by mistake;
- (c) Sums payable in any of the following circumstances —
 - (i) Under orders of the Government;

- (ii) Under the decree or order of a Civil or Criminal Court passed against the Corporation;
- (iii) Under a compromise of any claim, suit or other legal proceedings;
- (iv) On account of cost incurred in taking immediate action by any of the Municipal authorities to avert a sudden threat of danger to the property of the Corporation or to human life;
- (d) Temporary payments for work urgently required by the Government in the public interest under section 116 of this Act;
- (e) Sums payable as compensation under this Act or under any rules or bye-laws made thereunder; and
- (f) Expenses incurred by the Corporation on special measures taken as the outbreak of dangerous diseases.

115. Procedure when money not covered by budget grant is expended.- Whenever any sum is expended under clauses (c), (d), (e), (f) of proviso to Section 114, the Commissioner shall forthwith communicate the circumstances to the ¹[Mayor-in-Council] which may take or recommend to the Corporation to take such action under the proviso of this Act as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

116. Payments from the Municipal Fund for works urgently required for the public service.- On the written requisition of the Government, the Commissioner may at any time undertake the execution of work certified by the Government to be urgently required in public interest, and for this purpose may make payment from the Municipal Fund so far as the same can be met without unduly interfering with the regular working of the Municipal administration.

117. Investment of Surplus money.- (1) Surplus moneys at the credit of the Municipal Fund which cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised thereunder may be, from time to time, deposited at the State Bank of India or any other Scheduled Bank or any other Bank which may be approved by the State Government or be invested in public securities.

(2) All such deposits and investment shall be made by the Commissioner on behalf of the Corporation with sanction of the ²[Mayor-in-Council] and, with the like sanction, the Commissioner may at any time withdraw any deposit so made or dispose of any securities and redeposit or reinvest the money so withdrawn or the proceeds of the disposal of such securities.

(3) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund.

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Ibid.

118. Constitution of special funds.- The Corporation shall constitute such special funds as may be prescribed and such other funds as may be necessary for the purposes of the Act. The constitution and disposal of such funds shall be effected in the manner prescribed.

CHAPTER VIII
BUDGET ESTIMATES

119. Estimates of expenditure and income to be prepared annually by the Commissioner.- The Commissioner in consultation with the Mayor shall on or before the 15th day of December each year, prepare and submit to the ¹[Mayor-in-Council] in such form as the Corporation may from time to time approve —

- (a) An estimate of the expenditure, which should in his opinion be incurred by the Corporation in the next year;
- (b) An estimate of all balances if any, which will be available for re-appropriation or expenditure as the commencement of the said year;
- (c) A statement of the proposals as to taxation which it will, in his opinion be necessary or expedient to impose under this Act in the said year;
- (d) An estimate of receipt from all sources during the said year; and
- (e) An estimate of loans to be raised for the purposes of this Act.

120. Framing of Budget Estimates.- (1) The ²[Mayor-in-Council] shall on or as soon as may be after the 15th day of December each year consider the estimates and proposals, submitted under section 119 and after calling for such further detailed information as it shall think fit from the Commissioner and having regard to all the requirements of this Act shall, on the basis of such estimates and proposals, frame subject to such modifications or additions thereto as it may think fit Budget Estimates of the income and expenditure of the Corporation for the next year.

(2) The Commissioner shall cause the Budget Estimates as finally approved by the ³[Mayor-in-Council] to be printed and shall not later than the 15th day of February forward a printed [or, in the alternative, a cyclostyled]⁴ copy thereof to each Councillor.

(3) The Budget Estimates prepared by the ⁵[Mayor-in-Council] shall be laid before the corporation on the 19th February or as soon as possible thereafter and the Corporation shall consider the same. It may refer the estimates back to the ⁶[Mayor-in-Council] for

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Ins. by Assam Act XI of 1979, w.e.f. 15.5.1979.

5. Ibid.

6. Ibid.

further consideration and re-submission within a specified time and shall on or before the 22nd day of March in each year adopt Budget Estimates of the income and expenditure for the next year.

(4) In the Budget Estimates the Corporation shall among other things —

- (a) Make adequate and suitable provisions for such of the several duties imposed by this Act;
- (b) Provide for the payment of all instalments of the principal and interest as they fall due for which the Corporation may be liable in respect of loans contracted by it;
- (c) Allow for a closing balance at the end of the year of not less than one lakh rupees as prescribed by rules.

121. Power of Corporation to alter budget grants.- (1) The Corporation may, on the recommendation of the ¹[Mayor-in-Council], from time to time during the year: —

- (a) Increase the amount of the budget-grant under any head;
- (b) Make on additional budget-grant to meet any special or unforeseen requirement arising during the same year;
- (c) Transfer the amount or portion of the amount of the budget-grant under any head to the budget-grant under any other head; and
- (d) Reduce the amount of the budget-grant under any head”

Provided that —

- (i) Due regard shall be had to all the requirements of this Act; and
- (ii) In making any increase or additional budget-grant, the estimated closing balance at the end of the year shall not be reduced below one lakh rupees.

(2) Every increase to a budget-grant made in any year under sub-section (1) shall be deemed to be included in the Budget Estimates finally adopted for that year.

122. Power of Corporation to readjust income and expenditure during year.- (1) If at any time during the year it appears to the Corporation that notwithstanding any reduction of budget-grant that has been made under section 121, the income of the Municipal Fund during the same year will not be sufficient to meet the expenditure sanctioned in the Budget Estimate of the year and to leave at the end of the year a closing balance of one lakh rupees, then it shall be incumbent on the Corporation to take any measures which it may consider necessary for proportioning the year's income to the expenditure.

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

(2) For the purposes of sub-section (1), the Corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible with due regard to all the requirements of this Act, or have recourse to supplementary taxation or to an increase of the rates or adopt all or any of those methods.

123. Provision as to unexpended budget-grant.- If the whole or any part of any budget-grant included in the Budget estimates for a year remains un-expended at the end of that year, and the amount thereof has not been taken into account in the opening balance entered in the budget estimate of any of the next two following years, the ¹[Mayor-in-Council], may sanction the expenditure of such budget-grant or the unexpended portion thereof during the next two following years for the completion of the purpose or object for which the budget-grant was originally made and not for any other purpose or object.

CHAPTER IX BORROWING

124. Power of Corporation to borrow.- (1) The Corporation may, in pursuance of any resolution passed by it and with the prior approval of the State Government borrow by way of debentures or otherwise sums of money which may be required,-

- (a) For acquiring any land which it has power to acquire;
- (b) For erecting any building which it has power to erect;
- (c) For the execution of any permanent work, the provision of any plant, or the doing of any other thing, which it has power to execute, provide or do;
- (d) To pay off any debt due to the Government;
- (e) To repay a loan previously raised under this Act or any other Act previously in force; or
- (f) For any other purpose for which the Corporation is, by virtue of this Act or any other law for the time being in force, authorised to borrow.

(2) When any sum of money has been borrowed under sub-section (1) no portion of any sum of money borrowed for any of the purposes referred to in sub-section (1) shall be applied to the payment of salaries and allowance to any municipal employee other than those exclusively employed in connection with the carrying out of that purpose.

125. Form and effect of debentures.- (1) Debentures issued under this Act shall be in such form as the Corporation may with the previous sanction of the State Government from time to time determine.

(2) The holder of any debenture in any form duly authorised under sub-section (1) may obtain in exchange therefore upon such terms, as the Corporation shall from time to time determine, a debenture in any other form so authorised.

1. Subs. vide the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

(3) Every debenture issued by the Corporation under this Act shall be transferable by endorsement.

(4) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder for the time being without any preference by reason of some of such debentures being prior in date to others.

126. Payment to survivors of joint payees.- When any debenture or security issued under this Act is payable to two or more persons jointly, and any of them dies, then, the debenture or security shall be payable to the survivor and legal heir of the deceased.

127. Receipt by joint holder for interests or dividend.- When two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Corporation by the other or others.

128. Maintenance and investment of sinking fund.- (1) the Corporation shall maintain sinking funds for repayment of money borrowed under section 124 and shall pay every year into such sinking fund such sums as will be sufficient for the repayment within the period fixed for the loans of all moneys borrowed.

(2) All money of the sinking fund shall, as soon as possible, be invested by the Commissioner in public securities and every such investment shall be reported by the Commissioner to the Corporation within fifteen days.

(3) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the sinking fund and invested in the manner laid down in sub-section (2).

(4) When any part of a sinking fund is invested in Municipal debentures or is applied in paying off any part of a loan before the period fixed for repayment, the interest which would otherwise have been payable on such debentures or on such part of the loan shall be paid into the sinking fund and invested in the manner laid down in sub-section (2).

(5) Any investment made under this section may, subject to the provisions of sub-section (2), be varied or transposed.

129. Application of sinking fund.- A sinking fund or any part thereof shall be applied in or towards the discharge of the loan or a part of the loan for which such fund was created, and until such loan or part is wholly discharged shall not be applied for any other purpose:

Provided that when any loan or part thereof had been consolidated under section 131, the Commissioner shall transfer to the sinking fund of the consolidated loan, such part of the sinking fund of the original loans as may be proportionate to the amount of the original loans incorporated in the consolidated loan.

130. Annual statement Commissioner.- (1) The Commissioner shall, at the end of every year, submit to the Corporation a statement showing —

- (a) The amount, which has been invested during the year under section 128;
 - (b) The date of the last investment made previous to the submission of the statement;
 - (c) The aggregate amount of the securities then in his hands; and
 - (d) The aggregate amount, which has up to the date of the statement been applied under section 129, in or towards discharging loans.
- (2) Every such statement shall be published in the official Gazette.

131. Power of Corporation to consolidate loans.- (1) Notwithstanding anything to the contrary contained in this part, the Corporation may consolidate all or any of its loans and for that purpose may invite tenders for a new loan, to be called the Corporation Consolidate Loan, 19--“ and invite holders of the municipal debentures to exchange their debentures for scrips of such loan.

(2) The terms of any such consolidate loan and the form of its scrip and the rates at which exchange into such consolidated loan shall be permitted shall be subject to the prior approval of the Government.

(3) The period for the exchanging of any such consolidated loan shall not, extends beyond the farthest date within which any of the loans to be consolidated would otherwise be repayable.

(4) The Corporation shall provide for the repayment of any such consolidated loan by a sinking fund in the manner laid down in section 128, having regard to the amount transferred to such sinking fund under section 129.

132. Priority of payment for interest and repayment of loans over other payments.- All payment due from the Corporation for interest on and repayment of loans shall be made in priority to all other payments due from the Corporation.

133. Attachment of Municipal Fund of money borrowed.- (1) If any money borrowed or deemed to have been borrowed by the Corporation or any interest or costs due in respect thereof is not repaid according to the conditions of the loan, the Government may attach the Municipal Fund or any part thereof after serving notice in the manner prescribed.

(2) After such attachment no person except an officer appointed in this behalf by the Government shall in any way deal with the attached fund; but such officer may do all acts in respect thereof which any Municipal authority or other employees might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the arrears and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings.

Provided that no such attachment shall defeat or prejudice any debt for which the fund was previously charged in accordance with law; and all such prior charges shall be paid out of the proceeds of the fund before any part of the proceeds in applied to the satisfaction of the debt.

CHAPTER X
AUDIT AND ACCOUNTS

134. Accounts to be kept in a form approved by ¹[Mayor-in-Council].- Subject to any rules made by the Corporation in this behalf, accounts of receipts and expenditure of the Corporation shall be kept in such manner and in such form as the Standing Finance Committee may from time to time determine.

135. Transmission of Accounts to Government.- The Corporation shall, as soon as the accounts of the past year have been finally passed by it, transmit to the Government an account in such form as the Government may from time to time direct.

136. Annual Administration Report and Statement of accounts by Corporation.-

(1) The Commissioner shall as soon as may be after the 1st day of April, in each year cause to be prepared a detailed report of the Municipal administration of the city during the previous year, together with a statement showing the amounts of the receipts and disbursements, respectively credited and debited to the Municipal Fund during the previous year, and the balance at the credit of the said fund at the close of the said year.

(2) The Commissioner shall place the said report and statement before the Corporation for consideration and forward a copy thereof to each councillor and to the Government.

137. Monthly abstract Accounts.- (1) The Commissioner shall prepare monthly an abstract of the receipts and expenditure of the month last preceding and place such abstract before the ²[Mayor-in-Council]

(2) For this purposes, the ³[Mayor-in-Council] shall have access to all the Municipal accounts and to all records and correspondence relating thereto, and the Commissioner shall forthwith furnish to the ⁴[Mayor-in-Council]any explanation concerning receipts and disbursement, which it may call for.

138. Audit of Accounts.- (1) The Municipal accounts shall be audited by or under the order of the Examiner of Local Accounts, Assam hereinafter referred to as the Examiner in accordance with the prescribed procedure.

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

(2) The Corporation shall pay from the Municipal Fund such charges for audit as may be prescribed

(3) The Examiner without prejudice to the generality of sub-section (1) shall include in his report, —

- (a) Any payment, which appears to him to be contrary to law;
- (b) The amount of any deficiency or loss, which appears to have been caused by the gross negligence or misconduct of any person including the Administrator of a superseded Corporation;
- (c) The amount of any sum received which ought to have been but is not brought into account by any person; and
- (d) Any material impropriety or irregularity in the expenditure or in the recovery of money due to the Corporation or in the Municipal accounts.

(4) As soon as practicable after the completion of the audit, the Examiner shall prepare a report on the accounts audited and examined and shall send such report to the Corporation and a copy thereof to the Government.

139. Commissioner to submit accounts to auditors.- It shall be the duty of the Commissioner to submit all accounts, which are subject to audit to the Examiner of Local Account as required by him.

140. Power of auditors to require production of documents.- The Examiner may, —

- (a) By written summons, require the production, before any officer subordinate to him assigned for the purpose of audit, of any documents, which he may consider necessary for the proper conduct of audits;
- (b) By written summons require any person accountable for, or having the custody or control of any such document to appear in person before him; and
- (c) Require any person so appearing before him to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement.

141. Municipal authorities to remedy defects and report to Government.- (1) The Corporation, the ¹[Mayor-in-Council] or the Commissioner, as the case may be shall forthwith remedy any defects or irregularities that may be pointed out by the Examiner and shall report to the Government the action taken by the municipal authority concerned.

Provided that if there is a differences of opinion between the municipal authority and the Examiner, or if the municipal authority does not remedy any defect or irregularity within a period considered by the Examiner to be reasonable, the matter shall be referred to

1. Subs. by the Guwahati Municipal Corporation(Amendment) Act, 2006 (Act No.IV of 2006), Section 3, w.e.f. 9.3.2006.

the Government within such time and in such manner as the Government proscribe and the Government shall be competent to pass such orders thereon as it thinks fit. The orders of the Government shall be final and the municipal authority shall take action in accordance therewith.

(2) If within any period fixed by an order made by the Government under sub-section (1), the municipal authority concerned fails to comply with such order, the provisions of section 422 shall with all necessary modifications, be deemed to apply.

COMMENT

Toll levied by GMC on national highway.- Imposition of toll on national highway cannot be justified, where no service apart from the general service of the Municipal Board is rendered to the person, made liable to pay the toll and revenue collected by toll cannot be used by GMC for reimbursing the cost of its ordinary municipal duties. (Zakir Hussain v. State of Assam and another, 2003 (1) GLT 644.]

142. Examiner to surcharge or charge illegal payment or loss caused by gross negligence, misconduct, etc.- (1) The Examiner may, after giving the person concerned, an opportunity for tendering an explanation in writing, and making such other enquiry as he may consider necessary, disallow any item in the accounts which appears to him to be contrary to law and surcharge the same on the person making or authorising the illegal payment and may charge, against person responsible therefore the amount of any deficiency or loss caused by negligence or misconduct of the person, or any sum received which ought to have been but is not brought into account by that person and shall, in every such case certify the amount due from such person:

Provided that no expenses paid by any person shall be disallowed by the Examiner if they have been sanctioned by the Government.

(2) The Examiner shall state in writing the reason for his decision in respect of every disallowances, surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(3) If the amount is not paid within fourteen days from the expiry of the period of appeal prescribed by the sub-section (4), the Collector, at the request of the Examiner, shall proceed forthwith to recover the amount as if it were an arrear of land revenue, and have it credited to the Municipal Fund.

(4) Any person aggrieved by a disallowance charge or surcharge made by the Examiner may appeal to the Commissioner of Plains Division.

(5) The appellate authority on such appeal shall have the power to confirm, vary or quash the decision of the Examiner with such directions as it thinks fit, for giving effect to the decision of appeal:

Provided further that nothing in this Section shall be deemed to debar the aggrieved party from seeking a remedy in a civil court against an order made under sub-section (1).

143. Special Audit at the direction of Government.- The Government may at any time direct the Examiner or any other Government or non-Government agency to make a special audit of Municipal accounts and report thereon to the Government, and the cost of conducting such special audit shall be met from the Municipal fund.

**PART IV
CHAPTER XI
TAXATION**

144. Taxes to be imposed under this Act.- (1) For the purposes of this Act, the Corporation shall impose following taxes, namely: —

- (a) Property taxes;
- (b) A tax on draught animals, vessels and vehicles other than those mechanically propelled;
- (c) A tax on theatres theatrical performance and other shows for public amusement;
- (d) A tax on advertisement other than advertisements published in the newspapers;
- (e) A duty on the transfer of property;
- (f) A tax on profession, trades and calling.

(2) In addition to the taxes mentioned in sub-section (1), the Corporation may, for the purposes of this Act, levy any or all of the following taxes, namely: —

- (a) A betterment tax on properties whose value may have increased as a result of town planning scheme undertaken in the city;
- (b) A tax on dogs kept within the city;
- (c) A toll on vehicles and animals entering the city but not liable to taxation under clause (b) of sub-section (1);
- (d) Market dues on persons exposing goods for sale in any market or in any space belonging to or under the control of Government or of the Corporation;
- (e) A drainage tax where a system of drainage has been introduced;
- (f) A tax on pilgrims resorting periodically to a shrine within the limits of the Corporation;
- (g) A tax on passengers and goods carried by road or inland waterways;
- (h) A toll on new bridges constructed by the Corporation;
- (i) Octroi; and
- (j) Any other tax with the period approval of the State Government.

COMMENTS

Collection of parking fees-Powers of Corporation.- It has been held that bye-laws empowering the Corporation to collect parking fese. (United Motor Transport Association v. Gauhati Municipal Corporation, 1996 (2) GLR 473.]

City- Whether includes national highway.- it has been held that city does not include national highway. If a national highway passes through a city, it shall stand excluded from the territorial limits of the Corporation. (Zakir Hussain v. State of Assam and another, 2003 (1) GLT 644.]

145. Levy of Surcharge on tax.- The Corporation may levy, with the sanction of the Government, a surcharge on any tax other than taxes on professions, trades and callings, levied by the Corporation for the purpose of providing any specific civil service or amenity:

Provided that no such surcharge shall be levied if a tax or cess is already being levied for the same purpose by the Corporation.

146. Procedure in levying tax, etc.- Before the Corporation passes any resolution imposing a tax or duty or fee for the first time, it shall direct the Commissioner to publish a notice in the Gazette or in the local newspapers clearly indicating the nature and amount of the tax or duty or fees and the date from which it is proposed to impose such tax, duty or fees:

Provided that any resolution abolishing an existing tax or duty or fees reducing or ¹[** *] the rates at which any tax or duty or fee is levied shall not be carried into effect without the sanction of the Government.

COMMENTS

Enhancement of fees-Legislative intent.- Legislature intended to keep in control over the Municipal Corporaion as regards to enhancement of fee is concerned. [Gauhati Municipal Corporation Market Dealers Central Association v. Commissioner GMC, 1998(1) GLT 351 : 1998 (1) GLJ 9 : 1997 (3) GLR 453.]

Increase of duty- Sanction of Government.- For increase of duty, sanction of the Govrnment is necessary. [Gauhati Municipal Corporation Market Dealers Central Association v. Commissioner GMC, 1998(1) GLT 351 : 1998 (1) GLJ 9 : 1997 (3) GLR 453.]

Levy of Tax- Municipality must follow the provision.- It the tax was imposed for the first time qua the areas newly included within municipal limits, municipality must follow the provisions of the Act (Visakhapatnam Municipality v. K. Nakraju, AIR 1975 SC 2172.)

CHAPTER XII

THE PROPERTY TAXES

147 . Components and rates of property taxes.- Save as otherwise provided in this Act, the property tax shall be levied on lands and buildings in each holding and shall consist of the following, namely: —

1. The words “or increasing “ omitted by Guwahati Municipal Corporation (Amendment) Act,2003 (Act No. IX of 2003), Section 7, w.e.f. 3.5.2003.

(a) A water tax of such percentage of the rateable value of lands and buildings as the Corporation may deem reasonable for providing water supply in the city;

(b) A scavenging tax of such percentage of the rateable value of lands and buildings as the Corporation may deem reasonable for providing for the collection, removal and disposal by municipal agency of all filth and polluted and obnoxious matter from latrines, urinals and cesspools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of such filth or polluted and obnoxious matter;

(c) A lighting tax of such percentage of the rateable value of lands and buildings as the Corporation may deem reasonable for providing for defraying the expenses necessary for the lighting of the city;

(d) A general tax of not less than ten and not more than twenty-five per cent of the rateable value of lands and buildings; provided that the Corporation may when fixing the rate at which the general tax shall be levied during any year, determine that the rate leviable in respect of lands and buildings or portions of lands and buildings in which any particular class of trade or business is carried on shall be higher than the rate determined in respect of other lands and buildings by an amount not exceeding one half of the rate so fixed.

Explanation: — Where any portion of a land or buildings is liable to a higher rate such portion shall be deemed to be a separate property for the purpose of municipal taxation.

¹[(e) The Corporation may levy a service charge on the occupiers of a building or a hut standing on the non-settled Government land equivalent to the property tax of a corresponding holding on the settled land and levying of such service charge on the occupants will not confer any right over the land to the occupant and any authority shall have full right to evict the occupants as per rules and procedure.]

148. Exemption from general property tax.-The Corporation may exempt the following properties from payment of property taxes: —

(a) Buildings and lands vesting in the Central Government without the prior approval of the Central Government except where the provision of clause (2) of Article 285 of the Constitution of India apply;

(b) Buildings and lands occupied and used for public worship or for charitable purposes, so declared by the Corporation;

(c) Buildings and lands the rental value of which does not exceed twenty rupees per month provided that: —

(i) The building is occupied by the owner and

(ii) The owner does not possess any other building or land the rent whereof exceeds twenty rupees per month in the aggregate.

COMMENT

Exemption from general property tax.- It has been held that a choultry used exclusively for charitable purpose will come within the exemptions. [Municipal Council, Tirupathi v. Tirumalal, AIR 1994 SC 521.]

149. (1) Water tax and scavenging tax.- Save as otherwise provided in this Act the water tax shall be levied only in respect of lands and buildings: —

- (a) To which water-supply is made or which are connected by means of pipes from municipal waterworks; or
- (b) Which are situated in any portion of the city in which the Commissioner has given public notice that sufficient water is available from municipal water works a reasonable supply to all the lands and buildings in the said portion.

(2) Save as otherwise provided in this Act, the scavenging tax shall be levied only in respect of lands and building: —

- (a) In which there is a latrine, urinal, cesspool, bathing place or cooking place connected with a municipal drain; or
- (b) Which are situated in any portion of the city, which the Commissioner has given public notice that the collection, removal and disposal of all filth and polluted and obnoxious matter from latrines, urinal and cesspools will be undertaken by municipal agency.

(3) The Corporation may allow a rebate upto 33 per cent of the scavenging tax on holdings having sanitary latrines.

150. Determination of rateable value of lands and buildings assessable to property taxes.- (1) The rateable value of any land or building assessable to property taxes shall be the annual rent at which such land or building might reasonable be expected to let from year to year, less —

- (a) A sum equal to ten per cent of the said annual rent which shall be in lieu of all allowances for cost of repairs and insurance, and other expenses, if any, necessary to maintain the land or building in a state to command that rent; and
- (b) The water tax or the scavenging tax or both if the rent is inclusive of either or both of the said taxes:

Provided that if the rent is inclusive of charges for water supplied by measurement, then for the purpose of this section, the rent shall be treated as inclusive of water tax on rateable value and the deduction of the water tax shall be made as provided therein:

Provided further that in respect of any land or building the standard rent or which has been fixed under the Assam Urban Area Rent Control Act, [1972]¹ the rateable value thereof shall not exceed the annual amount of the standard rent so fixed.

1. Subs. for "1951" by Assam Act X of 1983, w.e.f. 1.8. 1983.

(2) The rateable value of any land, which is not built upon, but is capable of being built upon and of any land on which a building is in process of erection, shall be fixed at five per cent of the estimated capital value of such land.

(3) All plant and machinery contained or situated in or upon any land or building and belonging to any of the classes specified from time to time by public notice by the Commissioner under bye-laws made in this behalf shall be deemed to form part of such land or building for the purpose of determining the rateable value thereof under sub-section (1) but save as aforesaid no account shall be taken of the value of any plant or machinery contained or situated in or upon any such land or building:

Provided that where the Corporation so resolves, the annual value in case of owner occupied building and land shall for the purpose of assessment of property taxes be deemed to be 25 per cent less than the annual value otherwise determined under this section.

COMMENTS

Assessment of annual value. – Annual value to be assessed on the basis of the standard rent as statutory determined. [Corporation of Calcutta v. LIC, 1970 (2) SCC 44.]

Assesment of property tax.- It would not be the actual rent received by the landlord but the hypothetical rent which can reasonably be accepted if the building is to be let, which has to be legal yard-stick of a reasonable expectation in the open market. [New Delhi Municipal Corporation v. M.N. Soi, 1976 (4) SCC 535.]

Determine of rateable value of lands and buildings- Assessable to property tax.- It is well settled principle in rating that both gross value and net annual value are estimated by reference to the rent at which the property might reasonably be expected to let him from year to year. The purpose of rating is therefore the rent which is hypothetical to tenant, looking at the building as it is, would be prepared to pay. Though the tenant is hypothetical and the rent too is hypothetical the property in respect of which he would estimate that amount which he would offer as rent is not hypothetical but concrete. [Moti Chand Hari Chand v. Bombay Municipal Corporation, AIR 1968 SC 441.]

151. ¹[Charge by measurement in lieu of water tax in certain cases.-

(1) Notwithstanding anything contained in Sections 147 and 149, the Commissioner may, instead of levying water tax under Sections 147 and 149, charged for measured quantity of water at such rate and in such areas or localities as may be specified by him from time to time.

(2) The Commissioner shall give notice to the owners, tenants, occupants of buildings and lands of such areas and localities requiring them to get the meter installed within a period as may be specified by him in the notice.

(3) The Commissioner may fix such charges to be paid for water consumed while a meter is out of order or under repair or the meter is not installed on the expiry of the period specified under sub-section (2) as may be provided by regulation determining the average consumption of water on the basis of the pressure of water supply , the number and size of water taps and size of ferrules, if any, used in the premises and thus determining the amount payable on the basis of such average consumption:

1. Subs. by Guwahati Municipal Corporation (Amendment) Act, 2003 (Act No. IX of 2003), Section 8, w.e.f. 3.5.2003.

Provided that no provisions of the regulation made under this sub-section shall be inconsistent with the provisions of this Act or the rules or the bye-laws made thereunder.

(4) If any consumer fails to pay any amount payable to the Corporation on account of water consumed, in due time, the amount shall be recoverable by the Commissioner in the same manner as an arrear of Municipal Tax.]

152. Special rates of scavenging charge in certain cases. – (1) The Commissioner may whenever he thinks fit fix the scavenging charge to be paid in respect of any hotel or club or any other large premises at such special rate in this behalf either generally or in any particular cases, whether the service in respect of which such charge is leviable is performed by scavengers or by substituted means or appliances

(2) In the cases referred to in sub-section (1), the amount of the scavenging charge shall be fixed with reference to the cost or the probable cost of the collection, removal and disposal, by municipal agency of filth and polluted and obnoxious matter from the hotel, clubs and other large premises referred to in that sub-section.

COMMENT

Imposition of scavenging charges.- In Court's opinion, section 152 deals with the imposition of scavenging charges in respect of any hotel or club or any other large premises at such special rate as the Commissioner may think. The present case, by no stretch of imagination, can be said to be covered by the provision of section 152 of the Act. [Gauhati Municipal Corporation Dealers Central Association v. Commissioner GMC, 1998 (1) GLT 351: 1998 (1) GLJ 9.]

153. Incidence of property taxes.- (1) The property taxes shall be primarily leviable as follows: —

- (a) If the land or building is let, upon the lessor;
- (b) If the land or building is sub-let upon the superior lessor;
- (c) If the land or building is unlet, upon the person in whom the right to let the same vests.

(2) If any land has been let for a term exceeding one year to a tenant and such tenant has built upon the land, the property taxes assessed in respect of that land and the building erected thereon shall be primarily leviable upon the said tenant whether the land and building are in the occupation of such tenant or sub-tenant of such tenant.

Explanation: — The term “tenant” includes any person deriving title to the land or the building erected upon such land from the tenant whether by operation of law or by transfer inter-vivos.

(3) The liability of the several owners of any building which is, or purports to be, severally owned in parts of flats or rooms, for payment of property taxes or any instalment thereof payable during the period of such ownership shall be joint and several.

(4)The property tax in respect of Government buildings shall be payable by the Government themselves to the Corporation and not by occupiers.

154.Recovery of property taxes from occupiers.- On the failure to recover any sum due on account of property taxes in respect of any land or building from the person primarily liable therefore under section 153, the Commissioner shall recover from every occupier of such land or building by attachment in accordance with section 189, of the rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, the same proportion to that sum as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of the land or building.

155. Property taxes a first charge on premises on which they are assessed.- Property taxes due under this Act in respect of any land or building shall subject to the prior payment of land revenue, if any, due to the Government thereon, be a first charge.

(a) In the case of any land or building held immediately from the Government, upon the interest in such land or building of the person liable for such taxes and upon the goods and other movable properties if any, found within or upon such land or building and belonging to such land or building and belonging to such person and

(b) In the case of any other land or building upon such land or building and upon the goods and other movable properties, if any found within or upon such land or building and belonging to the person liable for taxes.

Explanation: — The term ‘Property taxes’ in this section shall be deemed to include —

(i) Charges payable under Section 151 and 152; and

(ii) The costs on recovery of property taxes and the penalty, if any, payable under this Act or the rules, framed thereunder.

156. Assessment list.- (1) Save as otherwise provided in this Act, the Commissioner with the approval of the ¹[Mayor-in-Council] shall cause an assessment list of all lands and buildings in the city to be prepared in such form and manner and containing such particulars with respect to each land and building as may be prescribed in the bye-laws.

(2) When the assessment list has been prepared the Commissioner shall give public notice thereof and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any land or building included in the list and any authorised agent of such person shall be as liberty to inspect the list and to take extracts therefrom free of charge.

(3)The Commissioner shall, at the same time, give public notice of a date, not less than one month thereafter, when he will proceed to consider the rateable values of hands end buildings entered in the assessment list, and in all cases in which any land or building is for the first time assessed, or the assessment is increased, he shall also give written notice therefore to the owner or to any lessee or occupier of the land or building.

1. Subs. vide Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

(4) Any objection to a rateable value or assessment or any other matter as entered in the assessment list shall be made in writing to the Commissioner before the date fixed in the notice and shall state in what respect the rateable value, assessment or other matter is disputed and all objections so made shall be recorded in a register to be kept for the purpose.

(5) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by his authorised agent, by the Commissioner or any officer of the Corporation authorised in this behalf by the Commissioner.

(6) When all objections have been disposed of and the revision of the rateable value and assessment has been completed, such assessment list shall be authenticated by the signature of the Commissioner or the municipal officer as authorised by him in this behalf who shall certify that except in the cases, if any, in which such amendments have been made as shown therein no valid objection has been made to the rateable values or assessments or any other matters entered in the said list.

(7) The assessment list so authenticated shall be deposited in the office of the Corporation and shall be open for inspection, free of charge during office hours to all owners, lessees or occupiers of lands and building comprised therein or the authorised agents of such persons and public notice that it is so open shall forthwith be published.

COMMENTS

Objection as to rateable value- Opportunity of hearing.- An opportunity of hearing to any person who files an objection under Section 156 (4) is mandatory. [Assam Tea Plantation Provident Fund and Pension Fund Scheme and another v. Gauhati Municipal Corporation and another, 2000 (1) GLT 116: 2000 (1) GLJ 10.]

Objection as to rateable value of land and building.- Held, the owner or lessee or occupier of any land or building can file his objection not only to rateable value or assessment but also on any other matter as entered in the assessment list. [Assam Tea Plantation Provident Fund and Pension Fund Scheme and another v. Gauhati Municipal Corporation and another, 2000 (1) GLT 116: 2000 (1) GLJ 10.]

Preparation and amendment of assessment list-Power of authority.- it has been held that the authority has power to levy tax and prepare assessment list under Section 156 of the Act. It also empowers the authority to amend the assessment list from time to time, inserting the name of any person whose name ought to be inserted or by striking out name of any person not liable for payment of the property tax. [Md. Momin Ali v. Commissioner Gauhati Municipal Corporation, 1997 (2) GLJ 301.]

Objection to rateable value-Mandatory to give an opportunity of hearing.- It has been held that an opportunity of hearing to any person who filed an objection under Section 156 is mandatory. Such of mandatory provision has to be complied with even if the person does not ask for an opportunity of being heard. In case, where an opportunity is given to the person by serving notice to him fixing a date of hearing and the person does not avail such an opportunity, the mandatory provision of Section 156 is complied with because the party to whom the opportunity was given has chosen not to avail the opportunity of hearing. But in the instant case, no notice at all has been served to the petitioner giving him an opportunity of hearing. . [Assam Tea Plantation Provident Fund and Pension Fund Scheme and another v. Gauhati Municipal Corporation and another, 2000 (1) GLT 116: 2000 (1) GLJ 10.]

157.Evidential value of assessment list.- Subjects to such alternations as may be made the assessment list under Section 150 and to the result of any appeal made under the provisions of this Act the entries in the assessment list authenticated and deposited as provided in Section, 156 (7) shall be accepted as conclusive evidence—

- (a) For the purpose of assessing any tax levied under this Act, of the rateable value of all lands and buildings to which such entries, respectively rebate; and
- (b) For the purposes of any tax levied on lands or building, of the amount of each such tax leviable therein during the year to which such list relates.

158.Amendment of assessment list.- (1) The Commissioner with the approval of the Standing Committee may, at any time amend the assessment list —

- (a) By inserting therein the name of any person whose name ought to be inserted; or
- (b) By inserting therein any land or building previously omitted; or
- (c) By striking out the name of any person not liable for the payment of property taxes; or
- (d) By increasing or reducing for adequate reasons the amount of any rateable value and of the assessment thereupon; or
- (e) By making or cancelling any entry exempting any land or building from liability to any property tax; or
- (f) By altering the assessment on the land or building which has been erroneously valued or assessed through fraud, mistake or accident; or
- (g) By inserting or a altering an entry in respect of any building erected, re erected, altered or added to after the preparation of the assessment list;

Provided that no person shall be reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the amendment is made.

(2) Before making any amendment under sub-section (1) the Commissioner shall give to any person affected by the amendment, notice of not less than one month that he proposes

to make the amendment and consider any objections, which may be made by such person:

159. Preparation of new assessment list.- It shall be in the discretion of the Commissioner to prepare for the whole or any part of the city a new assessment list every year or to adopt the rateable value and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the rateable values and assessment for the year following, giving the same public notice as well as individual notices, to persons affected by such alterations, of the rateable value and assessments as if a new assessment list had been prepared.

160. Notice of transfer.- (1) Whenever the title of any person primarily liable for the payment of property taxes on any land or building is transferred, the person whose title

is transferred and the person to whom the same is transferred shall within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed give notice of such transfer in writing to the Commissioner.

(2) In the event of death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves, shall give notice of such devolution to the Commissioner within six month from the date of death of the deceased.

(3) The notice to be given under this section shall be in such form as may be determined by bye-laws made under this Act, and the transfer or the other person on whom the title devolves shall, if so required, be bound to produce before the Commissioner any documents evidencing the transfer or devolution.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Commissioner shall, in addition to any penalty to which he may be subjected under the provision of this Act, continue to be liable for the payment of all property taxes from time to time payable in respect of the land or building transferred until he gives such notice or until the transfer has been recorded in the Commissioner's book but nothing in this sub-section shall be deemed to effect he liability of the transferee for the payment of the said tax.

(5) The Commissioner shall record every transfer or devolution of the notified to him under this section in his books and in the assessment list.

(6) On a written request by the Commissioner, the Registrar or Sub-Registrar of the city appointed under the Indian Registration Act, 1908, shall furnish such particulars regarding the registration of instruments of transfer of immovable properties in the city, as the Commissioner may from time to time require.

(7) Such information shall be furnished as soon as may be after the registration of an instrument of transfer to effected, or if the Commissioner so requests, by periodical returns at such intervals as the Commissioner may fix.

161. Notice of erection of building.- When any new building is erected or when any building is re-built or enlarged or when any building which has been vacant is re-occupied, the person primarily liable for the property taxes assessed on the building shall give notice thereof in writing to the Commissioner within fifteen days from the date of its completion or occupation whichever first occurs, or as the case may, from the date of its enlargement or re-occupation; and property taxes shall be assessable on the building from the said date.

162. Notice of demolition or removal of building.- (1) When any building or any portion of a building which is liable to the payment of property taxes is demolished or removed, otherwise than by order of the Commissioner, the person primarily liable for the payment of the said taxes shall give notice thereof in writing to the Commissioner.

(2) Until such notice is given the person aforesaid shall continue to be liable to the payment of such property taxes as he would have been liable to pay in respect of such building if the same or any portion thereof had not been demolished or removed.

COMMENT

Fixing of time for complying with notice.- Provision does not specify or fix any time for complying with the notice issued but where only twenty hours time was given to

dismantle a huge structure, the time given could be said to be unreasonable. [State of Jammu and Kashmir v. Haji Wali Mohamm, 1972 (2) SCC 402.]

163. Power of Commissioner to call for information and returns and to enter and inspect premises.- (1) To enable him to determine the rateable value of any land or building and the person primarily liable for the payment of any property taxes leviable in respect thereof, the Commissioner may require the owner or occupier of such land or building, or of any portion thereof to furnish him within such reasonable period as the Commissioner may fix in this behalf with information or with a written return signed by such owner or occupier,—

(2)As to the name and place of residence of the owner and occupier, or of both the owner and occupier of such land or building;

(3)As to the measurements or dimensions of such land or building or of any portion thereof and the rent, if any, obtained from such land or building or any portion thereof, and

(4)As to the actual cost or other specified details connected with the determination of the value of such land or building.

(5)Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and so give true information or to make a true return to the best of his knowledge or belief.

(6)Whoever omits to comply with any such requisition or fails to give true information or to make a true return to the best of his knowledge or belief shall, in addition to any penalty to which he may be liable, be precluded from objecting to any assessment made by the Commissioner in respect of such land or building of which he is the owner or occupier.

164. Premises owned by or let to, two or more persons in severally to be ordinarily assessed any one property.- Notwithstanding the fact that any land or building is owned by, or let to, two or more persons in severalty, the Commissioner shall, for the purpose of assessing such land or building to property taxes, treat the whole of it as one property:

Provided that the Commissioner may, in respect of any land or building which was originally treated as one property but which subsequently passes on by transfer, succession or in any other manner to two or more persons who divide the same into several parts and occupy them in severalty, treat, subject to any bye-law made in this behalf each such several part, or two or more of such several parts together, as a separate property and assess such part or parts to property taxes accordingly;

165. Assessment in case of amalgamation of premises.- If any land or building, bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Commissioner shall on such amalgamation assign to them one or more numbers and assess them to property taxes accordingly;

Provided that the total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises except when there is any revaluation of any of the said premises.

166. Employment of valuers.- (1) The Corporation may, if it thinks fit, employ one or more persons to assist the Commissioner in connection with the valuation of any land or building and any person so employed shall have power, at all reasonable times and after giving due notice, and or production, if so required, of authorisation in writing in that behalf from the Commissioner to enter on, survey and value any land or building which the Commissioner may direct him to survey and value.

(2) No person shall willfully delay or obstruct any such person in the exercise of any of his powers under this section.

CHAPTER XIII TAXES ON VEHICLES, BOATS AND ANIMALS

167. Tax on certain vehicles, boats and animals.- (1) Except as hereinafter provided, a tax at rates not exceeding those specified in the First Schedule shall be levied on vehicles, boats and animals of the description specified in the Schedule, when kept for use in the city for the conveyance of passengers or goods in the case of vehicles and boats and for riding, racing, draught or burden, in the case of animals.

(2) The Corporation may, by notification in the official Gazette, from time to time, increase the rates of tax specified in the schedule, in relation to any animal, class of vehicle or boat.

Explanation: — A vehicle, boat or animal kept outside the limits of the city but regularly used within such limits shall be deemed to be kept in the city.

COMMENTS

Imposition of tax by Municipality.- It has been held by Apex Court that municipality cannot impose tax under guise of license fee without following the provision contained in the Act. [Nagar Mahapalika v. Durga Das, AIR 1968 SC 1119.]

Lavy of tax on animals.- Levy of tax on animals is condition precedent. [Bijoy Singh Dugar v. Guwahati Municipal Corporation, 1994 (1) GLR 79.

Levy of tax on the cow.- It has been held that levy of tax on the cows kept for milking held to be illegal. [Jamuna Sarma v. Guwahati Municipal Corporation, 1990 (1) GLR 74.]

168. The tax on whom leviable.- The tax on vehicles animals or boats shall be leviable upon the owner of or the person having possession or control of such vehicles or animals or boats in respect of which the tax is leviable:

Provided that in the case of an animal generally used or employed in drawing any vehicle, the tax in respect of such animal shall be leviable upon the owner of or the person having possession or control of such vehicle, whether or not such animal is owned by such owner or person:

Provided further that the said tax shall not be leviable in respect of, —

- (a) Vehicles, boats and animals belonging to the Corporation;
- (b) Vehicles, boats and animals vesting in the Government and used solely for public purposes and not used or intended to be used for purposes of profit including vehicles, boats and animals belonging to the Defence Forces;

- (c) Vehicles and boats intended exclusively for the conveyance free of charge of the injured, sick or dead;
- (d) Children's perambulators and tricycles;
- (e) Vehicles belonging to municipal employees who are required by the terms or their appointment to maintain a conveyance for the discharge of their duties.

169. Tax when payable.- The tax on vehicles, animals or boats shall be payable in advance in such number of instalments and on such manner as may be determined by rules made in this behalf.

170. Power of Commissioner to compound with livery stable keepers, etc, for tax.- The Commissioner may compound for any period not exceeding one year at a time, with any livery stable keeper or other person keeping vehicles for hire or animals for sale or hire for a lump sum to be paid in respect of the vehicles or animal so kept in lieu of the taxes leviable under section 147 which such livery stable keeper or other person would otherwise be liable to pay.

CHAPTER XIV TAX ON THEATRES, ETC

171. Theatre tax.- Save as otherwise provided in this Act, there shall be levied a tax (referred to in this Act as theatre-tax) in respect of every cinema, circus, theatre, carnival and other place of entertainments to which persons are ordinarily admitted on payment for performances or shows held or conducted thereat, at such rates not exceeding those specified in the Second Schedule;

Provided that the theatre-tax shall not be levied in respect of any performance or show if the Commissioner is satisfied —

- (a) That the entire receipts from such performance or show will be devoted to philanthropic, religious or charitable purposes; or
- (b) That the performance or show is of a wholly educational character; or
- (c) That the performance or show is provided for partly educational or partly scientific purpose by a society not conducted or established for profit.

(2) The Corporation may by notification in the official gazette from time to time, increase the rates specified in the Schedule.

172. Liability to pay theatre tax.- Every proprietor, manager, or person in-charge of a theatre, cinema, circus, carnival or other place of entertainment shall be liable to pay the theatre tax and shall pay the same in advance before the commencement of the performance of show:

Provided that the Commissioner may compound for any period not exceeding one months, with such proprietor, manager or person for a lump sum to be paid for such series of performance or shows or for the performances or shows held or conducted during such period.

CHAPTER XV
**TAX ON ADVERTISEMENTS OTHER THAN ADVERTISEMENTS
PUBLISHED IN THE NEWSPAPERS**

173. Tax on advertisement.- (1) Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall hoarding, frame, post or structure or upon or in any vehicle any advertisement or, who displays any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematograph) shall pay for every advertisement which is so erected, exhibited, fixed or retained or so displayed to public views, a tax specified in the Third Schedule:

Provided that no tax shall be levied under this section on any advertisement which, —

(a) Relates to a public meeting or to any election to any legislative body or the Corporation or to the candidature in respect of such election; or

(b) Is exhibited within the window of any building if the advertisement relates to the trade, profession or business carried on in that building; or

(c) Relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such lands or building or any effects therein or to any sale, entertainments or meeting to be held on or upon or in the same; or

(d) Relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building; or

(e) Relates to the business of a railway administration and is exhibited within any railway station or upon any wall or any other property of a railway administration; or

(f) Relates to any activity of the Central Government or the State Government or the Corporation.

(2) The Corporation may, by notification in the official Gazette, from time to time, increase the rate specified in the schedule.

(3) The tax on any advertisement leviable under this section shall be payable in advance in such number of instalments and in such manner as may be determined by rules made in this behalf.

Explanation:— 1. The word “structure” in this section includes any movable board on wheel used as an advertisement or an advertisement medium.

Explanation:— 2. The word “advertisement” in relation to a tax on advertisement under this Act means any word, letter, model, sign, placard, notice, device or representation, whether illuminated or not in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction.

174. Prohibition of advertisements without written permission of the Commissioner.- (1) No advertisement shall be erected, exhibited, fixed or retained upon or over any land building, wall, hoarding, frame, post or structure or upon or in vehicle or shall be displayed in any manner whatsoever in any place in the city without the written permission of the Commissioner granted in accordance with bye-laws made under this Act.

(2)The Commissioner shall not grant such permission, if —

(a) The advertisement contravenes any bye-law made under this Act; or

(b) The tax, due in respect of the advertisement has not been paid.

¹[(c) the advertisement falls under the “ Advertisement Prohibited Zone” as may be notified by the Government under clause (22-a) of Section 3.]

(3)Subject to the provisions of sub-section (2) in the case of an advertisements liable to the advertisement tax, the Commissioner shall grant permission for the period so which the payment of the tax relates and no fee shall be charged in respect of such permission.

175. Permission of the Commissioner to become void in certain case.- The permission granted under section 174 shall become void in the following case, namely

(a) If the advertisement contravenes any bye-law made under this Act'

(b) If any material change is made in the advertisement or any part thereof without the previous permission of the Commissioner;

(c) If any addition or alteration is made to, or in the building, wall, wall, hoarding frame, post or structure upon or over which the advertisement is erected, exhibited, fixed or retained and if such addition or alteration affects the advertisement or any parts thereof; and

(d) If the building, wall, hoarding, frame, post or structure over which the advertisement is erected, exhibited, fixed or retained is demolished or destroyed.

176. Presumption is case of contravention.- Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or displayed to public view from a public street or public place in contravention of the provisions of this Act or any bye-laws made thereunder, it shall be presumed unless and until contrary is provided, that the contravention has been committed by the person or the persons on whose behalf the advertisement purports to be or on the agents of such person or persons.

177. Power of Commissioner in case of contravention.- If any advertisement be erected, exhibited, fixed or retained in contravention of the provisions of Section 174 the Commissioner may require the owner or occupier of the land, building, wall, hoarding, frame, post or structure or vehicle upon or over or in which the same is erected, exhibited fixed or retained, to pull down or remove such advertisement or may enter any land building, property or vehicle and have the advertisement dismantled, pulled down or removed or specified, defaced or screened.

1.Ins.by the Guwahati Municipal Corporation (Second Amendment) Act, 2006 (Act No XII of 2006), Section 3, w.e.f. 17.8.2006.

CHAPER XVI
DUTY ON TRANSFER OF PROPERTY

178. Duty on transfer of Property and method of assessment thereof.- (1) Save as otherwise provided in this Act, the Corporation shall levy a duty on transfer of immovable property situated within the limits of the city in accordance with the provisions hereafter in this section contained.

(2) The said duty shall be levied —

(a) In the form of a surcharge on the duty imposed by Indian Stamp Act, 1899 as in force for the time being in the State, on every instrument of the description specified below; and

(b) At such rate as may be determined by the Corporation not exceeding five per cent on the amount specified below against such instruments; —

Description of instrument	Amount on which duty should be levied.
(i) Sale of immovable property.	The amount or value of the consideration for the sale, as set forth in the instrument.
(ii) Exchange of immovable Property greater	The value of the property of the value, as set forth in the instrument.
(iii) Gift of immovable property.	The value of the property as set forth In the instrument.
(iv) Mortgage with possession of immovable property	The amount secured by the mortgage as set forth in the instrument.
(v) Lease in perpetuity of immovable property	The amount equal to one-sixth of the whole amount or value of the rent, which would be paid or delivered in respect of the first fifty years of the lease as set forth in the Instrument.

179. Provisions applicable on the introduction of transfer duty.- On the introduction of the duty on transfer of property —

(a) Section 27 of the Indian Stamp Act, 1899 (Act II of 1898) shall be read as if it specifically required the particulars to be et forth separately in respect of property situated within and without the city; and

(b) Section 61 of the said Act shall be read as if it referred to the Corporation as well as the Government.

CHAPTER XVII
TAX ON PROFESSIONS, TRADES AND CALLINGS

180. License to be taken out annually.- (1) Every person who exercises or carries in the city, either by himself or by an agent or representative, any of the professions, trades or callings indicated in the Fourth Schedule, shall annually take out a license before the first day of April in each year or within one month of his taking up the profession, trade

or calling, as the case may be, and pay for the same, such fee as is mentioned in that behalf in the said schedule.

Provided also that the grant of such a license shall not be deemed to affect the liability of the licensee to take out a license under any other section of this Act:

Provided also that the Commissioner may —

(a) Remit or refund any portion of the fee so payable in respect of the exercise or carrying on of any profession, trade or calling if he is satisfied that the profession, trade or calling has not been exercise or carried on for more than six consecutive months; or

(b) Exempt a person, who in the opinion of the Commissioner is unable to pay the fee due for a license, from liability to take out such license, or declare that he shall be entitled to take out a license under a lower class than that under which he is chargeable according to the said schedule;

(c) In any other case exempt any person from liability to take out a license or declare that any person shall be entitled to take out a license under a lower class than before.

(2) The Commissioner may at any time grant a license for any previous year for which no license has been taken out, on payment of the fee which would have been payable therefore in the first instance:

Provided that the production of such a licence shall not afford a valid defence if the licence is prosecuted for falling to take a licence within the time required by this Act.

(3) *Power of Commissioner to call for list of persons.*- The Commissioner may, by written notice, require the owner or occupier of any building or place of business to forward to him within seven days a list, signed by such owner or occupier of the names of all persons exercising or carrying on any professions, trades or calling therein, and of their respective professions, trades, and callings.

(4) *Liability and class how to be determined.*- The liability of any person to take out a licence and the class under which he shall be deemed bound to take out a licence, shall be determined in accordance with the rules that may be made in this behalf by the Corporation.

(5) The Corporation may, by notification in the official gazette, from time to time, increase the rates specified in the Schedule.

COMMENTS

Taxes on professions, trades, callings and employments.- As per Article 276 (2) of the Constitution of India as amended by the Constitution (Sixtieth Amendment) Act, 1988 the total amount payable in respect of any one person to the State or to any local municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two thousand five hundred rupees per annum.

Taxable income- Assessee to prove.- It has been held that the burden lies on the assessee to prove his taxable income to be reasonable. [Ram Bachan Lal v. The State of Bihar, AIR 1967 SC 1404.]

CHAPTER XVIII OCTROI

181. Octroi on goods carried by Railway, road or water.- The Corporation after it is established may from any point of time levy on all goods carried by Railway or road or water or pipeline into the city of Gauhati from any place outside thereof as octroi as may be determined from time to time by the Corporation with the previous approval of the State Government.

COMMENTS

Collection of octroi duty-Defects in bye-laws.- It has been held that defects in bye-laws would not affect the authority of municipality to collect octroi duty. [The Municipal Council v. Bohar Mamarchand, AIR 1968 SC 255.]

Enhancement of octroi duty.- It has been held that enhancement of octroi duty without framing any rule for that purpose, would be illegal. [Dharangadhra Chemical Works v. State of Gujarat, AIR 1973 SC 1041.]

Imposition of excess octroi duty.- Municipal Corporation would not be permitted to impose octroi exceeding the maximum rate prescribed by the State Government. [Municipal Corporation Jabalpur v. Sh. Soorji Bhanji Keniya, AIR 1973 SC 764.]

Octroi duty- What is?- It has been held by Apex Court that octroi duty is a tax levied on the entry of the goods within a particular area. [Ramakrishna Ramnath v. The Secretary, Municipal Committee Kamptee, AIR 1950 SC 11.]

182. Recovery of Octroi.- The Octroi levied under this Act shall be payable on demand and shall be collected by the Commissioner in such manner and through such agency as may be specified by notification in the Official Gazette.

COMMENT

Levy of tax-When illegal?- Bringing of wool within local limits for the purpose of dyeing are not liable to be taxed. [S.M. Ramlal and Company v. Secretary to the Government of Punjab, 1969 WLN (SC) Notes 23.]

183. Power to make rules.- The Corporation may make rules in relation to the levy, assessment and collection of octroi under this Act and may by such rule provide for the following among other matters, namely: —

- (a) The examination of goods liable to payment of octroi;
- (b) The inspection, weighing or otherwise examining the conveyance or package for the purpose of ascertaining whether it containing any goods in respect of which octroi is payable;
- (c) The seizure and confiscation of goods liable to octroi in case of refusal to pay such tax;
- (d) The measures to prevent evasion of octroi; and
- (e) Any other matter which is to be or may be prescribed for the levy, assessment or collection of octroi.

COMMENT

Powers of Corporation to make rule for octroi taxes.- Corporation is empowered to frame rules for octroi taxes. Even if the rules framed held to be illegal, municipality can still collect octroi. [Municipality Odharji v. Rajkot Borough Municipality, AIR 1970 SC 685.]

CHAPTER XIX

LAND REVENUE, LOCAL RATES, URBAN PROPERTY TAX, TAXES ON ENTERTAINMENT AND BETTING AND TAX ON MOTOR VEHICLES COLLECTED WITHIN THE LIMITS OF THE CITY OF GAUHATI

184. State Government to pay proceeds of Land Revenue, Local rates, Urban Property Tax, Motor Vehicles Tax, Betting tax collected in Gauhati to Corporation.- The proceeds of the following taxes collected in the City reduced by the cost of collection as determined by the State Government shall be paid to the Corporation for the performance of the function under this Act.

- (1) Land Revenue collected under the Assam Land and Revenue Regulation, 1886.
- (2) Local rates collected under the Assam Local Rates Regulation, 1879.
- (3) Property Tax collected under the Assam Urban Immovable Property Tax Act, 1969.
- (4) Motor Vehicles tax collected under the Assam Motor Vehicle Taxation Act, 1936.
- (5) Entertainment Tax collected under the Assam Amusements and Betting Tax Act, 1939.

CHAPTER XX

PAYMENT AND RECOVERY OF TAXES

185. Time and manner of payment of taxes.- Save as otherwise provided in this Act any tax levied under this Act shall be payable on such dates, in such number of instalments and such manner as may be prescribed.

186. Presentation of bill.- (1) When any tax has become due, the Commissioner shall cause to be presented to the person liable for the payment thereof, a bill for the amount due;

Provided that no such bill be necessary in the case of —

- (a) A tax on vehicles, boats and animals;
- (b) A theatre tax; and
- (c) A tax on advertisements.

(2) Every such bill shall specify the particulars of the tax and the period for which the charge is made.

COMMENT

Reduction of tax.-b when the corporation having issued and received the bills of reduced rate, cannot claim arrears after a decade. [Chatribari Christian Hospital v. Gauhati Municipal Corporation, 2006 (4) GLT 581].

187. Notice of demand and notice fee.- (1) If the amount of the tax for which a bill has been presented under section 186 is not paid within fifteen days from the presentation thereof or if the tax on vehicles, boats and animals or the theatre tax or the tax on advertisements is not paid after it has become due, the Commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form to be prescribed in this behalf.

(2) For every notice of demand which the Commissioner causes to be served on any person under this section, a fee of such amount not exceeding two rupees as may be determined by bye-laws made in this behalf, shall be payable by the said person and shall be included in the cost of recovery.

COMMENT

Notice of demand.- The demand under Section 187 can be made only if the tax, assessed and liable to be paid in terms of bill issued under Section 186, remains unpaid. [Chatribari Christian Hospital v. Gauhati Municipal Corporation, 2006 (4) GLT 581].

188. Penalty in the case of default of payment of tax.- (1) If the person liable for the payment of any tax does not, within thirty days of the service of the notice of demand under section 187 pay the sum due and if no appeal is preferred against such tax, he shall be deemed to be in default.

(2) When the person liable for the payment of any tax is deemed to be in default under sub-section (1) such sum not exceeding twenty per cent of the amount of the tax as may be determined by the Commissioner may be recovered from him by way of penalty, in addition to the amount of the tax and the notice fee payable under sub-section (2) of section 187.

(3) The amount due as penalty under sub-section (2) shall be recoverable as an arrear of tax under this Act.

189. Recovery of tax.- (1) If the person liable for payment of the tax does not, within thirty days from the service of the notice of demand, pay the amount due, such sum together with all costs and the penalty provided, for in section 188 may be recovered under a warrant issued in the form to be prescribed by distress and sale of the movable property or the attachment and sale of the immovable property, of the defaulter.

(2) Where the property is in the city, the warrant shall be addressed to an employee of the Corporation and where the property is outside the city, to the Collector of the district concerned, who shall proceed to collect it as arrear of Land Revenue:

Provided that the employee to whom the warrant is addressed may endorse such warrant to a subordinate employee.

(3) For every warrant issued under this section a fee shall be charged at the rates to be prescribed by the Corporation and the amount of the said fee shall be included in the cost of recovery.

190. Power to break open door or window.- Any employee charged with the execution of a warrant of distress issued under section 189 may, if authorised by a special order in writing by the Commissioner, between sunrise and sunset break open

any outer or inner door or window of a building in order to make the distress with the approval of the ¹[Mayor-in-Council], —

- (a) If he has reasonable ground for believing that such building contains property which is liable to such distress; and
- (b) If after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance:

Provided that such employee shall not enter or break open the door or window of any apartment appropriated to the use of women until he has given not less than three hours notice of his intention and has given such women an opportunity to withdraw.

191. Warrant of distress.- The employee charged with the execution of a warrant of distress issued under section 189 shall, if authorised by the warrant, distrain, wherever it may be found, any movable property or attach any immovable property of the person named in the warrant subject to the following conditions, namely: —

(a) The following property shall not be distrained: —

- (i) The necessary wearing apparel and bedding of defaulter, his wife and children;
- (ii) The tools of artisans including equipment of persons engaged in medical profession;
- (iii) Books of accounts of commercial houses and law books of persons engaged in legal profession; and
- (iv) When the defaulter is an agriculturist, his implements of husbandry; seed, grain and such cattle as may be necessary to enable the defaulter to earn his livelihood;

(b) The property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Commissioner or the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter;

(c) The employee shall forthwith make in the presence of two witnesses at least one of whom shall be a ratepayer an inventory of the movable property which he seizes under such warrant, and shall at the same time give a written notice, in the form to be prescribed in this behalf, to the person in possession thereof at the time of seizure, that such property will be sold as therein mentioned.

(d) When the property is immovable: —

- (i) The attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge;
- (ii) The order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the Municipal Office, and also when the property is land paying revenue to the Government, in the office of the Collector; and

1.Subs. Vide the Guwahati Municipal Corporation (Amendment) Act,2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

(iii) Any transfer of or charge on the property attached or any interest therein made without the written permission of the Commissioner shall be void as against all claims of the Corporation enforceable under the attachment.

192. Sale of goods distrained in special cases.- (1) When the property seized is subject to speedy and naturally decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the Commissioner shall at once give notice to the person in whose possession the property was when distrained to the effect that it will be sold at once and shall sell it accordingly unless the amount specified in the warrant be forthwith paid.

(2) On the expiry of the time specified in the notice served by the employee executing the warrant the property distrained or attached, or in the case of immovable property, a sufficient portion thereof, if not sold at once under sub-section (1), may be sold by public auction under the orders of the Commissioner, unless the warrant is suspended by him or the sum due is paid by the defaulter together with all costs incidental to the notice, warrant, distress, attachment or detention of the property, as the case may be.

(3) Where the sum due together with costs is paid by the defaulter aforesaid the attachment, if any, of immovable property shall be deemed to have been removed.

(4) All sales of immovable property under this section shall, so far as may be practicable, be regulated in the manner to be prescribed.

(5) No Municipal employee shall directly or indirectly purchase any property at any such sale.

(6) The sale proceeds or such part thereof as may be sufficient shall be applied, first, in discharge of any sum due to the Government in respect of such property and secondly, in discharge of the sum due to the Corporation and all such incidental costs as aforesaid.

(7) The surplus, if any, of such proceeds shall be forthwith credited to the Municipal Fund and notice of such credit shall be given at the same time to the person in whose possession the property was at time of distraint of attachment and if such person shall claim the surplus by written application of the Commissioner within one year from the date of the notice given under the sub-section, the Commissioner shall refund the surplus to him.

(8) Any such surplus not so claimed shall be the property of the Corporation.

193. Sale outside the city.- (1) When a warrant of distress has been issued against any person under section 189 and—

(a) If no sufficient movable property belonging to the said person can be found in the city of Gauhati, or

(b) When the said person is the occupier of premises in respect of which property taxes are due, if no sufficient movable property can be found on such premises.

The Commissioner may issue a warrant to any Magistrate in Assam outside the city of Gauhati for the distress and sale of any movable property belonging to the said person within the jurisdiction of such Magistrate.

(2) Any Magistrate to whom a warrant is so issued shall, —

(i) Endorse the same and cause it to be executed, and

(ii) Remit the amount realised under such warrant to the Corporation.

(3) If there has been any sale, the proceeds shall be dealt with as per provisions of 192

194. Summary proceedings may be taken against persons about to leave city.- (1)

If any sum recoverable under the provisions of this Act is due or is about to become due from any person and if the Commissioner shall have reason to believe that such person is about to leave the city, the Commissioner may direct the immediate payment by such person of such sum and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person does not forthwith pay the said sum or does not furnish security to the satisfaction of the Commissioner, the amount shall be recoverable by distress and sale of his movable property or by the attachment and sale of his immovable property in the manner hereinbefore specified except that it shall not be necessary to serve upon him any notice of demand and the Commissioner's warrant for distress and sale may be issued and executed without any delay.

195. Power to institute suit for recovery.- Instead of proceeding against a defaulter by distress and sale as herein-before provided, or after a defaulter has been so proceeded against unsuccessfully or with partial success, any sum due or the balance of any sum due, as the case may be from such defaulter on account of a tax may be recovered from him by a suit in any court of competent jurisdiction.

196. Power of seizure of vehicle and animals in case of non-payment of tax thereon.- (1)

If the tax on any vehicle or animal is not paid, then instead of proceeding against the defaulter by distress and sale of his other movable property as herein-before provided the Commissioner may, at any time after the tax has become due, seize and detain the animal or vehicle or both and if the owner or other person entitled thereto does not within seven days from the date of such seizure and detention, claim the same and pay the tax due together with the charges incurred in connection with the seizure and custody, the Commissioner may cause the same to be sold by auction and apply the proceeds of the sale or such part thereof as is required in discharge of the sum due and the charges incurred as aforesaid.

(2) The surplus, if any, remaining after the application of the sale proceeds under subsection (1) shall be disposed of in the manner laid down in subsections (6) and (7) of Section 192.

197. Occupiers may be required to pay rent towards satisfaction of property taxes.-

(1) For the purposes of recovering the amount of any property taxes from any occupier under section 154 the Commissioner shall cause to be served on such occupier a notice requiring him to pay to the Corporation any rent due or falling due from him in respect of the land or building to the extent necessary to satisfy the portion of the sum due for which he is liable under the said section

(2) Such notice shall operate as an attachment of the said rent unless the portion of the sum due shall have been paid and satisfied and the occupier shall be entitled to credit in account with the person to whom such rent is due for any sum paid by him to the Corporation in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the property tax, he shall be entitled to recover from the person primarily liable for the payment of such tax any amount for which credit is claimed as aforesaid.

(3) If any occupier fails to pay to the Corporation any rent due or falling due which he has been required to pay in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the Corporation as an arrear of tax under this Act.

198.Recovery of tolls and octroi.- (1) In case of non-payment of any toll or octroi on demand the employee empowered to collect the same may seize any article on which octroi is chargeable, or any animals on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(2) The Commissioner after the lapse of seven days from the seizure and after the issue of proclamation fixing the time and place of sale, may cause any property so seized, or so much as thereof as may be necessary, to be sold by action to satisfy the demand, with the expenses occasioned by the seizure, custody, and sale thereof unless and demand and expenses are in the meantime paid:

Provided that by order of the Commissioner, articles of perishable nature which cannot be kept for five days without serious risk of damage may be sold after the lapse to such shorter time as he may, having regard to the nature of the article, think proper.

199. Writing off of irrecoverable taxes.- The Commissioner may with the approval of the ¹[Mayor-in-Council], write off any sum due on account of any tax or of the costs of recovering any tax if such sum is, in his opinion irrecoverable.

200. Receipt to be given for all payments.- For all sums paid on account of any tax under this Act a receipt, stating the amount and the tax on account of which it has been paid, shall be tendered by the person receiving such payment.

REMISSION AND REFUND

201.Demolition, etc., of building,-If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Commissioner may, on the application in writing of the owner or occupier, remit or refund such portion of any tax assessed, on the rateable value thereof as he thinks fit.

202. Remission of refund of tax on unoccupied immovable property.- (1) When any land or building or any portion of a building treated as a separate property for the purpose of assessment under any provision of this Act has been vacant and unproductive of rent for a period of at least sixty consecutive days, the Commissioner shall remit or refund one-half of the property-land or building had been vacant and unproductive of rent. Such refund shall be granted proportionately for the number of months of vacancy, each complete consecutive period of thirty days being reckoned as one month.

(2)The burden of providing the facts entitling any person to claim relief under this section shall lie upon him.

1. Subs. Vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

(3)For the purposes of this section any building furnished and reserved by its owner for his own occupation whenever required shall be deemed to be occupied whether it is actually occupied by such owner or not.

(4)For the purposes of this section neither the presence of a care-taker nor the mere retention in any otherwise unoccupied dwelling house of the furniture habitually used in it shall constitute occupation of the house, if the house is ordinarily let to tenants and it is not reserved by the owner for his own occupation.

(5)No such remission or refund shall be granted unless notice in writing of the circumstances under which it is claimed has been given to the Commissioner within three months of the beginning of the period for which a refund or remission is claimed.

(6)In no case shall any such remission or refund be permitted unless the total sum demanded by way of all taxes on the property concerned has actually first been paid up to the end of the period for which the concession is claimed.

203. Power to reduce or remit taxes.-The Corporation may at a meeting, reduce the amount payable on account of any of the taxes mentioned in section 147, or remit the same on ground of excessive hardship to the person liable to pay the same:

Provided that such reduction or remission shall not unless renewed by the Corporation at a meeting have effect for more than one financial year.

APPEALS

204. Appeal against Assessment.- (1) An appeal against the levy or assessment of any tax under this Act shall lie at the jurisdiction of the ¹[Mayor-in-Council] and against the order of the Committee to the Court of the District Judge.

(2)If, before or on the hearing of an appeal under this section by the District Judge any question of law or usage having the force of law or construction of a document arises, the court of the District Judge on its own motion may or on the application of any party to the appeal shall draw up a statement of the facts of the case, and the question so arising, and refer the statement with its opinion on the question for the decision of the High Court.

(3)On a reference being made under sub-section (2), the subsequent proceedings in the case shall be as nearly as may be, in conformity with the rule relating to references to the High Court contained in Order XLVI of the First Schedule to the Code of Civil Procedure, 1908.

(4) In every appeal, the costs shall be in the discretion of the court.

(5)Costs awarded under this section to the Corporation shall be recoverable by the Corporation as an arrear of tax due from the appellant.

(6)If the Corporation fails to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the court may order the Commissioner to pay the amount to the appellant.

1.Subs. Vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

205. Conditions of rights to appeal.- No appeal shall be heard or determined, under section 204, unless —

(a) The appeal is, in the case of a property tax brought within thirty days next after the date of authentication of the assessment list under section 156 (exclusive of the time requisite for obtaining a copy of the relevant entries therein) or, as the case may be, within thirty days of the date on which an amendment is finally made under section 158 and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days after the date of the presentation of the first bill or, as the case may be, the first notice of demand in respect thereof:

Provided that an appeal may be admitted after the expiration of the period prescribed therefore by this section if the appellant satisfies the court that he had sufficient cause for not preferring the appeal within that period; and

(b) The amount, if any, in dispute in the appeal has been deposited by the appellant in the office of the Corporation.

206. Finality of appellate orders.- The order of the Court confirming, setting aside or modifying an order in respect of any rateable value or assessment or liability to assessment or taxation shall be final:

Provided that it shall be lawful for the court, upon application or on its own motion, to review any order passed by it in appeal within three months from the date of the order.

CHAPTER XXI MISCELLANEOUS PROVISIONS RELATING TO TAXATION

207. Power to inspect for purposes of determining rateable value.- (1) The Commissioner may, without giving any previous notice, enter upon and make an inspection of—

- (a) Any land or a building for the purpose of determining the rateable value of such land or building;
- (b) Any stable, garage, or coach-house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act;
- (c) Any place or premises which he has reason to believe are being used or are about to be use for any performance or show in respect of which the theatre-tax is payable or would be payable;
- (d) Any land, building or vehicle in or upon which any advertisement liable to tax under this Act is exhibited or displayed.

(2) The Commissioner may, by written summons require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle boat or animal or of any agent or employee of any such person and may examine such person as to the number and description of vehicles, boats and animals owned by or in the possession or under the control of such person; and every person, agent or employee of such person so summoned shall be bound to attend before the Commissioner and to give information to the best of his knowledge and belief as to the said matter.

208. Composition.- (1) The Commissioner may, with the previous sanction of the ¹[Mayor-in-Council] allow any person to compound for any tax.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recovered as an arrear of tax under this Act.

209. Obligation to disclose liability.- (1) The Commissioner may, by written notice, call upon any inhabitants of the city to furnish such information as may be necessary for the purpose of ascertaining —

- (a) Whether such inhabitant is liable to pay any tax imposed by the Corporation under this Act;
- (b) At what amount he should be assessed; or
- (c) The rateable value of the land or building which he occupies and name and address of the owner or lessee thereof.

(2) If any person when called upon under sub-section (1) to furnish information neglects to furnish it within the period specified in this behalf by the Commissioner or furnishes information which is not true to the best of his knowledge or belief, he shall be liable in addition to any penalty which may be imposed under this Act, to be assessed at such amount on account or tax, as the Commissioner may deem proper, and the assessment so made shall, subject to the provisions of this Act, be final.

210. Deduction of profession tax from certain Government employees.- (1) In case of a person serving under the State Government or Central Government or a local authority, the tax, which he is liable to pay, shall be deducted at the source in the manner, prescribed.

(2) The amount of the tax deducted under sub-section (1) shall be credited to the Municipal fund by the Government or the local authority concerned within fifteen days of such deduction.

211. Power to examine article liable to octroi.- Every person bringing or receiving within the limits of the city any article on which octroi is payable shall, when required by an agent or employee duly authorised by the Commissioner in this behalf and so far as may be necessary for ascertaining the amount of tax chargeable: —

- (a) Permit that agent or employee to inspect, examine, weigh and otherwise to deal with the article; and
- (b) Communicate of that agent or employee any information and exhibit to him any bill, invoice or documents of like nature which he may possess relating to the article.

212. Power to search where octroi is leviable.- (1) If any person, bringing or receiving a conveyance or package within the prescribed limits of the city on which octroi is believed to be leviable, refuses, on the demand of an employee authorised by the Commissioner in this behalf to permit him to inspect, weigh or otherwise examine the contents of the conveyance or package for the purpose of ascertaining whether it contains any article in respect of which octroi is payable, or refuse to communicate to

1. Subs. Vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006

him any information and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article or with the intention of defrauding the Corporation communicates any such bill, invoice or document of a like nature which is false, forged, or fraudulent he shall be punishable with fine which may extend to five hundred rupees.

(2) Any such person may demand that the conveyance or package or both, as the case may be, shall be taken without unnecessary delay before the Commissioner or a person appointed by him for this purpose, who shall cause the inspection to be made in his presence:

213. Power to fix prescribed limits and penalty for evasion from payment of octroi.- Any person, who, with the intention to defraud the Corporation, causes or abets the introduction of or himself introduces or attempts to introduce within the notified octroi boundary any animal or article on which octroi is payable, shall be punishable with fine which may extend to twenty times the value of such octroi

214. Extension of taxation limits by agreement.- (1) When the Corporation, with the sanction of the Government, has entered into an agreement with a Cantonment Authority or the Board of an area notified under the Assam Municipal Act, 1956 or a panchayat that the same limits for octroi or tax shall be established for the contracting parties, the Corporation may fix limits by bye-laws so as to include so much of the area controlled by the said contracting parties as it may deem necessary, and shall have the powers of collecting such toll or octroi on animals or articles brought within such limits or such tax and the provisions of this Act for the assessment and collection of such toll or octroi or tax shall apply in the same way as if the said limits were wholly comprised in the area of the Corporation.

(2) The total of the proceeds of such toll, octroi or tax made in the joint area of the Corporation and Cantonment or Municipality or Notified Area or Panchayat and the cost incurred therefore shall be apportioned between the Municipal Fund and the fund subject to the control of the Cantonment Authority or the Municipal Board or Town Committee or the Panchayat in such proportions as shall have been determined by the agreement.

215. Taxes not invalid for defect of form.- (1) No assessment and no charge or demand of any tax made under this Act shall be called in question or in any way affected by reason of —

(a) Any clerical or arithmetical mistake arising from any accidental slip or omission—

(i) In the names, residence, place of business or occupation of any person liable to pay the tax; or

(ii) In description of any property or thing liable to the tax; or

(iii) In the amount of assessment of tax; or

(b) (i) Any clerical error; or

(ii) Any defect of form, not being of a substantial nature:

Provided that the Commissioner may, either of his own motion or on the application of any aggrieved party, correct any such mistake or error or defect of form as is referred to in sub-section (1).

(2) If the property taxed or assessed is so described as to be generally known, it shall suffice into the case of any tax on such property or any assessment of value for the purpose of any tax and it shall not be necessary to name the owner or occupier thereof.

216. Power of Government to suspend levy of taxes.- The Government may be order exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property.

If at any time, it appears to the Government on representation made or otherwise that any tax imposed by or under this Act is unfair in its incidence or that the levy thereof or of any thereof is injurious to the interests of the general public, it may require the Corporation to take within a specified period measures to remove the objection; and, if within that period the requirement is not complied with to the satisfaction of the Government, the Government may by notification suspend the levy of the tax or such part thereof until the objection has been removed or may abolish or reduce the tax.

PART V
CHAPTER XXII
PUBLIC HEALTH SAFETY AND CONVENIENCE
WATER SUPPLY, DRAINAGE AND SEWAGE DISPOSAL

217. General power for supplying water.- For the purpose of providing supply of water the Commissioner may, either within or without the city — (a) construct and maintain waterworks and do all acts, which may be necessary or expedient in connection with such construction or maintenance;

(b) Purchase or take on lease any water work or any water or right to store water or to take or convey water; or

(c) Enter into any arrangement with any person for supply of water.

218. Supply of water.- (a) The Commissioner shall supply water for any purpose on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed.

(b) The supply of water shall be made upon such terms and conditions and for such period, as the Corporation may byelaws provide.

219. Making connection with municipal water-work.- Where an application under section 218 has been received, all necessary communication pipes and fittings shall be supplied by the Commissioner and the work of laying and applying such communication pipes and fitting shall be executed by municipal agency under the Commissioner's order; but the cost of making any such connection and of all communication-pipes and fittings so supplied and of all works so executed shall be paid by the person making such application.

220. Obligation of owner or occupier to give notice of waste of water.- Any owner or occupier of any land building in or on which water is supplied under this Act is misused from negligence or other circumstances under his control in which the pipes mains or other works are out of repair to such an extent as to cause waste of water shall, if he has knowledge thereof, be bound to give notice of the same to such municipal employee as the Commissioner may appoint in this behalf.

221. Responsibility or damage cause by leakage of water.- Neither the owner nor occupier of any land or building in which pipes mains or other works are situated nor

the Corporation shall be liable to pay compensation to any person for any damage caused by any leakage water of or any failure to keep in repair such pipe main or other works, unless the owner or occupier or the Corporation has knowledge thereof and has failed to take reasonably prompt action either to report the same to the Commissioner or to stop the leakage or to execute the required repairs, as the case may be.

222. Cutting off of supply to premises.- If any person whose premises are supplied with water, neglects to pay any sum payable under section 218 when due, the Commissioner may cut off the supply of water from the said premises with due notice.

223. Power of Commissioner to provide meters.- (1) The Commissioner may provide a water-meter and attach the same to the service pipe in premises connected with municipal water works.

(2) The expenses of providing and attaching a meter under sub-section (1) shall be paid¹[* * *] by the owner of the premises.

224. Presumption as correctness of meters.- Whenever water is supplied under this part through a metter it shall be presumed that the quantity indicated by the matter has been consumed until the contrary is proved

225. Damaging water works misappropriating with water and tampering with meters.- No person shall —

- (a) Wilfully or negligently damage or cause to be damage wells, reservoirs, mains, pipes or other appliance for the supply of water under the management or control of the Corporation
- (b) Draw off or divert any water from any municipal well, reservoir, main or pipe;
- (c) or tamper with any meter.

226. Misuse of and leaving open valves, and tampering with valves and hydrants.- No person shall —

- (a) Open or keep open the valves or any water works used for the supply of water to the public by any means other than the use of pressure by the hand; and
- (b) Having open such valve fail to close the same or temper with any valve or hydrant not intended for the supply of water to the public.

227. Prohibition of erection of any building which would damage sources of water supply.-

- (a) Erect any building for any purpose whatever on any part of the area enclosed by the boundary fence of any lake or reservoir from which a supply of water is served for a municipal waterworks; or
- (b) Remove, alter, injure damage or in any way interfere with the aforesaid boundary fence.

1. The words “ initially out of Municipal Fund and shall be reimbursable” omitted by Guwahati Municipal Corporation (Amendment) Act, 2003 (Act No. IX of 2003), Section 9, w.e.f. 3.5.2003.

228. Prohibition of bathing in or polluting water.- Except s provided hereinafter, no person shall, —

- (a) Bathe in or near any water-works belonging the Corporation; or
- (b) Wash, throw, or cous any animal to enter into the water of such works; or
- (c) Throw any rubbish, dirt filth or any other thing whatsoever into or upon the water of suchworks; or
- (d) Wash or cleanse therein any cloth wool; lather or skin of any animal or any clothes or any other thing; or
- (e) Cause the water of any sink, drain, stream engine, boiler, or other filthy water belonging to him or under his control to run or be brought into any such water works or do any other act where by the water in such works may be or fouled or polluted of its quality altered.

229.Non-liability of Corporation when supply reduced or not made in certain cases.- The Corporation shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water (save in the case of express stipulation in an agreement for the supply of water for other than domestic purpose) in the case of any draught, other unavoidable cause or accident, or due to the necessity of relating or repairing pipes.

230. Water Supply to the public.- (1) The Commissioner shall provide gratuitous supply of wholesome water to the public within the city and may for the purpose, erect public hydrants or other conveniences.

(2) The Commissioner may close a public hydrant or other convenience when it is no longer required for the supply of wholesome water to the public.

DRAINAGE AND SEWAGE

231.Cleaning drains.-(1) The Municipal drains shall be so constructed, maintained and kept as to keep the drains free from public nuisance and shall from time to time be properly flushed, cleaned and emptied.

(2) For the purpose of flushing, cleaning and employing the said drains, the Commissioner may construct or set up such reservoirs, sluices engines and other works, as he shall from time to time deem necessary.

232.Appointment of places for emptying of drains and disposal of sewage.- The Commissioner may cause all to any of the Municipal drains to empty into any place, whether within or without the city, and may dispose of the sewage at any place whether within or without the city, and in any manner which he may deem suitable for such purpose:

Provided that: —

- (a) The Commissioner shall not cause any Municipal drain to empty into any place into which a Municipal drain has not here-to-before been emptied, or disposed of sewage at any place or in any manner at or in which sewage has not here-to- before been disposed of without the sanction of the Corporation; and

(b) No Municipal drain shall be made to empty into any place, and no sewage shall be disposed of as any place or in any manner which the Government may think fit to disallow.

233.Provision of land for disposal of sewage.- The Commissioner may for the purpose of receiving, treating, storing, disinfecting, distributing or otherwise disposing of sewage, construct any work within or without the city or purchase or take on lease any land, building, engine, material or apparatus either within or without the city or enter into any arrangement with any person for any period not exceeding five years for the removal or disposal of swage within or without the city:

Provided that any such construction or arrangement made without the city shall have to be made in consultation with the local authorities.

234.Alteration and discontinuance of drains.-The Commissioner may enlarge or alter the course of deepen, arch, over or otherwise improve any Municipal drain and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage:

Provided that, if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed or the use of which has been prohibited.

235. Provision of public latrines and urinals.-The Corporation shall provide and maintain in proper and convenient places a sufficient number of public latrines and urinals and shall cause the same to be kept clean and in proper order.

236. Provision for drain, previes, etc.- (1) The Commissioner may, by notice, require the owner of any building or land to provide move or remove any drain, privy latrine, urinal, absorption pit, disposal work, cesspool, or other receptacle for filth or refuse or provide any additional drains, privies, latrines, urinals, absorption pits, disposal works, cesspools or other receptacles as aforesaid which should in his opinion be provided for the building or land, in such manner and of such pattern as the Commissioner may direct.

(2)The Commissioner may, by notice require any person employing more that twenty workmen or labourers to provide such latrines and urinals as he may think fit and to cause the same to be kept in proper order and to be daily cleaned.

(3)The Commissioner may, by notice require the owner or the occupier of any building or land to have any privy, latrine, or urinal provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood or to remove or alter, as the Commissioner may direct, any door or trapdoor or other opening of a privy, latrine or urinal opening on to any street or drain.

237.Repairs and closing of drains private latrines, etc.-(1) The Commissioner may, by notice, require the owner or occupier of any building or land to repair, alter or put in good order any private drain, privy, latrine, urinal absorption pit, disposal work, cesspool belonging thereto, or direct that such private drain shall from such date as may be specified in this behalf, be used offensive matter and sewage only, and for rain water

and unpolluted sub-soil water direct the occupier of the premises to make an entirely distinct private drain.

(2) No drain connecting any premises with a municipal drain or other place set apart from the discharge of drainage may be closed, discontinued or destroyed by the Commissioner under sub-section (1), exception condition of his providing another drain equally effectual for the drainage of the premises and communicating with such Municipal drain or other place aforesaid as the Commissioner thinks fit, and the expenses of construction of any drain so provided by the Commissioner and of any work done under this section shall be paid from the Municipal Fund.

238. Power of Commissioner to demolished drains, etc.-The Commissioner may, by notice, require any person who may construct any new drain, privy, latrine, urinal, absorption pit, disposal work, cesspool or receptacle for filth or refuse without his permission in writing or contrary to his directions or the provisions of this Act, or the rules or bye-laws made thereunder or who may construct, rebuild or open any drain, privy, latrine urinal, absorption pit, disposal work, cesspool or receptacle for filth or refuse, which the Commissioner has ordered to be demolished or stopped or not to be made, to demolish the drain, privy, latrine, receptacle, or to make such alteration therein as he may think fit.

239.Unauthorised building over drains, etc.-The Commissioner may, by notice, require any person who without his permission in writing has erected or rebuilt any building over any drain, conduit, water-course, pumping main or water pipe vested in the Corporation, to pull down or otherwise deal with the same as the Commissioner may think fit.

240.Removal of latrine, etc. near any source of water-supply.- (1) The Commissioner may, by notice, require any owner or occupier on whose land any drain, privy, latrine, urinal, absorption pit, disposal work, cesspool or other receptacle for filth or refuse for the time being exists within a hundred feet of any spring, well, tank reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of such notice:

Provided that such owner or occupier shall be entitled to reasonable compensation for such removal or closure as may be assessed by the Commissioner.

241.Discharging sewage.-No person shall without the permission of the Commissioner case or knowingly or negligently allow the contents of any sink, cesspool or any other offensive matter to flow, drain or be put upon any street or public place, or into any irrigation channel or any drain not set apart for the purpose.

242.Making or altering drains without authority.-No person shall without the permission of the Commissioner, make or cause to be mad or alter or cause to be altered, any drain, leading into any of the drains vested in the Corporation.

243. Power to require removal of nuisance arising from tanks and the like.- The Commissioner may, by notice require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private well, tank, reservoir, pool, depression or excavation therein which may appear to the Commissioner to be injurious to health or offensive to the neighbourhood:

Provided that if for the purpose of affecting any drainage under this section it should

be necessary to acquire any land not belonging to the same owner or to pay compensation to any person, the Corporation shall provide such land or pay such compensation:

Provided further that if the owner or occupier fails to comply with such notice within ten days, the Commissioner may get the work done at the cost of such owner or occupier as the case may be. Any such cost may be recovered as an arrear of tax under this Act.

244. New building not to be erected without drains.-No person shall erect or re-erect any building, any part of which is within one hundred feet of a municipal drain or of some place set apart by the Commissioner for the discharge of drainage or occupy any such building newly erected or re-erected, unless and until—

(a) A drain has been constructed which, in the opinion of the Commissioner, shall be sufficient for the effectual drainage of such building to such municipal drain or place; and

(b) They have been provided for and set up in such building and in the premises appurtenant thereto all such appliances and fittings as may appear to the Commissioner to be necessary for the purpose of gathering and receiving the drainage from, and conveying the same off the said building and the said premises, and of effectually flushing the drain of the said building and every fixtured connected therewith.

245. Power of owner of premises to place pipes and drains through land belonging to other persons.- (1) If it appears to the Commissioner that only or most convenient means of water supply to, and drainage of, any premises is by placing or carrying a pipe or drain over, under, along or across the immovable property of another person, the Commissioner may, by an order in writing, authorise the owner of the premises to place or carry such pipe or drain over, under, along or across such immovable property:

Provided that before making any such order the Commissioner shall give to the owner of the immovable property a reasonable opportunity of the immovable property a reasonable opportunity of showing cause within such time as may be fixed by bye-laws made in this behalf as to why the order should not be made:

Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe or drain is placed or carried.

(2) Upon the making of an order under sub-section (1), the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe or drain over, under, along or across such immovable property or for the purpose of repairing the same.

(3) In placing or carrying a pipe or drain under this section, as little damage as possible shall be done to the immovable property and the owner of the premises shall: —

(a) Cause the pipe or drain to be placed or carried with the least practicable delay;

(b) Fill in, reinstate and make good at his own cost and with the least practicable delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe or drain; and

(c) Pay such compensation as may be assessed by the Commissioner, to the owner of the immovable property and to any other person who sustains damage by reason of the placing or carrying of such pipe or drain.

(4) If the owner of the immovable property, over, under, along or across which a pipe or drain has been placed or carried under this section whilst such immovable property was not built upon, desires to erect any building on such property, the Commissioner shall, by notice in writing, require the owner of the premises to close, remove or divert the pipe or drain in such manner as shall be approved by him and to fill in, reinstate and make good the immovable property as if the pipe or drain had not been placed or carried over, under along or across the same:

Provided that no such requisition shall be made unless in the opinion of the Commissioner it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof that the pipe or drain should be closed, removed or diverted.

246. Obligation of owner or joint owner of drain to allow the uses of it to other.-

Every owner of a drain connected with a municipal drain or other place set apart by the Commissioner for drainage shall be bound to allow the use of it to other persons, or to admit other persons as joint owners, thereof, on such terms as may be prescribed under section 248.

247. How right of use of a drain may be obtained by a person other than the owner.- Any person desiring to drain his premises into a municipal drain through a drain of which he is not an owner may make a private arrangement with the owner for permission to use his drain, or may apply to the Commissioner for authority to use such drain.

248. Commissioner may authority person other than the owner of a drain to use the same or declare him to be a joint user thereof.-

(1) Where the Commissioner is of opinion whether on receipt of an application or otherwise, that the most convenient means by which the owner or occupier of any premises can drain such premises is through a drain belonging to some person other than the said owner or occupier the Commissioner shall, give the owner of the drain a reasonable opportunity of stating his objection thereto, and if no objection is raised or if the objection appears to him invalid or insufficient, may, by an order in writing authorise the said owner or occupier to use the drain or declare the said user to be a joint owner thereof on such conditions as may appear to him equitable with regard to the payment of rent or compensation and to connecting the drain of the said premises with the communicating drain and to the responsibilities of the parties for maintaining, repairing, flushing and clearing the joint drain.

(2) In respect of the execution of any work under sub-section (1) the person in whose favour the Commissioner's order is made shall be subject to the same restriction and liabilities as are specified in sub-section (4) of section 245.

249. Power to drain group or block of premises by combined operation.- (1) If it appears to the Commissioner that any group or block of premises may be drained more economically or advantageously in combination than separately, and a municipal drain of sufficient size already exists or is about to be constructed within one hundred feet of

any part of that group or block of premises, the Commissioner may cause that group or block or premises to be drained by a combined operation.

(2) The expenses incurred in carrying out any work under sub-section (1) in respect of any group or block of premises shall be paid by the owners of such premises in such proportions as the Commissioner may determine and shall be recoverable from them as an arrear of tax under this Act.

(3) Not less than fifteen days before any such work is commenced, the Commissioner shall give to each such owner —

(a) A written notice of the nature of the proposed work, and

(b) An estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

(4) The Commissioner may require the owners of such group or block of premises to maintain the work executed under this section.

250. Connecting drains to be constructed at the expense of owners of premises.- (1)

In the case of premises abutting on a Public Street blocking and disconnecting a municipal drain, the Commissioner shall construct such connecting drain at the expense of the owner of the said premises.

(2) The connecting drain mentioned in sub-section (1) shall vest in the Corporation and be maintained and kept repaired by the Commissioner as a municipal drain.

(3) The remainder of every drain constructed, erected, set up or continued for the sole benefit of any premises shall —

(a) Vest in owner of such premises;

(b) Be maintained and kept in repair by the owner or occupier of such premises; and

(c) Be from time to time flushed, cleansed missioner at the cost of the Municipal Fund:

Provided that, where several premises are drained in common under the last preceding section, such remainder shall vest in the owners jointly and the cost of maintenance and repair thereof shall be distributed in the same proportions as are fixed by Commissioner under the said section.

251. Power of Commissioner to affix shafts for ventilation of drain or cess pool.-

For the purpose of ventilating any drain or cesspool, whether vested in the Corporation or not, the Commissioner may, in accordance with bye-laws made in this behalf, erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as may appear to him to be necessary.

252. Right of Corporation to drains constructed at cost of Municipal Fund.- All drains and fittings thereof constructed or setup at the cost of the Municipal Fund shall vest in the Corporation.

SANITARY PROVISIONS
REGULATION OF PUBLIC BATHING, WASHING, ETC.

253. Construction of places for public bathing etc.-(1) The Commissioner may from time to time—

- (a) Set apart suitable places for use by the public for bathing, or for washing animals, or for washing;
- (b) Specify the times at which and the sex of persons by whom such places may be used; and
- (c) Prohibit, by public notice, the use by the public, for any of the said purposes, of any place not so set apart.

(2) The Commissioner may charge such fees as the Corporation may fix for the use of any such place by any specified class or classes of persons or by the public generally.

254. Prohibition of pollution of water by steeping animals or other matters, etc.- No person shall —

- (a) Steep in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;
- (b) Whilst suffering from contagious, infections or dangerous disease, bathe in or near any bathing-platform, lake, tank, reservoir fountain, cistern, duct, standpipe, stream or well.

255. Prohibition of washing of cloth.- (1) The Commissioner may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as he may appoint for this purpose; and after such prohibition no washerman shall wash clothes at any place not appointed for this purpose.

(2) The Commissioner shall provide suitable place for the exercise of their calling by washermen and may require the payment of such fees for the use of any such place as the Corporation may from time to time determine.

***GENERAL PROVISION WITH REFERENCE TO DRAINAGE, WATER SUPPLY AND
WAER AND OTHER MAINS***

256. Joint and several liability of owners and occupiers for offence in relation to water supply.- If any offence relating to water supply is, committed under this Act on any premises connected with the municipal water-works, the owner, the person primarily liable for the payment of the water tax, and the occupiers of the said premises shall be jointly and severally liable for such offence

257. Least practicable nuisance to be caused.- (1) In carrying out the duties imposed on the Corporation by clauses (1) and (3) of section 7 or exercising the powers conferred upon it by sections 231, 232, 238, 251, 269 and 270 the Corporation shall not cause any nuisance which in the circumstances of the case can reasonably be avoided.

(2) The Commissioner shall make reasonable compensation to any person who has sustained damage occasioned by the carrying out of any such operations:

Provided that no compensation shall be claimed or paid for inconvenience unavoidably caused.

258. Power of carrying wires, pipes drains, etc.-Subject to the provisions of any law for the time being in force the Commissioner may carry any cable, wire, pipe, drain or channel of any kind required for the establishment or maintenance of any system of drainage, water supply or lighting through, across, under or over any street or any place laid out as or in ended for a street, and also after giving reasonable notice in writing to the or along side any land or building whatsoever within or without the city, and may place and maintain in any immovable property in the city or outside the city any posts, poles, standard, brackets or other contrivances for supporting cables, wires, pipes, channels and lights and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket other similar contrivance in an effective state for the purpose for which it is intended to be used or for removing the same.

259. Provision as to wires, pipes, or drains laid or carried above surface of ground.- In the event of any cable, wire, pipe drain or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain sewer or channel, as the case may be shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.

260.-Previous notice to be given.-Except in cases to which sections 270 and 271 relate the Commissioner shall cause not less than fourteen days notice in writing to be given to the owner or occupier before commencing operations under section 258.

261.Connection with the main not to be made without the permission of Commissioner.- No person shall, without the permission of the Commissioner at any time, make or cause to be made, any connection or communication with any cable, wire, pipe, ferrule drain or channel constructed or maintained by or vested in the Corporation, for any purpose whatsoever.

262. Communications and connection, etc. to be executed subject to inspection by and to the satisfaction of Commissioner.- The ferrules, communication-pipes, connections, meters, stand-pipes and all fitting thereon or connected therewith, leading from mains or service cables, wires, pipes, drains or channels into to any such house or within the limits of any such land shall in all cases, other than cases which the Government may by general or special order exempt from the operation of the section, be executed to the satisfaction of the Commissioner.

263. Troughs and pipes for rainwater.- (1) The Commissioner may, by notice require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying water and sullage from the land or building and for discharging the same so as not to inconvenience persons passing along the street.

(2) For the purpose of efficiently draining any building or land the Commissioner may be notice in writing —

(a) Require any courtyard, alley or passage between two or more buildings to be paved by the owner or part owner of such buildings with such materials and in such manner as may be approved by the Commissioner; and

(b) Require such paving to be kept in proper repair.

264. Power of access to municipal water works.- Any municipal sewage or drainage scheme or any municipal water-works may be inspected by a person appointed by the Government in this behalf. The Commissioner or any such person appointed by the Government may at all reasonable times —

(a) Enter upon and pass through any land whether within or without the city adjacent to or in the vicinity of such drainage or sewage scheme or such water-works in whomsoever such land may vest; and

(b) After giving not less than four days written notice to the occupiers, cause to be conveyed into and through any such land all necessary men, materials, tools and implements.

265. Compensation for damage.- If in the exercise of any of the powers conferred by section 251 or 257, any damage is caused which in the circumstances could reasonable have been avoided, the Corporation shall pay compensation for the damage caused as may be assessed by the Commissioner.

266. Work to be done by licensed plumber.- (1) No person other than a licensed plumber shall execute any work pertaining to water supply, drainage and sewerage disposal as described in this part and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Commissioner the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs a licensed plumber to execute any work shall, when so required, furnish to the Commissioner the name of such plumber.

(3) When any work is executed except in accordance with the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Commissioner without prejudice to the right of the Corporation to prosecute under this Act the person at whose instance such work has been executed.

(4) The Corporation may make byelaws for the guidance of licensed plumber and a copy of all such byelaws shall be attached to every license granted to a plumber by the Corporation.

(5) The ¹[Mayor-in-Council] may, from time to time, fix the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of this part.

(6) No licensed plumber shall, for any work referred to in sub-section (5), damaged or receive more than the charges fixed therefore under that sub-section.

267. Control by the Corporation and ²[Mayor-in-Council].- In dealing with municipal drainage, sewage, and water-works schemes, the Commissioner shall follow the general principles laid down by the Corporation, with the approval of the Government, for any scheme of sewage or drainage or water-works and may refer to

1. Subs. Vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Ibid.

the Corporation any question connected with the carrying out of such a scheme in which the intention of the Corporation does not appear to have been clearly expressed, or in which the provisions of the scheme appear to him to require modification by the Corporation;

Provided that any question involving the expenditure of a sum exceeding one lakh of rupees shall be referred to the Corporation for orders.

268. Control by Government.- No drainage or sewage or water works scheme involving an expenditure of a sum of twenty lakhs of rupees or more shall be sanctioned by the Corporation without the previous approval of the Government.

CONSERVANCY

269. Deposit of rubbish, offensive matters, sewage and carcasses.- (1) The Commissioner shall provide or appoint in proper and convenient situations, public receptacles, depots and places for the temporary deposit or final disposal of rubbish, offensive matters, sewage and the carcasses of dead animals accumulating in the city.

(2) All things deposited in receptacles, deposits or place provided or appointed under this section shall be the property of the Corporation.

270. Collection and removal of sewage.- The Commissioner may give public notice that the collection and the removal of sewage, offensive matter and rubbish from the lands and buildings in any portion of the city will be undertaken by municipal agency, and he shall then forthwith take measures for the due collection and removal of such matter from any lands and buildings situated in the said portion of the city.

271. Collection and temporary deposit of rubbish and offensive matter by occupiers of premises.- (1) The Commissioner may, by public notice direct that all rubbish and offensive matter accumulating in any premises, in any street or quarter of the city specified in the notice, shall be collected by the occupier of such premises and deposited in a box, basket or other receptacle, of a kind prescribed by the Corporation, to be provided by such occupier and kept near the entrance to, or where open space is available, with the premises.

(2) The Commissioner may cause public dustbins or other convenient receptacles to be provided at suitable intervals and in proper and convenient situations in streets or quarters in respect for which no notice issued under sub-section (1) is for the time being in force, and may, by public notice, direct that all rubbish and offensive matter accumulating in any premises, the entrance to which is situated within fifty yards of any such receptacle, shall be collected by the occupier of such premises and deposited in such receptacle.

(3) The Commissioner, may, by public notice direct that all rubbish and offensive matter accumulating in any premises in any street or quarter in respect of which no notice issued under sub-section (1) or sub-section (2) is for the time being in force, shall be collected by the occupier of such premises and deposited in lump in the street on which such premises abut or in some portion of such premises.

(4) In any notice issued under any of the foregoing sub-sections the Commissioner shall fix the hours within which rubbish and offensive matter shall be deposited under this section.

(5) The Commissioner may, by public notice, direct that sweepers privately employed for removal of sewage, rubbish or offensive matter shall remove the same in proper receptacles of a type to be approved by him in such manner as not to cause any unnecessary nuisance to passers by in the street.

272. Prohibition of accumulations of offensive matter.- No person —

(a) Shall throw or place any rubbish, offensive matter or sewage on any street or in any place not provided or appointed for the purposes under the provisions of this Act; and

(b) Who is the owner or occupier of any land or building shall allow any sewage or offensive matter to flow, soak or be thrown therefrom or keep or suffer to be kept therein or thereupon anything so as to be a nuisance to any person or negligently suffer any receptacle or place for the deposit of offensive matter or rubbish, on his premises to be in such a state as to be offensive or injurious to health.

REGULATION OF FACTORIES AND TRADES

273. Factory, etc., not to be established without permission of the Commissioner.-

(1) No person shall, without the previous permission in writing of the Commissioner, establish in any premises or materially alter, enlarge or extend any factory, workshop or trade premises in which it is intended to employ steam, electricity, water or other mechanical power.

(2) The Commissioner may refuse to give such permission if he is of the opinion, that the establishment, alteration, enlargement or extension of such factory, workshop or trade premises, in the proposed position would be objectionable by reason of the density of the population of the neighbourhood thereof, or would be nuisance to the inhabitants of the neighbourhood.

(3) The Commissioner may, if he is of opinion that the existence of such factory, workshop or trade premises in any place is objectionable by reason of the density of the population of the neighbourhood thereof, or is a nuisance to the inhabitants of the neighbourhood, direct that the factory, workshop or trade premises be shifted to any other place suitable for the purpose:

Provided that the cost of such shifting shall be borne by the Corporation.

COMMENTS

Granting of normal licence –Powers of Commissioner.-Power to grant licence by Commissioner must be exercised independently. Exercising of such power on dictation of the State Government.[Annapurna Food Products v. Commissioner, Gauhati Municipal Corporation, 1985 (2) GLR 200.]

Renewal of licence to run a Bakery-Rejection must be with reason .-When renewal application filed for running of a Bakery after the expiry of the year applicant must be given sufficient opportunity of hearing before rejecting the application. Rejection of application on the dictation of State Government without sufficient enquiry, illegal and unjustified.[Annapurna Food Products v. Commissioner, Gauhati Municipal Corporation, (1985) 2 GLR 200.]

Non renewal of licence is akin to revocation of licence –Opportunity to be afforded to grantee.- Every order of suspension shall contain a brief statement of the reasons for

the suspension or revocation of the licence or the written permission and before making an order of suspension or revocation reasonable opportunity shall be afforded to the grantee of the licence or the written permission to show cause why it should not be suspended or revoked. In present case, revocation of licence, as both is the case of revocation and non renewal of the licence ceases to exist. The result is that the Commissioner has similar obligation to give brief statement of the reasons. The impugned order violets the spirit of the rules embodied in the Act. [Annapurna Food Products v. Commissioner, Gauhati Municipal Corporation, (1985) 2 GLR 200.]

Order for shifting of factory, must contain reasons.- An order under Section 273 (3) must contain reasons. A case under Section 273 (3) comes very near to revocation as both in case of revocation and non-renewal the licence ceases to exist. Hands impugned order of non-renewal of licence violets the spirit of rules embodied in the Act. [Annapurna Food Products v. Commissioner, Gauhati Municipal Corporation, (1985) 2 GLR 200.]

Shifting of factory-Condition precedent for exercising power.- It has been held that power to issue direction to shift factory etc can be exercised only if there is a nuisance to the inhabitation of neighborhood. [Annapurna Food Products v. Commissioner, Gauhati Municipal Corporation, (1985) 2 GLR 200.]

274. Sanitary regulation of factories, etc.- (1) Whenever it appears to the Commissioner that any factory, workshop or work place or a building or place in which steam, water or other mechanical power is employed, is not kept in a clean state or is not ventilated in such a manner as to render harmless as far as practicable, any gas, vapour, soot or other impurity generated in the course of the work carried on therein as to be dangerous or injurious to the health of the person employed or that any machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb, the Commissioner may by written notice require the owner thereof to take such order therewith as he shall think fit.

(2) Nothing in this section shall be deemed to affect any provision of the Indian Boilers Act, 1923, and nothing in this section regulating the fixing or fencing of any machinery shall apply to any factory subject to the provisions of the Indian Factories, Act. 1948.

275. Regulation of dangerous and offensive trades.- Except in accordance with the provisions this Act, no person shall —

(a) Store or keep in any premises any articles which are prescribed as dangerous or offensive, or as being, or likely to be a nuisance to the public, or dangerous to life, health or property, or

(b) Store or keep in any premises the hide or any part of the carcass of any animal afflicted at the time of its death with infectious or contagious disease; or

(c) Carry on or allow to be carried on in any premises any trade, manufacturing industry or operation which is prescribed as dangerous to life, health or property or is likely to create nuisance, either from its nature or by reason of the manner in which or the conditions under which the same may be carried on:

Provided that nothing in this section shall affect the provisions of the Indian Explosive Act, 1884 or Indian Petroleum Act, 1934.

276. Premises not to be used for certain purposes without licence.- (1) No person shall use or permit to be used any premises for any of the following purposes without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, namely: —

- (a) Carrying on within the city the trade or operation of farrier/furrier;
- (b) Keeping in or upon any premises, for any purpose whatever any prescribed articles in excess of the quantity which the Corporation may by bye-law prescribe as the maximum quantity of such article which may at any one time be kept in or upon the same premises without a licence;
- (c) Keeping in or upon any premises except for domestic use any prescribed articles;
- (d) Keeping horses, cattle or other four-footed animals for sale or hire or for sale of the produce thereof, or for any purpose for which any charge of remuneration is made or received;
- (e) Carrying on any of the prescribed trades or operation connected therewith, or any trade or operation which in the opinion of the Commissioner is dangerous to life, health or property, or is likely to create a nuisance either from its nature or by reasons of the manner in which, or the conditions under which the same may be carried on.

Explanation I: — A person shall be deemed to have known that a trade or operation is dangerous or likely to create a nuisance within the meaning of this section after written notice to that effect signed by the Commissioner has been served on such person or affixed to the premises to which it relates.

Explanation II: — A person shall be deemed to carry on a trade or operation or to allow it to be carried on within the meaning of this section if he does any act in furtherance of such trade or is in any way engaged or concerned therein as principal, agent, employer or employee or in any other similar capacity.

(2) It shall be in the discretion of the Commissioner to grant a licence for any of the purposes referred to in sub-section (1) subject to such restrictions or conditions as he may think fit to prescribe or to refuse to grant such licence.

(3) Every person to whom a licence is granted by the Commissioner under sub-section (2) shall keep the licence in or upon the premises, if any to which it relates.

277. Prohibition of pollution of water by chemicals etc.- (1) No person engaged in any prescribed trade or manufacture shall —

- (a) Wilfully cause or suffer to be brought to or flow into any lake, river or stream, tank, reservoir, cistern, well, duct or other places within the city or into any drain or pipe communicating therewith, any washing or other substance produced in the course of such trade or manufacture as aforesaid; or
- (b) Wilfully do any act connected with any such trade or manufacture whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for storing water is fouled or polluted.

(2) After giving not less than twenty-four hours previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as is referred to in sub-section (1) the

Commissioner may let open and examine the said works, pipes or conduits; and if upon such examination, it shall appear that the provisions of sub-section (1) have been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses incurred in laying open and examining them and in adopting any other measure which the Commissioner considers necessary for removing the cause of such contravention shall be paid by the owner of the said works, pipes, or conduits, or by the person who has the management or control thereof or through whose neglect or fault the contravention has occurred. If it appears that there has been no such contravention, the said expenses and also compensation for any damage occasioned by such laying open and examination shall be paid by the Commissioner.

278. Inspection of premises used for manufactures, etc.-(1) Subject to the bye-laws made by the Corporation in this behalf, the Commissioner at any time, by day or by night and without notice, enter into or open any premises used for any of the purposes mentioned in section 276 or upon any premises in which a furnace is employed for the purpose of any trade or manufacture, or into any bakery, in order to satisfy himself that there is no contravention of any provision of this Act or any rule or bye-law made thereunder or any condition of any licence granted under this Act, or that no nuisance is being created upon such premises.

(2) No claim for compensation shall lie against any person for any damage, which may unavoidably be caused by any such entry or by the use of any force necessary for affecting such entry:

Provided that force shall not be used for affecting an entry, unless there is reason to believe that an offence is being committed against some provisions of this Act or some rules made thereunder.

PREVENTION OF DANGEROUS DISEASES

279. Obligation to give information of dangerous cases.- Any person being in charge of, or in attendance, whether as a medical practitioner or otherwise, upon, any person whom he knows or otherwise, upon, any person whom he knows or has reason to believe to be suffering from a dangerous disease, or being the owner, lessee, or occupier of any building in which he knows that any such person is so suffering shall forthwith give information suspecting the existence of such disease to the Medical Officer of Health.

280. Power of Medical Officer of Health to inspect places and take measure to prevent spread of dangerous disease.- The Medical Officer of Health, or any other municipal employee authorised by him in this behalf, may at any time by day or by night, with out notice, or after giving such notice of his intention as may, in the circumstances appear to him to be reasonably, inspect any place in which any dangerous disease is reported or suspected to exist, and take such measure as he may think fit to prevent the spread of the said disease beyond such place.

281. Prohibition of use for drinking or for other domestic purpose of water likely to cause dangerous disease.- (1) If it appears to the Medical Officer of Health that the water in any well, tank or other place is likely, if used for the purpose of drinking or for any other domestic purpose, to endanger or cause the spread of any dangerous disease, he may by public notice, prohibit the removal or use of the said water for such purpose.

(2) No person shall remove or use for such purpose any water in respect of which any such public notice has been issued.

282. Power of Medical Officer of Health to remove patient to hospital in certain cases.- (1) When, in the opinion of the Medical Officer of Health, any person is suffering from a dangerous disease and is also without proper lodging or accommodation, or is lodged in such a manner that he cannot be effectually isolated so as to prevent the spread of infection, and the said officer considers that such person should be removed to a hospital or place at which patients suffering from such disease are received for medical treatment, he may with the approval of the Commissioner direct or cause the removal of such person to such hospital or place:

Provided that all costs incurred for the removal and the treatment of any such patient shall be borne by the Corporation:

Provided also that, if any such person is a woman, she shall not be removed to any such hospital or place unless the same has accommodation for women, or a suitable kind, and set apart from the portion assigned to males.

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

(3) The Corporation shall, if required by the Government erect an infectious diseases hospital of such type and dimension as the Government may direct.

283. Power of Medical Officer of Health to disinfect building, tank, pool or well.-

(1) If the Medical Officer of Health or any municipal employee authorised by him in this behalf is of opinion that the cleansing or disinfecting of any building or any part of a building, or any article therein which is likely to retain infection, or of any tank, pool or well adjacent to a building, should tend to prevent or check the spread of any dangerous disease, he may cause to be cleaned or disinfected such building or part thereof, article, tank, pool or well and may by written notice, require the occupier of such building or any part thereof to vacate the same for such time as may be specified in such notice.

(2) The cost of cleansing or disinfecting any building or part thereof or any article therein under sub-section (1) shall be paid by the occupier of such building and the cost of cleaning or disinfecting any tank, pool or well, under the said sub-section, shall be paid by the person in actual possession of such tank, pool or well or if there be no such person by the owner, thereof:

Provided that if, in the opinion of the Commissioner, the owner or occupier is due to poverty unable to pay the said cost, the Commissioner may direct payment thereof to be made from the Municipal Fund.

284. Power of Medical Officer of Health to destroy huts and sheds.- (1) If the Medical Officer of Health is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation not exceeding the value of the hut as may be assessed by the Commissioner, shall be paid by the Corporation to any person who sustains loss by the destruction of any such hut or shed, but, except as so allowed by the Commissioner, no claim or compensation shall lie for any loss or damage caused by any exercise of the powers conferred by sub-section (1).

285. Infected building not to be let with out being first disinfected.- No person shall let a building or any part thereof in which he knows or has reason to know that a person has been suffering from a dangerous disease, —

- (a) Unless the Medical Officer of Health has disinfected the same and has granted a certificate to that effect; and
- (b) Until a date is specified in such certificate on which the building or part may be occupied without causing risk or infection.

Explanation: — For the purpose of this section the keeper of a hotel or an inn shall be deemed to have let part of his building to any person accommodated therein.

286. Provision of place for disinfecting, washing destruction of infected articles and power of Commissioner to disinfect or destroy such articles.-(1) The Corporation may provide a place or places with all necessary apparatus and establishment for the disinfections of conveyances, clothings, beddings or other articles which have become infected or suspected to have become infected and when any article have been brought to any such place for disinfections, shall cause them to be disinfected either, —

- (a) Free of charge; or
 - (b) In its discretion on payment of such fees as it may from time to time fix in this behalf
- (2) The Corporation may from time to time, by public notice appoint a place or places at which conveyances, clothings, beddings or other articles which have been exposed to infection from any dangerous disease may be washed; and no person shall wash any such article at any place not so appointed.
- (3) The Medical officer of Health or any person authorised by him in this behalf, may disinfect or destroy, or by written notice direct the disinfection or destruction of any clothings, beddings or other articles likely to retain infection.
- (4) The Commissioner shall pay such compensation as may appear to him reasonable for any article destroyed under sub- section (3) and his decision shall be final.

287. Infected articles not to be transmitted, etc. without previous disinfection.- (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

288. Restriction on carriage of patients or dead body in public conveyance.- (1) No person who is suffering from a dangerous disease shall enter or cause or permit himself to be carried in a public conveyance, nor shall any other person knowingly cause or permit a person in his charge and suffering from a dangerous disease or the dead body of any person who has died from such disease to be carried in a public conveyance without —

- (a) Previously notifying to the owner, driver or person in-charge of such conveyance that he is so suffering, and

(b) Taking proper precautions against spreading of such disease.

(2) Notwithstanding anything contained in any enactment relating to public conveyances for the time being in force, no owner or driver or person in-charge of a public conveyance shall be bound to carry any person suffering as aforesaid or any such dead body in such conveyance unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

(3) No owner, driver or person in-charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid or any such dead body in contravention of sub-section (1).

289. Disinfection of public conveyance after carriage of patient or dead body.- (1)

The owner, driver or person in-charge of any public conveyance in which any person suffering from a dangerous disease or the dead body of any person who has died from such disease has been carried, shall immediately take the conveyance for disinfection to a place appointed under sub-section (1) of section 286.

(2) The person in-charge of such place shall forthwith intimate to the Medical Officer of Health the number of the conveyance and proceed to disinfect the conveyance.

(3) No such conveyance shall be used until the Medical Officer of Health has granted a certificate stating that it may be used without causing risk of infection.

290. Power of Corporation to provide special conveyance for patient or dead body.- (1) The Corporation may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease or of the dead bodies of persons who have died from any such disease.

(2) When such conveyances have been provided it shall not be lawful without the sanction of the Medical Officer of Health, to carry any such person or dead body in or for any such person to cause himself to be carried in, any other public conveyance.

291. Prohibition of making of or selling of food, etc, or washing of clothes by infected persons.- No person while suffering from, or in circumstances in which he is likely to spread, any dangerous disease, shall —

(a) Make, carry or offer for sale or take any part in the business of making, carrying or offering for sale, any article of food or drink or any medicine or drug for human consumption, or any article, clothing or bedding for personal use or wear, or

(b) Take any part in the business of the warring or carrying of cloths.

292. Power to restrict or prohibit sale of food or drink.-When the city or any part thereof is visited or threatened by an outbreak of any dangerous disease, the Commissioner, may public notice, restrict in such manner or prohibit for such period as may be specified in the notice, the sale or preparation of any article of food or drink for human consumption specified in notice or the sale of any fish or fish of any animals or birds so specified.

293.- Special measure in case of outbreak of dangerous or epidemic diseases.- (1) In the event of the city or any part thereof being visited or threatened by an outbreak of any dangerous disease among the inhabitant thereof or of any epidemic disease among any

animals therein the Commissioner if he thinks that the other provisions of this Act and the provisions of any other law for the time being in force are in sufficient for the purpose, may, with the previous sanction of the Corporation—

(a) Take such special measures; and

(b) By public notice, give such directions by be observed by the public or by an class or section of the public, as he thinks necessary to prevent the outbreak or spread of the disease;

Provided that where in the opinion of the Commissioner immediate measures are necessary, he may take action without such sanction as aforesaid and if he does so, shall forthwith report such action to the Corporation.

(2) No person shall commit a breach of any direction given under sub-section (1) and if he does so he shall be deemed to have committed an offence under Section 188 of the Indian Penal Code (45 of 1860).

BURNING OR BURIAL GROUNDS

294. Power to call for information regarding burning and burial ground.- The Commissioner, may, by notice in writing require the owner or person in-charge of any burning or burial ground to supply such information as may be specified in the notice concerning the condition, management, or position of such ground.

295. Permission for uses of new burning or burial ground.- (1) No place which has not been use as a burning or burial ground before the commencement of this Act shall be so used without the permission in writing of the Commissioner.

(2) Such permission may be granted subject to any conditions, which the Commissioner may think fit to impose for the purpose of preventing any annoyance to, or danger to the health of, any person residing in the neighbourhood.

296. Power to require closing of any burning or burial ground.- (1) Where the Commissioner, after making or causing to be made local enquiry is of opinion that any burning or burial ground has become offensive to, or dangerous, to the health of person residing in the neighbourhood, he may, with the previous sanction of the ¹[Mayor-in-Council], by notice in writing, require the owner, or person in charge of such ground to close the same from such date as may be specified in the notice.

(2) No corpses shall be burnt or buried at the burning or burial ground in respect of which a notice has been issued under this section.

297. Provision of new places for disposal of dead.- If the existing places of the disposal of dead appear to the Corporation at any time to be insufficient it shall provide other fit and convenient places for the disposal of the dead either within or without the city:

Provided that all such places be managed or approved by the Corporation.

DISPOSAL OF DEAD ANIMALS

298. Disposal of dead animals.- (1) Whenever any animal under charge of any person dies, the person in charge thereof shall within twenty-four hours either,-

1.Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3.2006.

- (a) Convey the carcass to a place provided or appointed for the final disposal of the carcasses of dead animals; or
- (b) Give notice of the death to the Commissioner or any other officer appointed for the purpose, whereupon he shall cause the carcass to be disposed of.

(2) In respect of the disposal of the carcass of dead animal under clause (b) of subsection (1) the Commissioner may charge such fee as he may by public notice specify.

CHAPTER XXII
PUBLIC SAFETY AND SUPPRESSION OF NUISANCES
NUISANCE

299. Prohibition nuisance.- (1) No person shall,—

- (a) In any public street or public place —
 - (i) Case himself; or
 - (ii) Loiter, or beg importunately, for alms or
 - (iii) Expose or exhibit, with the object of exciting charity, any deformity or disease or any offensive sore or; wound; or
 - (iv) Carry meat exposed to public view; or
 - (v) Picket animals, or collect carts; or
 - (vi) Being engaged in the removal of rubbish, filth or other polluted and obnoxious matter wilfully or negligently permit any portion thereof to spill or fall, or neglect to sweep away or otherwise effectually to remove any portion thereof to spill or fall, or neglect to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place; or
 - (vii) Without proper authority affix upon any building, monument, post, wall, fence, tree or other thing, any bill, notice or other document; or
 - (viii) Without proper authority deface or write upon or otherwise mark any, building, monument, post, wall, fence tree or other thing; or
 - (ix) Without proper authority remove, destroy, deface or otherwise obliterate any notice or other document put up or exhibited under this Act or the rules or bye-laws made thereunder; or
 - (x) Without proper authority displace, damage, make any alteration in, or otherwise interfere with pavement, gutter, storm water-drain, flags or other materials of any such street, or any lamp bracket, direction, post, hydrant or water pipe maintained by the Corporation in any such street or place or extinguish a public light, or
 - (xi) Carry rubbish, filth or other polluted and obnoxious matter at any hour prohibited by the Commissioner by public notice, or in any pattern of cart or receptable, which has not been approved for the purpose by the Commissioner or fail to close such cart receptable when in use; or
- (b) Carry rubbish, filth or other polluted and obnoxious matter along any route in contravention of any prohibition made in this behalf by the Commissioner by public notice; or

(c) Deposit, or cause or permit to be deposited earth or materials of any description or any rubbish or polluted and obnoxious matter in any place not intended for the purpose in any public street or public place or waste or unoccupied land under the management of the Corporation; or

(d) Make any grave or burn or bury corpse at any place not set apart for such purpose; or

(e) At any time or place at which the same has been prohibited by the Commissioner by public or special notice, beat a drum or tom-tom, or blow a horn or trumpet, or beat any utensil, or sound any brass or other instrument, or play any music; or

(f) Disturb, the public peace or others by singing, screaming or shouting, or by using any apparatus for amplifying or reproducing the human voice, such as a magaphone or a loudspeaker; or

(g) Let lose any animal so as to cause, or negligently allow any animal to cause injury, danger, alarm or annoyance to any person; or

(h) Save with the written permission of the Commissioner or the Medical Officer of Health as the case may be and in such manner as he may authorise, store or use night-soil, cow-dung, manure, rubbish or any other substance emitting in offensive smell; or

(i) Use or permit to be used as a latrine any place not intended for that purpose.

(2) Every person shall take all reasonable means to prevent every child under the age of twelve years being in his charge from easing himself in any public street or public place.

(3) The owner or keeper of any animal shall not allow it straying in a public street or public place without a keeper.

(4) Any animal found straying as aforesaid may be removed by an officer or employee of the Corporation or by any police officer to a pound.

300. Power of Commissioner to require removal or abatement of nuisance.- Where the Commissioner or the Medical Officer of Health is of opinion that there is a nuisance on any land or building, he may by notice in writing, require the person by whose act, default or sufferance the nuisance arises or continues or the owner, lessee or occupier of the land or building, or any one or more of these persons to remove or abate the nuisance by taking such measures in such manner and within such period as may be specified in the notice.

COMMENT

Removal of abatement of nuisance-Powers of Commissioner.- If a carcass being in its very nature a noxious thing, is allowed to remain in building and likely to cause serious harm to health and well being of the resident and other persons in the neighborhood, the law imposes duty to remove the carcass or to get it removed through the municipality.[State of Maharashtra v. Himmatbhai Narbheram Rao, AIR 1970 SC 1157.]

DOGS

301. Registration and control of dogs.- (1) The Corporation may by byelaw made in this behalf ,-

(a) Require the registration by the registration authority appointed by the Commissioner in this behalf of all dogs, kept within the city;

- (b) Require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority;
- (c) Fix the fee payable for the issue of metal token referred to in (b) above;
- (d) Require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose; and
- (e) Fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week.

(2) The Commissioner may —

- (a) Cause to be destroyed or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animals suffering or suspected to be suffering from rabies; and
- (b) By public notice direct, that after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners if any, may be destroyed and cause them to be destroyed accordingly.

(3) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

(4) No one, being the owner or person in charge of any dog, shall allow it to be at large in any public street or public place without being muzzled and without being secured by a chain in any case in which —

- (a) He knows that the dog is likely to annoy or intimidate any person; or
- (b) The Commissioner has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads.

(5) No one shall —

- (a) All any ferocious dog which belongs to him or is in his charge to be at large without being muzzled; or
- (b) Set on or urge any dog or other animal to attack, worry or intimidate, any person; or
- (c) Knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, fail or neglect to give immediate information of the fact to the Commissioner or give information which is false.

Precautions against Fire, etc.

302. Stacking or collecting inflammable materials.- The Municipal Commissioner may by public notice prohibit in any case where such prohibition appears to him to be necessary, for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials or the placing of mats, bamboos, timber or thatched huts or the lighting of fires in any place which may be specified in the notice.

303. Care of naked lights.- No person shall get a naked light on or near any building in any public street or other public place in such manner as to cause danger of fire:

Provided that nothing in this section shall be deemed to prohibit the use of lights for the purposes of illumination on the occasion of a festival or public or private entertainment.

304. Discharging fire-works fire-arms etc.- No one shall discharge any fire-arms or let off fireworks of fire-balloons or detonators or engaged in any game in such manner as to cause or to be likely to cause danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property:

Provided that all fire works or fire balloons or detonators used by private parties in all cases other than public festival shall be subject to prior information of the Corporation.

305. Power to require building, walls, etc., to be rendered safe.- No one shall quarry, blast or cut timber or carry on building operations in such manner as to cause, or to be likely to cause danger to persons passing by or dwelling or working in the neighbourhood.

Prevention and extinction of fire

306. Maintenance of fire brigade and the arrangements for the prevention and extinction of fire.- (1) For the prevention and extinction of fire the Corporation may maintain fire brigade and provide any implement, machinery or means of communicating intelligence, which the Corporation may think necessary for the efficient discharge of their duties by the brigade.

(2) the Commissioner may provide such indications as to the location of mains and hydrants for prevention and extinction of fire, as he may deem necessary by affixing a plate on any building or upon any land, or painting any indication on any building or erecting such appliance as he may think necessary.

(3) No person shall destroy, pull down, deface, cover or conceal such plate, indication or appliances.

307. Power of fire bridge and other person for suppression of fire.- (1) on the occasion of a fire in the city any Magistrate or any member of a fire brigade, maintained by the Government or the Corporation, then and there directing the operations of men belonging to the brigade or any police officer, not below the rank of Sub-Inspector, may,-

- (a) Remove or order the removal of any person who by his presence interferes with or impedes the operation for extinguishing the fire or for saving life or property;
- (b) Close any street or passage in or near which any fire is burning;
- (c) For the purpose of extinguishing the fire, break into or through or pull down, or cause to be broken into or through or pulled down, or use for the passage of hoses or other appliances, any premises;
- (d) Cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;
- (e) Call on the person in charge of any fire engine to render such assistance as may be possible; and

- (f) Generally, take such other measures as may be appearing necessary for the prevention and extinction of fire.

308. Power to make regulation for fire brigade.- (1) The Corporation shall from time to time make regulations for —

- (a) The training discipline and good conduct of the men belonging to the fire brigade;
- (b) Their speedy attendance with engines, fire escapes and all necessary implements on the occasion of any alarm of fire;
- (c) The maintenance of the said brigade generally in a due state of efficiency; and
- (d) The submission of reports of fires.

(2) With the approval of the Corporation and subject to the conditions and limitations prescribed by this Act, the Commissioner may make regulations for the granting of gratuities, rewards or certificates, to persons who have given notice of fires or who have rendered effective service to the fire brigade on the occasion of fire.

CHAPTER XXIV MARKETS AND SLAUGHTER HOUSES

309. What to be deemed municipal markets and slaughterhouses.- All markets and slaughterhouses, which belong to or are maintained by the Corporation shall be called “Municipal Markets” or “Municipal Slaughter-houses”. All other markets and slaughterhouses shall be deemed to be private.

[**309-A.** Subject to the provisions of the Cattle Trespass Act, 1887, the Corporation may establish and maintain pounds within the city for all kinds of animals.]¹

310. Provision of new municipal markets and slaughter-houses.- (1) The Commissioner, when authorised by the Corporation in this behalf, may construct, purchase, take on lease or otherwise acquire any building or land for the purpose of establishing a municipal market or municipal slaughter-house or stock-yard or extending or improving any existing municipal market or maintain such municipal markets municipal market or maintain such municipal markets slaughter-houses and stock-yards and such stalls, shops, sheds, pens and other building or conveniences for he use of the persons carrying on trade or business in or frequenting, such municipal markets, slaughter- houses or stock-yards, and provide and maintain in such municipal markets, such buildings places, machines, weights, scales and measures for weighing and measuring goods sold therein as he shall think fit.

(2) Municipal slaughterhouses and municipal stockyards may be situated within or without the city with the sanction of the Government.

311. Municipal markets, slaughter-houses and stock-yards may be closed.- The Commissioner may, at any time, close any municipal market or slaughterhouse or stockyard or any portion thereof, and the premises occupied for any portion thereof, so closed may be disposed of as the property of the Corporation.

1.Ins. by Assam Act XI of 1979, w.e.f. 11.5.1979.

312. Use of municipal markets.-(1) No person, shall without the general or special permission, in writing of the Commissioner, sell or expose for sale any animal or article in any municipal market.

(2) Any person contravening the provisions of sub-section (1), and any animal or article exposed for sale by such person may be summarily removed from the market by or under the orders of the Commissioner or any employee of the Corporation authorised by the Commissioner in this behalf.

313. Opening of private markets and of private slaughter houses.- The Corporation shall from time to time determine whether the establishment of new private markets or the establishment or maintenance of private slaughter-houses shall be permitted in the city or in any specified portion of the city.

314. Power of Commissioner to license private markets, slaughter-houses and stock-yards.- (1) No person shall without or otherwise than in conformity with the terms of a license granted by the Commissioner in this behalf,—

- (a) Keep open any private market, or wilfully or negligently permit any place to be used as a private market; or
- (b) Use any place in the city as a slaughter-house or stock-yard, or for the slaughtering of any animal intended for human consumption; or
- (c) Use any place outside the city whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human consumption in the city; or
- (d) Use any place that may be set apart by the Corporation in this behalf for the sacrifice of animals in accordance with religious customs and for the sale of flesh thereof:

Provided that —

- (i) The Commissioner shall not refuse, suspend or cancel any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with the provisions of this Act, or bye-laws made thereunder; and
- (ii) Nothing in the foregoing provisions of this section shall be deemed to prohibit the slaughter of any animal in any place as a part of any religious festival or ceremony.

(2) Every such license shall be renewable annually on the certificate of the Medical Officer of Health.

(3) There shall be paid for every license granted under sub-section (1) such annual fee as may be fixed by the Corporation.

(4) If any private market or any place set apart under clause (d) of sub-section (1) be closed for more than half of any year for which a fee has been paid, the Corporation may refund the whole or any portion of the fee so paid for that year.

(5) When the Commissioner has refused, suspended or cancelled any license to keep open a private market, he shall cause a notice of his having done so to be affixed on some conspicuous spot on or near the building or place where such market has been held.

315. Levy of stallages, rents and fees.- The Commissioner may —

(a) Charge such stallages, rents or fees as may from time to time be fixed by him in this behalf —

- (i) For the occupation or use of any shop, stand, shed or pen in a municipal market or municipal slaughter house;
- (ii) For the right to expose article for sale in a municipal market;
- (iii) For the use of machines, weights, scales and measures provided for in any municipal market; and

(b) For the right to slaughter animals in any municipal slaughter-house, and for the feed of such animals before they are ready for slaughter; or

(c) Charge for the stallages, rents and fees chargeable as aforesaid or any portion thereof for such period as he may think fit; or

(d) Put up to public auction or dispose of by private sale, the privilege of occupying or using any stall, shop, market, municipal slaughter-house for such period and on such conditions as he may think fit.

316. Stallages rents, etc., to be published.- A copy of the table of stallages, rents and fees if any, chargeable in any municipal market or municipal slaughter-house, and of the bye-laws made under this Act for the purpose of regulating the use of such market or slaughter house printed in such language or languages as the Commissioner may direct, shall be affixed in some conspicuous place in the market or slaughter-house.

317. Prohibition of business and trade near a market.- (1) No animal or article shall be sold or exposed for sale within a radius of fifty yards of any municipal market or licensed private market without the permission of the Commissioner.

(2) Any person contravening the provisions of sub-section (1) and any animal or article exposed for sale by such person may be summarily removed by or under the orders of the Commissioner or any employee of the Corporation appointed by him in this behalf.

318. Licence for dealing in flesh, fish and poultry.- (1) No person shall without or otherwise than in conformity with a license from the Commissioner deal in flesh, fish, poultry or import flesh intended for human food or use any place for the sale of flesh, fish or poultry intended for human food:

Provided that no licence shall be required of any place used for the sale or storage for sale of preserved flesh or fish contained in airtight or hermetically sealed receptacles.

(2) The Commissioner may by order and subject to such conditions as to supervision and inspection as he thinks fit to impose, grant a licence or may by order refuse, for reasons to be recorded, to grant the same.

(3) Every such licence shall expire at the end of the year of which it is granted or at such earlier date as the Commissioner may, for special reasons, specify in the licence.

(4) If any place is used for the sale of flesh, fish or poultry in contravention of the provisions of this section, the Commissioner may stop the use thereof by such means as he may consider necessary.

COMMENT

Licence fee—Justification of.- Where the licence fee cannot be justified on the basis of any law, no question of its reasonableness can arise. [Mohammad Yasin v. Town Area Committee, AIR 1952 SC 115.]

CHAPTER XXV

VITAL STATISTICS

319. Appointment of Sub-Registrar and Registrars.- (1) The Medical Officer of Health shall be the Registrar of births and deaths for the city and shall keep in such form as may be provided by bye-laws a register of all births and deaths occurring in the city.

(2) The Municipal Commissioner shall appoint such number of persons to be Sub-Registrars of births and deaths, as he deems necessary and define the respective areas, which shall be under the charge of such Registrars.

320. Duties of Sub-Registrar.- The Registrar and the Sub-Registrars shall keep themselves informed of every births or deaths occurring within the area under his charge and shall ascertain and register, as soon as conveniently may be after the event, and without fee or reward, such particulars in respect of every birth or death as may be required by bye-laws.

321. Information of birth and deaths.- (1) It shall be the duty of the father or mother of every child born in the city and in default of the father or mother, any relation of the child living in the same premises, and in default of such relation, the person having charge of the child, to give to the best of his knowledge and belief to the Sub-Registrar of the area concerned within seven days, after such birth, information containing such particulars as may be required by bye-laws made in this behalf.

(2) It shall be the duty of the nearest relative present at the time of the death or in attendance during the last illness of any person dying in the city and in default of such relation, any person present or in attendance at the time of the death, and the occupier of the premises in which to his knowledge the death took place and in default of the person hereinbefore mentioned, each inmate of such premises or the undertaker or other person causing the corpse of the deceased person to be disposed of, to give to the best of his knowledge and belief the Sub-Registrar of the area within which the death took place information containing such particulars as may be required by bye-laws made in this behalf.

(3) If a birth or death occurs in the hospital, none of the persons mentioned in sub-section (1), or as the case may be, in sub-section (2) shall be bound to give information required by that sub-section, but it shall be the duty of the medical officer-in-charge of the hospital within twenty-four hours after the birth or death, to send to the Medical Officer of Health a notice containing such particulars as may be required by bye-laws made in this behalf.

PART VI

CHAPTER XXVI

LAND, BUILDINGS AND STREETS

322. Development Schemes. — Where the Commissioner upon information in his possession is satisfied in respect of any area—

(a) That the buildings in that area are by reason of disrepair or sanitary defect unfit for human habitation or are by reason of their bad arrangements or the narrowness or bad arrangement of the streets or the want of light, air, ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of the area; and

(b) That the most satisfactory method of dealing with the conditions in the area is the re-arrangement and re-construction of the streets and buildings in the area in accordance with development schemes,

he may frame development schemes in respect of the area in accordance with the bye-laws made in this behalf.

323. Matters to be provided for in a development scheme.- (1) A development scheme may provide all or any of the following matters, namely—

(a) The acquisition under the Land Requisition and Acquisition Act, 1948, by agreement or otherwise of any property necessary for or affected by the execution of the scheme;

(b) The relaying out of any land comprised in the scheme;

(c) The redistribution of sites belonging to owners of property comprised in the scheme;

(d) The closure or demolition of buildings or portions of buildings unfit for human habitation;

(e) The demolition of obstructive buildings or portions thereof;

(f) The construction and reconstruction of buildings;

(g) The construction and alteration of streets;

(h) The water supply, street lighting, drainage and other conveniences;

(i) The provision of open spaces;

(j) The sanitary arrangements required for the area comprised in the scheme;

(k) The provision of accommodation for any class of the inhabitants;

(l) The provisions of facilities for communication;

(m) The sale, letting or exchange of any property comprised in the scheme; and

(n) Any other matter for which, in the opinion of the Commissioner it is expedient to make provision with a view to the development of the area to which the same relates.

(2) Whenever any land is designated in a development scheme as subject to acquisition or is required by the scheme to be kept as an open space, then, if at the expiration of ten years, the land is not acquired by the Commissioner, the owner of the land may serve on the Commissioner a notice requiring his interest in the land to be so acquired.

(3) If the Commissioner fails to have the land acquired within a period of six months from the receipt of the notice, the development scheme shall have effect after the expiration of the said six months as if the land were not designated as subject to acquisition by the Commissioner or were not required to be kept as an open space.

324. Submission of development scheme to the Corporation for approval.- Every development scheme shall, as soon as may be after it has been framed, be submitted by the Commissioner for approval to the Corporation and the Corporation may either approve the scheme without modification or with such modifications as it may consider necessary or reject the scheme and require the Commissioner to have a fresh scheme framed according to such directions as the Corporation may give.

325. Development scheme to comply with the Master Plan, and Zonal Development Plan.- No development scheme framed under this part shall be valid unless such scheme is in conformity with the provisions of the Master Plan and Zonal Development Plan for the city, and has been approved by the State Government.

326. Power of Government to require Corporation to make scheme.- Notwithstanding anything to the contrary contained in Section 323 to 325 the Corporation may and if so required by the Government shall direct the Commissioner to prepare a Development Scheme in respect of any area of the city.

BUILDING CONTROL

327. Prohibition of erection or re-erection of buildings without permission.- No person shall, —

- (i) Erect or re-erect any building; or
- (ii) Commence to erect or re-erect any building, or
- (iii) Make any material external alteration to any existing buildings;
- (iv) Construct or re-construct any projecting portion of a building which the Commissioner is empowered to require to be set back or is empowered to give permission to construct or reconstruct —
 - a) Unless the Commissioner or the Engineer so empowered has either by an order in writing granted permission or has failed to intimate within the prescribed period his refusal to grant such permission; or
 - b) After the expiry of one year from the date of the said permission or such longer period as the Commissioner may allow:

Provided that nothing in this section shall apply to any work, addition or alteration, which the Corporation may be byelaw declare to be exempted.

COMMENTS

Permission for construction.- When petitioner's application for permission for construction was rejected by Commissioner and such order of rejection set aside by Standing Appellate Committee and thereafter petitioner carried out construction without permission of Municipal Commission, would be illegal construction, such order of Standing Appellate Authority could not be construed as permission as necessary permission could be granted only by Municipal Commissioner, [Priyanka Estate International Pvt. Ltd. V. State of Assam, 2009 (5) GLT 1 (SC)].

Prohibition on construction of building.- It has been held that construction part is exclusively within the power of Guwahati Municipal Corporation and not GMDA. [Narendra Nath Barmah (Dr.) v. Guwahati Municipal Development Authority, 2000 (1) GLT 457.]

328. Notice of buildings.- (1) Every person who intends to erect or re-erect a building shall submit to the Corporation —

(a) An application in writing for approval of the site, together with a site plan of the land, and documents of title and, in the case of land which is the property of the Government or of the Corporation a certified copy of the documents authorising him to occupy the land, and if so required by the Commissioner, the original document or documents; and

(b) An application in writing for permission to execute the work together with a ground plan, elevations and sections of the building and a specification of the work.

(2) Every plan of any building to be constructed wholly or partly of masonry submitted under sub-section (1), shall, in token of its having been prepared by him or under his supervision, bear the signature of a surveyor, licensed or duly approved by the Corporation.

(3) Every document submitted under subsection (1) shall be prepared in such manner and shall contain such particulars as may be required by bye-laws made in this behalf.

(4) Nothing herein contained shall require a person to comply with the provisions of clause (b) of sub-section (1) of this section until such time as the site has been approved by the Commissioner or such person as he may direct:

Provided that an application shall be disposed of within 60 days from the date of receipt.

COMMENTS

Permission for building construction.- Before granting any permission, the Guwahati Municipal Corporation is bound to get the proposal approved by Gauhati Metropolitan Development Authority. [Narendra Nath Barmah (Dr.) v. Guwahati Municipal Development Authority, 2000 (1) GLT 457.]

Notice of construction,- Deeming provision as contained in Section 328 of the GMC Act, 1971, held, is directory. [Kula Prasad Gogoi v. State of Assam, 2008 (1) GLT 98].

Notice for construction.- Since petitioner applied for permission and carried out construction in absence thereof, the plea that failure to consider application within 60 days would amount to deemed grant of permission, liable to be rejected. [Kula Prasad Gogoi v. State of Assam, 2008 (1) GLT 98].

329. Commissioner to refuse erection or re-erection of building.- The Commissioner on the advice of the Engineer shall refuse to sanction the erection or re-erection of any building, which is in contravention of any rule or bye-law made under the provisions of this Act.

330. Grounds on which site of proposed building may be disapproved.- The Commissioner on the advice of Engineer may refuse to approve of the site on which it is intended to erect or re- erect any building on all or any of the following grounds, —

(a) That the erection or re-erection of the proposed building on such site would be in contravention of a development scheme under Section 322 or of any other provision of this Act or of any other enactment for the time being in force; or

(b) That the site is in a portion of the city in which the position, and direction, and erect on such site will, in the opinion of the Commissioner obstruct or interfere with the construction in future of suitable streets in such portion of the city or the drainage, water supply or ventilation thereof:

Provided that any person to whom permission to erect or re-erect a building on such a site has been refused may, by a written notice to the Commissioner, require that the position and direction of the future street in the vicinity of his intended building be forthwith laid down and determined, and if such requisition be not complied with within one year from the date thereof may subject to all other provisions of this Act applicable thereto, proceed with the erection of his building; or

(c) That the site has been reclaimed or used as a place for depositing sewage, offensive matter or rubbish or the carcasses of dead animals or is otherwise unsanitary or dangerous to health; or

(d) When the site is in a portion of the city for which a development scheme has not been sanctioned by the Corporation and that the building which it is proposed to erect or re-erect on such site will, in the opinion of the Commissioner be likely to conflict, in a manner to be communicated in writing to the applicant, with the contemplated development scheme:

Provided that any person to whom permission to erect or re-erect a building on such a site has been refused may be written notice to the Commissioner, require that the preparation of a development scheme for the portion of the city in which the said site is situated be proceeded with as early as circumstances may permit; and if he applicant is not informed in writing within twelve months of the date of the requisition that the Corporation has sanctioned the said scheme, he may, subject to all the other provisions of this Act applicable thereto, proceed with the erection or re-erection of the building in aspect of which the application was made.

331. Ground on which permission to erect or re-erect building may be refused.- (1)

The Commissioner shall not grant permission to erect or re-erect any building unless and until the Engineer has approved of the site thereof on an application under section 328.

(2) The Commissioner may refuse permission to erect or re-erect any building —

(a) If the plan and specifications submitted with the application show that such building is not in accordance with a development scheme sanctioned under section 324 or with any provision of this Act, or any rule or by-law made thereunder or any provision of any law for the time being in force; or

(b) If in his opinion the erection or re-erection of such building would be a nuisance or injurious to the inhabitants of the neighbourhood or to the public; or

(c) Unless and until any plans, specification or particular called for by him are supplied; or

(d) If the proposed building would be an encroachment upon Government or municipal land; or

(e) If the site of such building does not abut on a street or a projected street or if there is no access to such building from any such street by a passage or path way appertaining to such site.

¹[(3) No building permission for construction of a building whose height is 15 meters or more from average level of the central line of the street in which the site abuts or more than four floors excluding basement or stilt shall be permissible if the measurement of the proposed land on which the building is proposed to be constructed, is less than 4 Kathas.]

332. Power of Commissioner to direct modification of sanctioned Plan of building before its completion.- If at any time before the completion of a building of which the erection has been sanctioned under section 327 the Commissioner finds that any modification of sanctioned plan is necessary, the Commissioner may, subject to payment to compensation as may be assessed by the Commissioner for any loss to which the owner may be put, direct that the building be modified accordingly.

333. Lapse of sanctioned.- Every sanction for the erection or re-erection of any building shall remain in force for one year only from the date of such sanction, or for such longer period as the Commissioner may have allowed when conveying sanction under section 327. Should the erection or re-erection of the building not have been commenced within one year and completed within two years or such longer period as may have been allowed by the Commissioner the sanction shall be deemed to have lapsed, but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of the Act.

334. Intimation of completion of building.- Every persons who erects or re-erects any building shall within one month of the completion of the work deliver to the Commissioner at his office a notice in writing of such completion and shall give him all necessary facilities for the inspection of such work.

335. Erection and use of temporary building to be approved by Commissioner.- (1) No building shall be erected for a temporary purpose without the sanction of the Commissioner, or otherwise than in accordance with any bye-laws made in this behalf under this Act.

(2) If any building erected for a temporary purpose is not used strictly for such purpose and in accordance with any bye-laws made under this-Act or is erected without the sanction of the Commissioner, the building may be demolished by the Commissioner at the expense of the owner thereof whether he is prosecuted under this Act or not.

336. Compensation.- (1) No compensation shall be claimable by an owner for any damage, which he may sustain in consequence of the prohibition of unauthorised erection or re-erection of any building.

(2) The Corporation shall make reasonable compensation, which shall be assessed by the Commissioner, to the owner for any damage or loss, which he may sustain in consequence of the prohibition of the authorised erection or re-erection of any building or part of a building except in so far as the prohibition is necessary under any rule or bye-law.

337. Power to require removal or alteration of work not in conformity with bye-laws or executed notwithstanding rejection of plan, etc.- (1) If any building is erected or re-erected in contravention of any development scheme mentioned under section 322 or any building bye-laws made under section 416(1) D or without plans having been deposited, or notwithstanding the rejection of plans, or otherwise then in accordance with any requirements subject to which the Commissioner passed the plans, the Commissioner may, without prejudice to his right of taking proceedings in a court of law for such contravention, by notice to the owner either require him to pull down or remove the work or if he so elects, to effect such alteration therein as may be necessary to make it comply with the said scheme or bye-laws or other requirements specified in the notice.

(2) If any case in which the erection or re-erection of any building has been commenced or is being carried on unlawfully as mentioned in sub-section (1), the Commissioner

may, by a written notice, require the building operation to be discontinued from the date of service of the notice.

(3) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiry of [seven]¹ days, the Commissioner may pull down or remove the work in question, or effect such alteration therein as he deems necessary, and may recover from him the expenses reasonably incurred by the Commissioner in so doing, and such dues shall be recoverable as arrears of municipal tax.

(4) Where plans were approved, it shall not be open to the Commissioner to give such a notice on the ground that the building contravenes any scheme or bye-laws as the case may be, or does not comply with his requirements under this Part.

COMMENTS

Demolition.- Since notice for demolition of fifth and sixth floor of the petitioner's building on the ground of illegal construction did not indicate any material in support of the allegation, demolition held to be illegal. [Fortune Towers India (P) Ltd v. Gauhati Municipal Corporation, 2007 (2) GLT 760].

Demolition.- Even if a building is assessed to tax under the provision of 1971 Act the authority can proceed against such building if it has come to notice of the authority that such building was constructed in violation of the provision relating to erection on re-erection of building as well as the bye-laws. Assessment of tax cannot operate as estoppels against the statutory power conferred on any statutory authority relating to demolition of building. [Priyanka Estate International (P) Ltd v. State of Assam, 2006(3) GLT 1].

Demolition-Notice for.- Since notice not indicating any material in support of allegation, order of demolition of the fifth and sixth floor of the petitioner's building on the ground of unauthorized construction, illegal.[Fortune Towers India (P) Ltd v. Gauhati Municipal Corporation, 2007 (2) GLT 760].

Building permission.- Since the construction carried out subsequently in accordance with the conditions set out by the standing appellate committee, the demolition drive sought to be launched against new construction, illegal. [Fortune Towers India (P) Ltd v. Gauhati Municipal Corporation, 2007 (2) GLT 760].

Once building constructed without permission from municipality and in deviation of Gauhati Municipal Corporation Building Bye-laws, hence direction issued for demolition of only part of the construction which deviated from bye-laws. [Kuka Prasad Gogoi v. State of Assam, 2008 (1) GLT 98].

²[337-A Power to seal unauthorized erection.- (1) It shall be lawful for the Commissioner, at any time, before or after making an order of demolition under Sections 335 and 337 of the stoppage of the erection of any building or execution of any work under Section 335, to make an order directing the sealing of such erection or work which is being carried on or has been completed in the manner provided in the Act, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

1. Subs. For the word "thirty" by Assam Act XI of 1979, w.e.f. 11.5.1979.

2. Ins. By the Guwahati Municipal Corporation (Second Amendment) Act, 2006 (Act No. XII of 2006), Section 5, w.e.f. 17.8.2006.

(2) Where any erection or work has been sealed, the Commissioner may, for the purpose of demolishing or discontinuing such erection or work, order the seal to be removed.

(3) No person shall remove such seal except-

(a) under an order by the Commissioner under sub-section (2);

(b) under an order made by an Appellate Authority or the Government, as may be made under the Act.]

COMMENTS

Exercising of power.- Power must be applied within a reasonable period i.e. thin three years. [Jadav Chandra Das v. Guwahati Municipal Corporation, 1995 (3) GLT 588:1996(1) GLR 72.]

Power to require removal or alteration of work.- The power cannot be used in respect of a building constructed on the own land of a person after completion of the same and after assessed by the Municipal Authority. The power under section 337 must be utilized only within three years from the date of completion of the building provided that the building has not been assessed by the municipality. [Jadav Chandra Das v. Guwahati Municipal Corporation, 1995 (3) GLT 588:1996(1) GLR 72.]

Power to remove alteration work-Notice thereunder.-when the plan has been approved, Commissioner had no authority to issue notice under Section 337 of the Act. [T.R. Kapoor v. Guwahati Municipal Corporation, 1988 (2) GLR 339.]

Suspension and revocation of licence- Opportunity of hearing, necessary.-Every order of suspension and revocation shall contain a brief statement of the reasons for the suspension or revocation of the licence or the written permission. Before passing of such order opportunity shall be afforded to the grantee of the licence or the written permission, to show cause why it should not be suspended or revoked. [Annapurna Food Products v. Commissioner, Gauhati Municipal Corporation,(1985) 2 GLR 200.]

338. Power of Commissioner to cancel permission on grounds of materials misrepresentation by application.- If at any time after permission to proceed with any building or work has been given, the Commissioner is satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under section 328, or in further information, if any, furnished, he may cancel such permission and any work done thereunder shall be deemed to have been done without his permission.

339. Restriction on use of buildings.- No person shall, without the written permission of the Commissioner, or otherwise than in conformity with the conditions, if any, of such permission —

(a) Use or permit to be used for human habitation any part of a building not originally erected or authorised to be used for that purpose or not used for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of this Act and of the bye-laws made thereunder;

(b) Change or allow the change of the use of any land or building; and

(c) Convert or allow the conversion of one kind of tenement into another kind.

340. Prohibition against use of inflammable material for building, etc. permission.-

No external roof, verandah or wall of building and no shed or fence shall be constructed or re-constructed of cloth, grass, leaves, mats or other inflammable materials except with the permission of the Commissioner, nor shall any such roof, verandah, wall, shed or fence constructed or reconstructed in any year be retained in a subsequent year except with such permission.

341. Bar of jurisdiction.- Save as otherwise expressly provided no civil court shall have jurisdiction to settle, decide or deal with any question, which is by or under this part required to be settled, decided or dealt with by the Commissioner.

DANGEROUS AND INSANITARY BUILDINGS

342. Provisions regardings buildings unfit for human habitation.- (1) If after obtaining the opinion of the Engineer, it appears to the Commissioner that any building or part of a building intended or used for human habitation or human occupation for any purpose whatsoever is unfit for such habitation or occupation, he shall give to the occupier and in case the building is not occupied, to the owner notice in writing stating such reasons and signifying his intention to prohibit the further use of such building or part of a building for such purpose, and calling upon the owner or occupier to stat in writing his objection, if any, to such prohibition within seven days after the receipt of notice. If no objection is raised by such owner or occupier within the prescribed period, or if the grounds of such objection appear to the Commissioner to be insufficient or not well founded, he may prohibit by an order in writing the further use of such building or part of building for human habitation or occupation:

Provided that, before such order is given, the owner or occupier of the building shall be given an opportunity of appearing before the ¹[Mayor-in-Council] in person or by agent in support of his objection.

(2) Notice of such prohibition shall be served upon the owner of any building or part of a building affected thereby and also upon every occupier or user thereof stating the fact of such prohibition specifying a period not being less than fourteen days after the date of such notice within which every such person shall remove himself and his movable property from the said building or part thereof, and if on the day so appointed any such person his failed to remove himself and his movable property from the said building or part thereof, the Commissioner may cause him and his property to be removed and may recover from him the cost of such removal.

(3) When a building or part of building has been vacated under sub-section (2), the Commissioner shall affix a notice thereto in the prescribed manner and no person, except with the permission in writing of the Commissioner and in accordance with the terms and conditions of such permission, shall without sufficient cause enter into or remain in such building or part of a building.

(4) At any time after a building or part of a building has been vacated under sub-section (2), if the Commissioner considers that it can be rendered fit for human habitation by structural alterations and repairs, he may by notice in writing call upon the owner to execute, within a period of six months from the date of receipt of such notice, such structural alterations or repairs, as he deems necessary and if at the expiration of the aforesaid period such alterations or repairs have not been executed to his satisfaction, he

1. Subs. Vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

shall issue to the said owner a notice in writing ordering the demolition of such building or part thereof within a period of thirty days from the date of the receipt of such notice or such longer period as the Commissioner may specify.

(5) If the Commissioner is of the opinion that the building is not capable of being rendered fit for human habitation, he may by notice in writing call upon the owner to demolish it within a period of thirty days from the receipt of such notice or such longer period as the Commissioner may specify.

(6) If at the expiration of the said period as order to demolish a building or part of a building issued under sub-section (4) or sub-section (5) has not been complied with, the Commissioner may direct, by an order in writing the demolition thereof by any municipal employee or contractor. The materials of the building or part of the building so destroyed shall thereupon be sold by public auction and the proceeds of the sale shall be made over to the owner after deducting the cost of such destruction and sale. If the amount realised is not sufficient to cover the cost of such demolition and sale, the balance, if any, shall be recovered from the owner as arrear of municipal tax:

Provided that before such order is given the owner of the building shall be given an opportunity of appearing before the Commissioner in person or by an agent and of showing cause why such order should not be given.

(7) If any building or part of a building in respect of which an order under this section has been made is the subject of a lease such lease shall be avoidable at the option of the lessee with effect from the date on which the said lessee has to vacate the premises

343. Removal of buildings in dangerous state.- (1) If in the opinion of the Commissioner any building, wall, structure or anything affixed thereto is in dangerous state, the Commissioner may, by notice in writing require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made thereto as he considers necessary for the public safety; and if the danger appears to him to be imminent, he may forthwith take such steps as may be required to avert such danger, including the forcible removal without notice from such building of all the occupiers thereof and their property.

(2) Any expenses incurred by the Commissioner under sub-section (1) shall be paid by the owner concerned.

(3) Except with the permission in writing of the Commissioner no person shall without sufficient cause enter into or remain in any building from which the occupier has been removed under sub-section (1).

344. Abandoned or unoccupied.- If it appears to the Commissioner that any building or structure is abandoned or unoccupied or has become a resort of disorderly person or is by reason of its conditions seriously detrimental to the interest of the neighbourhood, the Commissioner may give written notice to the owner of such building or structure if he be known and resident within the city, or to any person who is known or believed to claim to be the owner, if such person is resident within the city, and shall also affix a copy of the said notice on some conspicuous part of said building or structure requiring all persons having any right or interest therein to take such order regarding the said building or structure as may, in the opinion of the Commissioner, be necessary to prevent the same from being resorted to as aforesaid or from being seriously detrimental to the amenities of the neighbourhood.

345. Reclamation of low-lying sites.- (1) If for any reason it appears to the Commissioner that the level of the site on which it is proposed to erect or re-erect a building is so low that such building is likely to become unsanitary to be a source of nuisance, he shall give to the owner of the building proposed to be erected a notice as to why the said site should not be reclaimed with such materials and raised to such height and within such period not being less than six months from the date of the notice as he shall think fit and the said notice shall specify the cost at which, if so desired by the owner the required work can be performed by municipal agency,

(2) If no objection is raised within such period as aforesaid or if any objection which is raised appears to the Commissioner to be invalid or insufficient, he may be notice in writing direct such owner or occupier —

- (a) To carry out such reclamation and raising of the height within the period specified; or
- (b) Within thirty days after the receipt of the said notice to pay to the Commissioner, the estimated cost of performing the work by municipal agency.

(3) In any case in which the estimated cost of the reclamation has not been paid to the Commissioner, and the owner fails to carry out the work of reclamation within the period specified in the notice under sub-section (2), the Commissioner may recover from him the estimated cost of the work as stated in the notice issued under sub-section (1) or so much thereof as he may consider necessary to complete the work, and shall carry out and complete the work:

Provided that in case of hardship the Commissioner may realise the amount in instalments after completion of the work.

346. Removal of Building materials from any premises may be required.- If it appears to the Commissioner that any tiler, stones, rafters, building materials or debris of building materials are stored collected in or upon any premises in such quantity or bulk or in such a way as to constitute a harbourage or breeding place for rats or other vermin or is otherwise a source of danger or nuisance to the occupiers of the said premises or to persons residing in the neighbourhood thereof, the Commissioner may by written notice require the owner of such premises, or the owner of the materials or debris so stored or collected therein, to remove or dispose of the same or to take such order regarding the same as may, in the opinion of the Commissioner, be necessary or expedient to abate the nuisance or prevent a recurrence thereof.

347. Cleansing of filthy building.- Should the owner, part-owner, or occupier of any building suffer the same to be in a filthy or unwholesome state, the Commissioner may by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state and thereafter to keep it in a clean and proper state and if it appears to be necessary for sanitary purposes to do so may, at any time by notice, direct the occupier of any building to white wash or otherwise cleanse the said building inside and outside in the manner and within a period to be specified in the notice.

PUBLIC STREETS

348. Closing of public streets.- (1) The Corporation may, subject to approval of the Government, permanently close the whole or any part of Public Street:

Provided that no such street or part thereof be closed unless for he month at least before the meeting of the Corporation at which the matter is decided, a notice has been posted in the street, or part thereof which it is proposed to be closed informing the residents of the said proposal, and until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting have been received and

considered by the Corporation.

(2) When any public street or part thereof is permanently closed under sub-section (1), the site of such street or the part thereof, which has been closed, may be disposed of as land belonging to the Corporation.

ENCROACHMENTS ON STREET

349. Prohibition of projection upon street, etc.- (1) No person shall erect, set up, add to, or place against or in front of any premises any structure or fixture which will—

(a) Overhang or project into, or in any way encroach upon, and obstruct in any way the safe or convenient passage of the public along any street, or

(b) Project into or encroach upon an drain or open channel in any street so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection of cleansing thereof.

(2) The Commissioner by a notice require the encroacher or owner or occupier of any premises to remove, or to take such other action as he may direct in relation to any structure or fixture which has been erected, set up, added to, or placed against, or in front of the said premises in contravention of this section.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit into account with the owner of the premises for all reasonable expenses incurred by him in complying with the notice. In case the owner or occupier fails to comply with such notice, the Commissioner will remove or alter any such structure or fixture as contained in the notice or take such steps to remove such encroachments as he may deem fit.

350. Restriction of powers of municipal authorities.- (1) The Corporation or the Commissioner shall not in respect any street vested in the Government, grant permission to do any act the doing of which without the permission of the Corporation or the Commissioner is punishable under this Act or the rules or bye-laws made thereunder except with the sanction of the Government which may be given in respect of a class of cases generally or in respect of a particular case.

(2) The Corporation or the Commissioner shall if so required by the Government, exercise in respect of such streets all or any of the powers conferred by the Act upon the Corporation or the Commissioner, as the case may be.

351. Footings buildings not to establish title to land belonging to Government or vesting in Corporation.- No title to any land belonging to or vested in the Government or the Corporation shall be deemed to have been acquired by a person or persons by reason only that the footing of the foundations of any buildings, wall or other structure project or have projected below the surface of such land.

352. Prohibition of deposit, etc. of things in streets.- (1) No person shall, except with the permission of the Commissioner, and on payment of such fee as he in each case thinks fit, place or deposit upon any street, or upon any open channel, drain or well in any street, or upon any public place any stall, chair, bench, box, ladder, bale or other things whatsoever so as to form an obstruction thereto or encroachment thereon.

(2) Nothing in sub-section (1) applies to building materials.

353. Power to remove anything deposited or exposed for sale in contravention of this Act.- The Commissioner may, without notice, cause to be removed: —

(a) Any stall, chair, bench, box, ladder, bale or other thing whatsoever, placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of this Act; and

(b) Any article whatsoever hawked or exposed for sale on any public street or in any other public place in contravention of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

354. Streets not to be opened or broken up and building materials not to be deposited thereon without permission.- (1) No person other than the Commissioner or a duly authorised municipal employee shall —

(a) Open, break-up, displace, take up or make any alteration in, or cause any injury to the soil or pavement or any wall, fence, posts, chain or other materials, or thing forming part of any street; or

(b) Deposit any building materials in any street; or

(c) Set up in any street any scaffold or any temporary erection for the purpose of any work whatsoever or any post, bars rails, boards or other thing by way of an enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or clause (c) of sub-section (1) shall be terminable at the discretion of the Commissioner on his giving not less than twenty-four hours notice of such termination to the person to whom such permission was granted.

(3) The Commissioner may, without notice cause to be removed any of the things referred to in clause (b) or clause (c) of sub-section (1) which has been deposited or set up in any street without the permission specified in that sub-section or which having been deposited or set up with such permission has not been removed within the period specified in the notice issued under sub-section (2):

Provided that nothing in this sub-section shall apply to cases under clause (b) or clause (c) of sub-section (1) in which an application for permission has been made with such fee as may be specified by the Commissioner in this behalf but no reply has been sent to the applicant within seven days from the date of the application.

355. Ground floor, doors, etc. not to open outwards on streets.- The Commissioner may at any time by notice require the owner of any premises on the ground floor of which any door, gate, bar or window opens outwards upon a street or upon any land required for the improvement of a street in such manner as to obstruct, in the opinion of the commissioner, the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

356. Prohibition of tethering of animals and milking of cattle.-(1) No person shall tether any animal or cause or permit the same to be tethered in any public street.

(2) No person shall milk or cause or permit to be milked any cow or buffalo or goat in any street.

(3) Any animal tethered or any cow or buffalo or goat found being milked as aforesaid in any street may be removed by the Commissioner or any municipal employee and be impounded and dealt with under the provision of the Indian Cattle Trespass Act, 1871.

357. Function of Commissioner in respect of Public Street.- The Commissioner shall, from time to time cause all public streets vested in the Corporation to be gravelled, metalled or paved, channelled altered or repaired, and may widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered or may place and keep in repair fences and posts for the safety of foot passengers:

Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees, shall be undertaken by the Commissioner except with the previous sanction of the Corporation.

358. Power to make new Public Street.- The Commissioner may at any time with the previous sanction of the Corporation—

- (a) Lay out and make new public streets;
- (b) Construct bridges, culverts and sub-way;
- (c) Turn or diver any existing public street; and
- (d) lay down and determine the position and direction of a street or streets in any part of the city notwithstanding that no proposal for the erection of any building in this vicinity has been received.

359. Minimum width of new Public Street.- The Commissioner shall, from time to time with the sanction of the ¹[Mayor-in-Council], specify the minimum width of different classes of new public streets according to the nature of the traffic likely to be carried thereon, and the street with which they join at one or both ends, the streets with which they are situated, the heights up to which building abutting thereon may be erected and other similar consideration.

360. Power to prohibit use of Public Street for certain kinds of traffic.- (1) The Commissioner with the previous sanction of the Corporation may —

- (a) Prohibit vehicular traffic in any public street or any portion thereof to as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality; and
- (b) Prohibit in respect of all public street in any particular public street, the transit of any vehicle of such from, construction, weight or size or laden with such heavy or unwieldy objects as may be likely to cause injury to the roadways or any construction thereon except under such construction as to time, mode or traction or locomotion, use of appliances for the protection of roadways, number of lights and assistants and other general precautions and upon the payment of such charges as may be specified by the Commissioner generally in such case.

(2) Notices of such prohibition as are imposed under sub-section (1) shall be posted in conspicuous places at or near both ends of public streets or portion thereof to which they relate, unless such prohibition applies generally to all public streets.

361. Power to acquire lands and buildings for Public Street and for parking place.- Subject to the provisions contained in this Act, the Commissioner may —

- (a) otherwise improving any public street or making any new public street and any building standing upon such land;

1. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

(b) Acquire in relation to any such land or building all such land with building, if any, thereon as the Corporation may think expedient to acquire outside of the regular line, or of the intended regular line, of such street; and

(c) Acquire any land for the purpose of laying out or making a public parking place.

362. Defining the regular line of street.- (1) The Commissioner may define a line on one on both sides of any public street in accordance with the bye-laws made in this behalf and redefine at any time any such regular line:

Provided that, before according sanction the Corporation shall by public notice afford reasonable opportunity to the residents of premises abutting on such public street to make suggestions or objections with respect to the proposed redefined line of the street and shall consider all such suggestions or objections which may be made within one month from the date of the publication of the said notice:

Provided further that the regular line of any public street operative under any law in force in any part of the city immediately before the commencement of this Act shall be deemed to be a line defined by the Commissioner under this sub-section.

(2) The line for the time being defined or redefined shall be called the regular line of street.

(3) No person shall construct or reconstruct any building or a portion thereof or any boundary wall or other structure whatsoever within the regular line of a street.

(4) The Commissioner shall maintain a register containing such particulars as may be specified by him in the behalf with plans attached thereto showing all Public streets in respect of which the regular line of the street has been defined or redefined and containing any other particulars which the Commissioner may deem necessary.

(5) All such registers shall remain open for inspection by any person on payment of such fee as may be specified by the Commissioner with the sanction of the ¹[Mayor-in-Council].

363. Setting back building to regular line of street.- (1) If any part of a building abutting on a public street is within the regular line of that street, the Commissioner may, whenever it is proposed —

(a) To repair, rebuild or construct such building or to take down such building to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic meter, or

(b) To repair, remove, construct or reconstruct or make any additions to, or structural alteration, of any portion of such building, which is within the regular line of the street;

by an order which he issues concerning the additions to, rebuilding, construction, repair or alternations of such building, require such building to be set back to the regular line of the street.

(2) When any building or any part thereof within the regular line of a public street falls down, or is whether by the order of the Commissioner otherwise taken down, the Commissioner may forthwith take possession on behalf of the Corporation of the

1. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

portion of the land within the regular line of the street to therefore occupied by the said building and, if necessary, clean the same.

(3) Land acquired under this section shall be deemed to be a part of the public street and shall vest in the Corporation.

364. Compulsory setting of building to regular line of street.- (1) Where any building or any part thereof is within the regular line of a public street and in the opinion of the Commissioner it is necessary to set back the building or part thereof to the regular line of the street he may by notice serve on the owner in accordance with the provisions of this Act, require him to show cause within the period as may be specified in the notice as to why such building or part thereof along with the land which is within the regular line of the street should not be acquired by the Commissioner on behalf of the Corporation.

(2) If such owner fails to show cause as a required by sub-section (1), the Commissioner may proceed to acquire the property on behalf of the Corporation for the purpose.

(3) Nothing in this section shall apply to building vesting in the Government.

365. Acquisition of open land and land occupied by platforms, etc. within the regular line of street.- (1) If any land, whether open or enclosed, not vesting in the Corporation and not occupied by any building is within the regular line of a public street or if a platform, verandah, step, compound wall, hedge or fence or some other structure external or a building abutting on a public street or a portion of such platform, verandah, step, compound wall, hedge, fence or other structure is within the regular line of such street, the commissioner may, after giving to the owner of the land or building a notice of intention so to do, take possession on behalf of the Corporation of the said land with its enclosing wall, hedge, fence or other structure or of any portion thereof which is within the regular line of the public street after acquisition and if necessary, clear the same and the land so acquired shall thereupon be deemed to be part of the public street and shall vest in the Corporation.

(2) Notwithstanding anything contained in this Act the Commissioner may proceed to acquire the said land on behalf of the Corporation.

366. Acquisition of remaining part of building and land after inclusion of the portion within a regular line of street have been acquired.- (1) Where a land or building is partly within the regular line of a public street and the Commissioner is satisfied that the land remaining after the inclusion of the portion within the said line will not be suitable or fit for any beneficial use, he may at the request of the owner acquire such land in addition to the land within the said line and such surplus land shall be deemed to be a part of the public street and shall vest in the Corporation.

(2) Such surplus land may thereafter be utilised for the purpose of setting forward a building under Section 367.

367. Setting forward of building to the regular line of street.- The Commissioner may, upon such terms as may be determined by the Corporation, allow any building to be set forward for the purpose of improving the regular line of a public street and may, with the sanction of the ¹[Mayor-in-Council], by notice require any building to be so set forward in the case of re-construction thereof or of a new construction.

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

Explanation: — For the purpose of this section a wall separating any premises from a public street shall be deemed to be a building; and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the regular line of a street if a wall of such material and dimensions as are approved by the Commissioner is erected along the said line.

368. Compensation to be paid in certain cases of setting back or setting forward a building.- (1) Compensation as assessed by the Commissioner shall be paid by the Commissioner with the approval of the ¹[Mayor-in-Council] to the owner of any building or land acquired for a public street under the provisions of Sections 363, 364 and 365 for any loss which such owner may sustain in consequence of his building or land being so acquired and for any expense incurred by such owner in consequence of any order made by the Commissioner:

Provided that any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part, likely to accrue from the setting back to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation.

(2) If in consequence of any order to set forward a building made by the Commissioner, the owner of such building sustains any loss or damage, compensation as assessed by the Commissioner shall be paid to him by the Commissioner with the approval of the ²[Mayor-in-Council] for such loss or damage after taking into account any increase in value likely to accrue from the setting forward.

(3) If the additional land which will be included in the premises of any person required or permitted under sub-section (2) to set forward a building belongs to the Corporation, the order or permission of the Commissioner to set forward the building shall be a sufficient conveyance to the said owner of the said land, and the price to be paid to the Corporation by the owner for such additional land and the other terms and conditions of the conveyance shall be set forth in the order or permission.

PRIVATE STREETS

369. Owner's obligation when dealing with land and building sites.- If the owner of any land utilises, sells leases out or otherwise disposes of such land for the construction of buildings thereon, he shall lay and make street or street is of such width as may be down prescribed giving access to the plots into which the land may be divided and connecting with existing public or private street.

370. Layout plan.- (1) Before utilising selling or otherwise dealing with any land under Section 369, the owner thereof shall send to the Commissioner a written application with a lay-out plan of the land showing the following particulars, namely—

(a) the plots which the land is proposed to be divided for the erection of buildings thereon and the purpose or purposes for which such buildings are to be used;

(b) the reservation or allotment of any site for any street, open space, park, recreation ground, market or any other public purpose;

(c) The intended level, direction and width of street or streets;

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

2. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

(d) The regular line of street or streets; and

(e) The arrangements to be made for levelling paving, metalling, flagging, channelling sewerage, draining, conserving and lighting street, or streets.

(2) The provisions of this Act and the bye-laws made thereunder to the width of the public streets and the height of building abutting thereon shall apply in the case of streets referred to in sub-section (1) and all the particulars referred to in the sub-section shall be subject to the sanction of the ¹[Mayor-in-Council].

(3) Within sixty days after the receipt of any application under sub-section (1) the ²[Mayor-in-Council] shall either accord sanction to the lay out plan on such conditions as it may think fit or disallow it or ask for further information with respect to it.

(4) Such sanction shall be refused it —

(a) The particulars shown in the lay-out plan would conflict with any arrangements which have been made or which are in the opinion of the ³[Mayor-in-Council] likely to be made for carrying out any general scheme of development of the city whether contained in the Master Plan or a Zonal Development Plan prepared for the city or not; or

(b) The said lay-out plan does not conform to the provision of this Act and bye-laws made thereunder, or

(c) Any street proposed in the plan is not designed so as to connect at one end with a street, which is already open.

(5) No person shall utilise, sell or otherwise deal with any land or lay-out or make any new street without or otherwise than in conformity with the orders of the ⁴[Mayor-in-Council]. and if further information is asked for, no step shall be taken to utilise, sell or otherwise deal with the land or to lay-out or make the street until order have been passed upon receipt of such information:

Provided that the passing of such orders shall not be in any case delayed for more than sixty days after the ⁵[Mayor-in-Council] has received the information which it considers necessary to enable it to deal with the said application.

(6) The lay-out plan referred to earlier in this section shall, if so required by the Standing Committee, be prepared by a licensed Town Planner at the cost of the beneficiary.

371. Alteration or demolition of street made in breach of section 370.- (1) If any person lays out or makes any streets referred to in section 370, without or otherwise than in conformity with the orders of the ⁶[Mayor-in-Council], the Commissioner may, whether or not the offender be prosecuted under this Act, by notice require, —

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

2. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

3. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

4. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

5. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

4. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

(a) The offender to show cause by a written statement signed by him and sent to the Commissioner on or before such date as may be specified in the notice, why such street should not be altered to the satisfaction of the Corporation and if such alteration be impracticable why such street should not be demolished, or

(b) The offender to appear before the Commissioner either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show cause to the satisfaction of the Commissioner why such street should not be so altered or demolished, the Commissioner may pass an order directing the alteration or demolition of such street with the approval of the ¹[Mayor-in-Council].

372. Power of Commissioner to order work to be carried out or carry it out himself in default.- (1) If any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewered, drained, conserved or lighted to the satisfaction of the Commissioner, he may by notice require the owner of such street or part and the owners of the lands and buildings fronting or abutting on such street or part to carry out any work which in his opinion may be necessary, and within such time as may be specified in such notice.

(2) If such work is not carried out within the time specified in the notice, the Commissioner may, if, he thinks fit, execute it and the expenses incurred shall be paid by the owner referred to in sub-section (1) in such proportion as may be determined by the Commissioner and shall be recoverable from them as an arrear tax under this Act.

(3) If any street has been levelled, paved, metalled, flagged, Channelled, sewered, drained, conserved and lighted under the provisions of sub-sections (1) and (2), the Commissioner may, with the approval of the Standing Committee and on the requisition of a majority of the owners referred to sub-section (1), shall declare such a street to be a public street and thereupon the street shall vest in the Corporation.

373. Precaution during repair of street.- (1) The Commissioner shall, so far as practicable during the construction or repair of any public street, or any municipal drain or any premises vested in the Corporation —

(a) Cause the same to be fenced and guarded,

(b) Take proper precautions against accident by shoring up and protecting the adjoining buildings, and

(c) Cause such bars, chains or posts to be fixed across or in any street in which any such work of construction or repair is under execution as are necessary in order to prevent the passage of vehicles or animals and avert danger.

(2) The Commissioner shall cause such street, drain or premises to be sufficiently lighted or guarded during night while under construction or repair.

(3) The Commissioner shall, with all reasonable speed, cause the said work to be completed, the ground to be filled in, the said street, drain or premises to be repaired and the rubbish occasioned thereby to be removed.

(4) No persons shall without the permission of the Commissioner or other lawful authority, remove any bar, chain, post or shorting, timber, or remove or extinguish any light set up under this section.

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

374. Naming and numbering of streets.- (1) The Commissioner may —

- (a) With the sanction of the Corporation determine the name or number by which any street or public place vested in the Corporation shall be known;
- (b) Cause to be put up or painted at a conspicuous part of any building, wall or place, at or near each end, corner or entrance of such street or on some convenient part of such street, the name or number by which it is to be known;
- (c) Cause to be put up or painted on boards of suitable size the name of any public place vested in the Corporation; and
- (d) Determine the number or sub-number by which any premises or part of such premises shall be known and cause such number or sub-number to be fixed to the side or outer door of such premises or to some place at the entrance of the enclosure thereof.

(2) No person shall destroy, remove, deface or in any way injure or alter any such name or number or sub-number put up or painted by order of the Commissioner.

375. Measures for lighting.- The Commissioner shall —

- (a) Take measures for lighting in a suitable manner all such public streets and public place as may be specified by the ¹[Mayor-in-Council];
- (b) Procure, erect and maintain such number of lamps, lamp posts and other appurtenances as may be necessary for the said purpose; and
- (c) Cause such lamps to be lighted by means of oil, electricity or such other light as the Standing Committee may determine.

376. Provision for lighting of private street by Corporation on application of owners.- The Commissioner, on the application of the owners of a private street, may enter into arrangements for the lighting of such street on such terms as may be agreed upon between him and such owners and shall thereafter in respect of such street have all the powers conferred by section 375.

377. Prohibition removal, etc. of lamps.- (1) No person shall, without lawful authority, take away or wilfully or negligently break or throw down or damage—

- (a) Any lamp or any appurtenance of any lamp or lamppost or lamp iron set up in any public street or any public place.
- (b) Any electric wire for lighting such lamp; and
- (c) Any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any electric wire or lamp.

(2) No person shall wilfully or negligently extinguish the light of any lamp set up in any public street or any public place.

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006.

(3) If any person wilfully or through negligence or accident breaks, or causes any damage to, any of the things described in sub-section (1), he shall in addition to any penalty to which may be subjected under this Act, pay expenses of repairing the damage so done by him.

PART VII
CHAPTER XXVII
POWERS, PROCEDURES, OFFENCES AND PENALTIES
Licences and written permissions

378. Signatures, conditions, duration, suspension, revocation, etc. of licenses and written permissions.- (1) Whenever it is provided in this Act or any rule or bye-law made thereunder that a licence or a written permission may be granted for any purpose, such licence or written permission shall be signed by the Commissioner or by the municipal employee empowered to grant the same under this Act or the rules or bye-laws made thereunder or by any authorised municipal employee and shall specify in addition to any other matter required to be specified under any other provision of this Act or any provision of any bye-law made thereunder —

- (a) The date of the grant thereof;
- (b) The purpose and the period, for which it is granted;
- (c) Restrictions or conditions, if any, subject to which it is granted;
- (d) The name and address of the person to whom it is granted; and
- (e) The fee, if any, paid for the licence or written permission; and
- (f) Any other conditions that may be imposed from time to time.

(2) Except as otherwise provided in this Act or any rule or bye-law made thereunder, for every such license or written permission a fee may be charged at such rate as may from time to time be fixed by the Corporation and such fee shall be payable by the person to whom the licence or written permission is granted.

(3) Save as otherwise provided in this Act or any rule or bye-law made thereunder, any licence or written permission granted under this Act or any rule or bye-law made thereunder may at any time be suspended or revoked by the Commissioner or by the employee by whom it was granted, if he is satisfied that it has been secured by the grantee through misrepresentation or fraud or if any of its restrictions or conditions has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provisions of this Act or any rule or bye-law made thereunder relating to any matter for which the licence or permission has been granted:

Provided that —

- (a) Before making any order of suspension or revocation reasonable opportunity shall be afforded to the grantee of the licence or the written permission, to show cause why it should not be suspended or revoked, and
- (b) Every such order shall contain a brief statement of the reasons for the suspension or revocation of the licence or the written permission.

(4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall, for all purposes of this Act or any rule or bye-law made thereunder, be deemed to be without a licence

or written permission until such time as the order suspending or revoking the licence or written permission is rescinded or until the licence or written permission is renewed.

(5) Every person to whom a licence or permission has been granted shall produce it at all reasonable hours for inspection, if so required by the Commissioner or any employee authorised by him in this behalf.

ENTRY AND INSPECTION

379. Power of entry and inspection.- The Commissioner or any municipal employee authorised or empowered in this behalf by or under any provision of this Act, may at all reasonable hours enter into or upon any land or building with or without assistants and workmen for the purpose of —

(a) Ascertaining whether there is or has been on or in connection with the land or building any contravention of the provisions of the Act or any rule or bye-law made thereunder;

(b) Ascertaining whether or not circumstances exist which would authorise or require the Commissioner or any municipal employee authorised or employed in this behalf to take any action or execute any work under this Act or any rule or bye-law made thereunder;

(c) Taking any action or executing any work authorised or required by this Act or any rule or bye-law made thereunder;

(d) Any inquiry, inspection examination, measurement, valuation or survey authorised or required by or under this Act or necessary for the proper administration of this Act; and

(e) Efficient discharge of the functions generally by any of the municipal authorities under this Act or any rule or bye-law made thereunder.

380. Power to enter adjoining land in relation to any work.- (1) The Commissioner or any person authorised in this behalf by him or empowered in this behalf by or under any provision of this Act, may enter on any land within fifty yards of any work authorised by or under this Act with or without assistants and workmen for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(2) The person so authorised shall, before entering on any such land, state the purpose thereof, and shall, if so required by the owner or occupier thereof, fence off so much of the land as may be required for such purposes.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage as possible and compensation as assessed by the Commissioner shall be payable by the Corporation in accordance with rules and bye-laws made in this behalf to the owner or occupier of such land or to both for any such damage, whether permanent or temporary.

381. Breaking into.- (1) It shall be lawful for the Commissioner or any person authorised or empowered in this behalf by or under any provision of this Act, to make any entry into any place, and to open or cause to be opened any door, gate or other barrier, if, —

- (a) He considers the opening thereof necessary for the purpose of such entry; and
- (b) The owner or occupier is absent or being present refuses to open such door, gate or barrier.

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier, the Commissioner or the person authorised or empowered in this behalf shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

(3) A report shall be made to the ¹[Mayor-in-Council] as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

382. Time of making entry, etc.-(1) Save as otherwise provided in this Act or any rule or bye-law made thereunder, no land or building shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof and no such entry shall be made without giving the said owner or occupiers as the case may be not less than twenty-four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a factory or workshop or trade premises, godown or a place used for any of the purposes specified in Section 373 or a stable for horses or a shed for cattle or a latrine or urinal or a work under construction or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any rule or bye-law made thereunder.

(2) When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

383. Prohibition of obstruction or molestation in execution of work.- No person shall obstruct or molest any person authorised or empowered by or under this Act or any person with whom the Corporation or any of the municipal authorities specified in Section 4 has lawfully contracted, in the execution of his duty or of any thing which he is authorised or empowered or required to do by virtue or in consequence of any of the provisions of this Act or any bye-law or rule made thereunder or in fulfilment of his contract, as the case may be.

PUBLIC NOTICES AND ADVERTISEMENTS

384. Public Notice how to be made known.- Every public notice given under this Act or any rule or bye-law made thereunder shall be in writing under the signature of the Commissioner or any municipal employee authorised in this behalf and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality or by advertisement in local newspapers or by any two or more of these means and by any other means that the appropriate municipal authority may think fit.

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006

NOTICE ,ETC.

385. Notice etc. to fix reasonable time.- Where any notice, bill, order or requisition used or made under this Act or any rule, or bye-law made thereunder requires anything to be done for or the doing of which no time is fixed in this Act, rules or bye-laws, the notice, bill, order or requisition shall specify a reasonable time for doing the same.

386. Signature on notices, etc. may be stamped.- (1) Every licence, written permission, notice bill, schedule, summons or other document required by this Act, or by any rule or bye-law to bear the signature of the Commissioner or of any municipal employee shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or of such municipal employee as the case may be, stamped thereon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the Municipal Fund under any of the provisions of this Act, or to any deed of contract.

387. Notice etc. by whom to be served or issued.- All notices, bills, summonses and other documents required by this Act or any rule or bye-law made thereunder to be served upon or issued to, any person, shall be served or issued by municipal employees authorised in this behalf.

388. Services of notice, etc.- (1) Every notice, bill, summons, order, requisition or other document required or authorised by this Act or any rule or bye-law made thereunder to be served or issued by or on behalf of the Corporation, or by any or the municipal authorities specified in section 4 or any municipal employee on any person, save as otherwise provided in this Act or such rule or bye- law, be deemed to be duly served —

(a) Where the person to be served is a company, if the document is addressed to the Managing Director or to the Secretary at the Company at its registered office or at its principal office or place or business and is either —

(i) Sent by registered post, or

(ii) Delivered at the registered office or at the principal office or place of businesses of the Company;

(b) Where the person to be served is a partnership firm. If the documents is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either —

(i) Sent by registered post, or

(ii) Delivered at the said place of business

(c) Where the person to be served is a public body, or a corporation, society or other body if the document is addressed to the Secretary, Treasurer, or other head officer of the body, corporation or society at its principal office, and is either —

(i) Sent by registered Post; or

(ii) Delivered at that office; and

(d) In any other case, if the document is addressed to the person to be served and-

(i) Is given or tendered to him, or

(ii) If such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the State, or is given or tendered to some adult member of his family on some conspicuous part of his last land or building, if any, to which it releases, or

(iii) Is sent by registered post to that person

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed “the owner” or “the occupier” as the case may be of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served —

(a) If the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1); or

(b) If the document so addressed or a copy thereof so addressed is delivered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises the Commissioner may by notice in writing require the occupier of the premises to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in Section 386 and 387 and in this section shall apply to any summons issued under this Act by a Court.

(7) A servant is not a member of the family within meaning of this section.

389. Services of bills for tax or notice of demand by ordinary post.- Notwithstanding anything contained in Sections 387 and 388 a bill for any tax or a notice of demand may be served by sending it by ordinary post with a pre-paid letter under a certificate of post with a pre-paid letter under a certificate of posting addressed to the appropriate person specified in Section 388 at his last known place of residence or business and in proving the service of every bill or notice so sent it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

390. Powers in case of non-compliance with notice etc.- In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act it shall be lawful for the authority or officer at whose instance the notice, order or requisition has been issued, whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefore, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or the work required to be done or executed by such person and all the expenses incurred on such account shall be payable to the Commissioner on demand and if not paid within fourteen days after such demand, shall be recoverable as an arrear of tax under this Act.

RECOVERY OF EXPENSES

391. Liability of occupier to pay in default of owner.-(1) If any notice, order or requisition has been issued to any person in respect of property of which he is the owner, the authority or municipal employee at whose instance such, notice, order or requisition has been issued, may require the occupier of such property or of any part thereof to pay to him instead of to the owner, any rent payable by him in respect of such property, as it falls due up to the amount recoverable from the owner under section 390:

Provided that if the occupier refuses to disclose the correct amount of the rent payable by him or the name or address of the person to whom it is payable, the authority or municipal employee may recover from the occupier the whole amount recoverable under Section 390 as an arrear of tax under this Act.

(2) Any amount recovered from an occupier instead of from an owner under sub-section (1) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

392. Execution of work by occupier in default of owner and deduction of expenses from rent.-Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or any rule or bye-law made thereunder the occupier, if any, or such land or building may with the approval of the Commissioner, execute the said work and he shall subject to any contract between the owner and occupier to the contrary, be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct the amount thereof from the rent payable by him to the owner.

393. Relief to agent and trustees.- (1) Where any person, by reason of his receiving rent of immovable property as a receiver, agent or trustee or of his being a receiver, agent or trustee of the person who would have received the rent if the property were let to a tenant, would under this Act or any rule or bye-law made thereunder, be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands belonging to the owner sufficient for the purpose.

(2) The burden of proving any fact entitling a receiver, agent or trustee to relief under sub-section (1) shall lie upon him.

(3) Where any receiver, agent or trustee has claimed and established his right to relief under this section, the Commissioner may, by notice in writing, require him to apply to the discharge of his obligation as aforesaid the first moneys which may come to his hands on behalf, all for the use of the owner and on failure to comply with the notice he shall be deemed to be personally liable to discharge the obligation.

PAYMENT OF COMPENSATION

394. General power to pay compensation.- In any case not otherwise expressly provided for in this Act or in any rule or bye-law made thereunder, the Commissioner, with the previous approval of the ¹[Mayor-in-Council], may pay compensation to any person who sustains damage by reason of the exercise of any of the power vested by this Act or any rule or bye-law in the Commissioner or in any municipal employee.

1. Subs. vide the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2006

395. Compensation to be paid by offenders for damage caused.- (1) Any person who has been convicted of an offence against this Act or any rule or bye-law made there under shall, notwithstanding any punishment to which he may have been sentenced for the said offence be liable to pay such compensation for any damage to the property of the Corporation resulting from the said offence as the Commissioner may consider reasonable.

(2) In the event of a dispute regarding the amount of compensation payable under subsection (1) such amount shall, on application made to him, be determined by the Magistrate before whom the said person who convicted of the said offence; and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said Magistrate as if it were a fine imposed by him on the person liable therefore.

RECOVERY OF EXPENSES OR COMPENSATION IN CASE OF DISPUTE

396. Reference in the court of the District Judge in certain case.- (1) If, when the Commissioner demands payment of any expenses referred to in section 390, his right to demand the same or the amount of the demand is disputed within fourteen days after such demand the Commissioner shall refer the case for determination to the Court of District Judge.

(2) The Commissioner, shall, pending the decision of any such reference, defer further proceeding for the recovery of the sum claimed by him and shall, after the decision, proceed to recover only such amount, if any, as is thereby declared to be due in manner referred to in section 390.

397. Application to the court of District Judge in other cases.- (1) Where, in any case not provided for by section 396, the Corporation or any municipal employee is required by the Act or any rule or bye-law made thereunder to pay any expenses or any compensation the amount to be so paid and if necessary, the apportionment of the same, shall, in case of dispute be determined by the court of District Judge on application having been made to it for this purpose at any time within three months from the date when such expenses or compensation first become claimable.

(2) If the amount of any expenses or compensation ascertained in accordance with subsection (1) is not paid by the person liable therefore on demand it shall be recoverable as if the same were due under a decree passed by the court of the District Judge in an original suit tried by it.

398. Power to sue for expenses or compensation.- Instead of proceeding in the manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due or the balance of the sum due as the case may be, may be recovered by a suit, brought against the person liable for the same in any court of competent jurisdiction.

RECOVERY OF CERTAIN DUES

399. Mode of recovery of certain dues.- In any case not expressly provided for in this Act or any rule or bye-law made thereunder any sum due to the Corporation on account of any charge, costs, expenses, fees, rates of rent or on any other account under this Act or any such rule or bye-law may be recoverable from any person from whom such sum is due as an arrear of tax under his Act.

OBSTRUCTION OF OWNER BY OCCUPIER

400. Right of owner to apply to the court of District Judge in case of obstruction by occupier.- (1) The owner of any land or building may, if he prevented by the occupier thereof from comply with any provision of this Act or any rule or bye-law made thereunder or with any notice, order of requisition issued under such provision apply to the court of the District Judge, and where such application is made within any time that may be fixed for the compliance with such provisions or notice, order of requisition, the owner shall not be liable for failure his to comply with the provisions or notice, order of requisition within time as fixed.

(2) The Court, on receipt of such application may make a written order requiring the occupier the land or building to afford all reasonable facilities to the owner for complying with said provisions or notice, order of requisition and if may also if it things fit direct that the cost of such application and order be paid by the occupier.

(3) After eight days from the date of the order referred to in sub-section (2), the occupier shall afford all such reasonable facilities to the owner for the purpose aforesaid as may be specified in the order and in the event of his continued refusal to do so, the owner shall be discharged during the continuance; of such refusal from any liability which may have been otherwise incurred by reason of his failure to comply with said provision or notice, order of requisition:

PROCEEDINGS BEFORE THE COURT OF THE DISTRICT JUDGE

401. General powers and procedure of the Court of the District Judge.- The procedure provided in the Code of Civil Procedure, 1908, in regard to suits shall be followed as far as it can be made applicable in the disposal of applications, appeals or references that may be made to the court of the District Judge under this Act or any rule or bye-law made thereunder.

402. Fees in proceedings before the Court of the District Judge.- (1) The Government may, by notification the Official Gazette, prescribe what fees shall pay:—

(a) On any application, or appeal or reference under this Act or any rule or bye-law made thereunder to the Court of the District judge; and

(b) For the issue, in connection with any inquiry or proceedings before that Court under this Act or such rule or bye-law of any summons or other process:

Provided that the fee, if any prescribed under clause (a) shall not, in case which the value of the claim or subject matter is capable of being estimated in money exceed the fees leviable for the time being under the provisions of the Court fees Act, 1870, in case in which the amount of the claim subject matter is of like amount.

(2) The Government may, by like notification determined the person by whom the fee, if any prescribed under clause (a) of sub-section (i) shall be payable.

(3) No application appeal or reference shall be received by the Court of the District Judge until the fee, if any prescribed therefore under clause (a) of sub-section (1) has been paid;

Provided that the Court may in any case in which it thinks fit so to do,-

- (i) Receive an application, appeal or reference made by or on behalf of a poor person; and
- (ii) Issue process on behalf of any such person, without payment or on part payment of the fees prescribed under this section.

403. Repayment of half fee of settlement before hearing.- Whenever any application, appeal or reference made under this Act or any rule or bye-law made thereunder to the Court of District Judge is settled by agreement between the parties before the hearing, half the amount of all fees paid up to that time shall have be repaid by the court to the parties by whom the same have respectively been paid.

404. Punishment for certain offences.-Whoever, —

(a) Contravenes any provision of any of the sections, sub-sections, clauses, provisions or other provisions of this Act, or

(b) Fails to comply with any order or direction lawfully given to him of any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provision or other provisions shall be punishable —

- i) With fine which may extend to the amount or with imprisonment for a term which may extend to the period, to be specified in that behalf; and
- ii) In the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in the third column of that table for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

405. General penalty.- Whoever, in any case in which penalty it not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one hundred rupees, and in the case of continuing failure or contravention with an additional fine which may extend to twenty rupees for every day during which he has persisted in the failure or contravention.

406. Offences by companies.- (1) Where an offence under this Act, has been committed by a company, every person who at the time of the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: — For the purposes of this section—

- a) “Company” means a body corporate, and includes a firm or other association of individuals; and
- b) “Director” in relation to a firm means and includes a partner in the firm.

407. Prosecutions.- Save as otherwise provided in this Act, no court shall proceed with the trial of any offence made punishable by or under this Act except on the complaint of, or upon information received from, the Commissioner or a person authorised by him by a general or special order in this behalf.

408. Compounding of offences.- (1) The Commissioner or any person authorised by him by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence not compounded.

409. Duties of police officer.- It shall be the duty of every police officer —

- a) To communicate without delay to the proper municipal officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, bye-law or regulation made under it; and
- b) To assist the Commissioner or any municipal officer or staff or any person to whom the Commissioner has lawfully delegated powers, reasonably demands his aid for the lawful exercise of any power vesting in the Commissioner or in such municipal officer or staff or person under this Act or any such rule, bye-law or regulation, and for all such purpose he shall have the same power which he has in the exercise of his ordinary police duties.

410. Power of police officer to arrest person.- (1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule, bye-law or regulation made under it, he shall, if the name and address of such person are unknown to him and if the said person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

(2) No person arrested under sub-section (1) shall be detained in custody —

- a) After his true name and address are ascertained, or
- b) Without the order of a magistrate for any time, not exceeding twenty-four hours from the hour of arrest, than is necessary for bringing him before a magistrate.

411. Exercise of powers of police officer by municipal employees.- The Government may empower any municipal officer or staff or any class of municipal officers or staff to exercise the powers of a police officer for the purpose of the Act.

412. Power to institute withdraw, etc., legal proceedings and obtain legal advice.- The Commissioner may —

- a) Take, or withdraw from proceedings against any person who is charged with,—
 - i) Any offence against this Act or any rule or bye-law made hereunder, or

- ii) Any offence which affects or is likely to affect any property or interest of the Corporation or the due administration of the Act, or
- iii) Committing any nuisance whatsoever;
- b) Contest or compromise any appeal against rateable value or assessment of any tax or rate;
- c) Take, or withdraw from or compromise proceedings under sections 395, 396 and 397 for the recovery of expenses or compensation claimed to be due to the Corporation:
- d) Withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person;
- e) Defend any suit or other legal proceedings brought against the Corporation or against the Commissioner or a municipal employee in respect of anything done or committed to be done by any one of them in the official capacity;
- f) With the approval of the standing Committee, admit or compromise any claim, suit, or other legal proceedings brought against the Corporation or against the Commissioner or any municipal employee in respect of anything done or committed to be done as aforesaid;
- g) Withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the Commissioner on behalf of the Corporation;
- h) Institute and prosecute any suit or other legal proceedings, or with the approval of the Standing Committee withdraw from or compromise any suit or any claim for any sum not exceeding five hundred rupees which has been instituted or made in the name of the Corporation or of the Commissioner; and
- i) Obtain such legal advice and assistance as he from time to time thinks necessary or expedient to obtain or as he may be required by the Corporation or as he may be required by the Corporation or the 1[Mayor-in-Council] to obtain, for any of the purposes mentioned in the foregoing clauses or for securing lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal employee.

413. Protection to action of the Corporation, act.- No suit or prosecution shall be entertained in any court against the Corporation or against any municipal authority or against any municipal employee or against any person acting under the order or direction of any municipal authority or any municipal employee for anything which is in good faith done, or purposed or intended to be done, under this Act or any rule or bye law made thereunder.

414. Notice to be given of suits.- (1) No suit shall be instituted against the Corporation or against any municipal authority or against any municipal employee or against any person acting under the order or direction of any municipal authority or any municipal employee in respect of any act done, or purporting to have been done,

1. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006, (Act No. IV of 2006), Section 3, w.e.f. 9.3. 2000.

in pursuance of this Act or any rule, or bye-law made thereunder, until the expiration of two months after notice in writing has been left at the municipal officer and in the case of such employee or person, unless notice in writing has also been delivered to him or left at his office or place of residence and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.

(2) No suit, such as is described in sub-section (1), shall, unless it is a suit for the recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(3) Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement the institution of the suit.

CHAPTER XXVIII ***RULES, REGULATIONS AND BYE-LAWS***

415. Provisions respecting regulations.- (1) Any regulation which may be made by the Corporation under this Act, may also be made by the State Government within one year of the establishment of the Corporation; and any regulation so made may be altered or rescinded by the Corporation in the exercise of its powers under this Act.

(2) No regulation made by the Corporation under this Act shall have effect until it has been approved by the State Government and publish in the Official Gazette.

416. Provisions, respecting bye-laws.- (1) Subject to the provisions of this Act the Corporation may, in addition to any by-laws which it is empowered to make by any other provision of this Act, make by-laws to provide for all or any of the following matters, namely —

A. Bye-laws relating to taxation

(1) The maintenance of tax books and registers by the Commissioner and the particulars, which such books and registers, should contain;

(2) the inspection of and the obtaining of copies and extracts from such books and registers, and fees, if any, to be charged for the same;

(3) The publication of rates of taxes as determined by the Corporation from time to time;

(4) The requisition by the Commissioner of information and returns from persons liable to pay taxes;

(5) The notice to be given to the Commissioner by any person who becomes the owner or possessor of a vehicle or animal in respect of which any tax is payable under this Act;

(6) The wearing of badge by the driver of any such vehicle and the display of number plate on such vehicle;

(7) The submission of returns by person liable to pay any tax under this Act;

(8) The collection by the Registrar or Sub-Registrar of Gauhati appointed under the Indian Registration Act, 1908, of the additional Stamp duty payable to the corporation under this Act, the periodical payment of such duty to the Corporation and the maintenance by such Registrar or sub-Registrar of separate accounts in relation thereto; and

(9) Any other matter relating to the levy, assessment, collection, refund or remission of taxes under this Act.

B. Bye-laws relating to water supply, drainage and sewage disposal.

(1) The power of the Commissioner to close water-works for the supply of water, whether for domestic purposes or not, or for gratuitous use and to prohibit the sale and use of water for the purpose of business;

(2) The connection of supply pipes for conveying to any premises supply of water from a municipal water-works;

(3) The making and renewing of connections with municipal water-works;

(4) The power of the Commissioner to take charge of private connections;

(5) The power of the Commissioner to alter the position of connections;

(6) The equitable distribution of water supplied to occupiers;

(7) The size, material, quality, description and position of the pipes and fittings to be used for the purpose of any connection or any communication from any municipal water-works and the stamping of pipes and fittings and fees for such stamping;

(8) The size, material, quality and description of pipes, cisterns and fitting which are found on an examination under the provisions of this Act to be so defective that they cannot be effectively repaired;

(9) The provision and maintenance of meters when water is supplied by measurement;

(10) The prohibition of fraudulent and unauthorised use of the water and the prohibition of fraud in connection with metres;

(11) The maintenance of pipes, cisterns and other water works,

(12) The regulation or prohibition of the discharge or deposit of offensive or obstructive matters polluted water or other polluted and obnoxious matters into sewers;

(13) The regulation in any manner not specifically provided for in this Act for the construction, alteration, maintenance preservation; cleaning and repairs of drains, ventilations, shafts, pipes, and latrine the urinals, cesspools and other drainage works;

(14) The cleansing of drains;

(15) The prohibition of erection of buildings over drains without the permission of the Commissioner;

(16) The connection of private drains with municipal drains;

- (17) The location and construction of cesspools;
- (18) The covering and ventilation of cesspools;
- (19) The period or periods of the day during which trade effluent may be discharged from any trade premises into municipal drains;
- (20) The exclusion from trade effluent of all condensing water;
- (21) The elimination from trade effluent before it enters a municipal drain, of any constituent which in the opinion of the Corporation would, either alone or in combination with any matter with which it is likely to come into contact while passing through municipal drains, injure or obstruct those drains or make specially difficult or expensive the treatment or disposal of the sewage from those drains;
- (22) The maximum quantity of trade effluent, which may, without any consent or permission to discharge from any trade premises into municipal drains on any one day and the highest rate at which trade effluent may, without such consent or permission, be discharged from any trade premises into municipal drains;
- (23) The regulation of the temperature of trade effluent at the time of its discharge into municipal drains and the securing of the neutrality of trade effluent (that is to say, it is neither acid nor alkaline) at the time of such discharge;
- (24) The charges to be paid to the Corporation by occupiers of trade premises for the reception of trade effluent into municipal drains and disposal thereof;
- (25) The provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into municipal drains from trade premises; and
- (26) The provision and maintenance of such meters as may be required to measure the volume of any trade effluent being discharged from any trade premises into municipal drains, and the testing of such meters.

C. Bye-laws relating to streets

- (1) The closure of streets when any work is in progress and alternative passage during the progress of such work;
- (2) The erections of a temporary nature during festivals;
- (3) The setting up of hoards on buildings adjacent to streets during their construction or repair;
- (4) The precautions to be taken when permission is granted to any private individual for opening or breaking up any public street and the fees to be paid for the restoration of a street in its original condition;
- (5) The permission, regulation or prohibition of use or occupation of any street or place by itinerant vendors or hawkers or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall and the fees chargeable for such occupations; and

- (6) Any other matter in connection with the construction, repair, maintenance, naming, numbering and lighting of streets for which provision is necessary or should be made.

D. Bye-laws relating to buildings

- (1) The regulation or restriction of the use of sites for buildings for different areas;
- (2) The regulation or restriction of buildings in different areas;
- (3) The form of notice of erection of any building or execution of any work and the fee in respect of the same;
- (4) The plans and documents to be submitted together with such notice and the information and further information to be furnished;
- (5) The level and width of foundation, level of lowest floor and stability of structure;
- (6) The construction of building and the materials to be used in the construction of buildings;
- (7) The height of buildings whether absolute or relative to the width of streets of different areas;
- (8) The number and height of storeys composing a building and the height of rooms and the dimensions of rooms intended for human habitation;
- (9) The provision of open spaces, external and internal and adequate means of light and ventilation;
- (10) The provision of means of egress in case of fire, fire-escapes and water lifting devices;
- (11) The provision of secondary means of areas for the removal of house refuse;
- (12) The material and methods of construction of partition walls, roofs and floors;
- (13) The position, materials and methods of construction of hearths, smoke-escapes, chimneys, staircases, latrines, drains and cesspools;
- (14) The provision of lifts;
- (15) The paving of yards;
- (16) The restriction on the use of inflammable materials in buildings;
- (17) The restriction on construction of foundation on certain sites;
- (18) The measures to be taken to protect buildings for damp arising from sub-soil;
- (19) The wells, tanks and cisterns and pumps for the supply of water for human consumption in connection with buildings;

(20) In the case of wells, the dimension of the well, the manner of enclosing it and if the well is intended for drinking purposes the means which shall be used to prevent pollution of the water;

(21) The supervision of buildings;

(22) The setting back of garages and shops from the regular line of a street; and

(23) The construction of portable structures and permission for such construction.

E. Bye-laws relating to sanitation or public health

(1) The position of latrines and urinals;

(2) The provision of air spaces between latrines and buildings or places used for various purposes;

(3) The whitewashing of buildings;

(4) The provision of living accommodation for sweepers in buildings newly erected requiring ten or more latrines;

(5) The regulation or prohibition of the stabling or herding of animals or any class of animals so as to prevent danger to public health;

(6) The seizure of ownerless animals straying within the limits of the city of Gauhati and the regulation and control of pounds;

(7) The fixing and regulation of the use of public bathing and washing places;

(8) The prevention of the spread of dangerous diseases;

(9) The segregation in or the removal or exclusion from any part of the city or the destruction of animals suffering or reasonably suspected to be suffering from any infectious or contagious disease;

(10) The supervision, regulation, conservation and protection from injury, contamination or trespass, or sources and means of public water supply and of appliance for the distribution of water;

(11) The enforcement of compulsory vaccination and inoculation; and

(12) The proper disposal of corpses, the regulation and management of burning and burial places and other place for the disposal of corpses and fees chargeable for the use of such places where the same are provided or maintained at the expense of the Municipal Fund.

F. Bye-laws relating to vital statistics

(1) The prescribing of qualifications of persons to be appointed as Registrars and Sub-Registrars under Chapter XXV; and

(2) The registration of births, deaths and marriages and the taking of a census,

G. *Bye-laws relating to public safety and suppression of nuisances*

The regulation or prohibition for the purpose of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance and for public safety or convenience, or for the regulation of which no provision is made elsewhere in the Act.

H. *Bye-laws relating to markets, slaughter houses, trades and occupations*

- (1) The days on, and the hours during which any market or slaughter-house may be kept open for use;
- (2) The regulation of the design, ventilation and drainage of markets and slaughterhouse and the materials to be used in the construction thereof;
- (3) The keeping of markets and slaughter-houses and the lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth, rubbish and other polluted and obnoxious matters therefrom and the supply therein of pure waters and of a sufficient number of latrines and urinals for the use persons using or frequenting the same;
- (4) The manner in which animals shall be admitted in slaughterhouse;
- (5) The manner in which animals may be slaughtered;
- (6) The provision of passages of sufficient width between the stalls in market buildings and market places for the convenient use of the public and the prevention of encroachment on such passages;
- (7) The setting apart of separate areas for different classes of articles in market buildings and market places;
- (8) The disposal or destruction of animals offered for slaughter which are, from disease or any other cause, unfit for human consumption;
- (9) The destruction of carcasses which from any disease or any other cause are found after slaughter to be unfit for human consumption;
- (10) The regulation of the entry of animals into slaughter-house and the bringing out of the carcasses of such animals after slaughter and the fee to be paid for use of slaughter-houses;
- (11) The proper custody and care of animals for the keeping of which licences are granted;
- (12) The regulation of the import of animals and flesh within the city;
- (13) The rendering of necessary licences for use of premises within the city of Gauhati as stables or cow-houses or as an accommodation for sheep, goat or buffalo, and the fees payable for such licences and the conditions, subject to which such licences may be granted, refused, suspended or revoked;

- (14) The regulation of sarais, hotels, dak bungalows, lodging houses, boarding houses, buildings, let-in tenements, residential clubs, restaurants eating houses, cafes, refreshment rooms and places of public recreation, entertainment or resort;
- (15) The control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise injurious, offensive or dangerous effects arising or likely to arise therefrom;
- (16) The regulation of the pasting of bills and advertisements and of the position, size, shade or style of the name boards, sign-boards and sign-posts;
- (17) The fixation of a method for the sale of article whether by measure, weight, piece or any other method;
- (18) The procedure regarding the grant of permit to establish a factory, workshop or trade premises;
- (19) The regulation of smoke in factories, workshops and trade premises;
- (20) The regulation of sanitary conditions in factories, workshops, and trade premises;
- (21) The regulation of the use in any factory, workshop or trade premises of whistle, trumpet, siren or horn worked by steam, compressed air electricity or other mechanical means; and
- (22) The prevention of nuisance in any market building, market place, slaughter-house or any factory workshop or trade premises.

I. Bye-laws relating to development

- (1) The form and content of a development scheme or a rehousing scheme;
- (2) The procedure to be followed in connection with the framing, submission, approval and sanction of such schemes;
- (3) The local inquiries and other hearings that may be held before a scheme is framed approved or sanctioned; and
- (4) The alteration of a development scheme after approval and sanction.

J. Bye-laws relating to miscellaneous matters

- (1) The prevention and extinction of fire;
- (2) The circumstances and the manner in which owners of land or building in the city temporarily absent therefrom or not resident therein may be required to appoint as their agents, for all or any of the purposes of this Act or of any bye-laws made thereunder, persons residing within or near the city;
- (3) The maintenance of schools and the furtherance of education generally;
- (4) The regulation and control of municipal hospitals and dispensaries;
- (5) The rendering of necessary licences —

(a) For the proprietors or drivers of hackney, carriages, cycle-rickshaws and thelas kept or plying for hire or used for hawking articles; and

(b) For person working as job-porters for the conveyance of goods;

(c) Any other matter, which is to be or may be prescribed by bye-laws made under this Act or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Corporation, necessary for the efficient municipal government of the city.

(2) Any bye-law, which may be made under sub-section (1), may be made by the State Government within one year of the establishment of the Corporation and any bye-law so made may be altered or rescinded by the Corporation in the exercise of its powers under sub-section (1).

(3) No Bye-law made by the Corporation under this Act shall have effect until it has been approved by the State Government and published in the Official Gazette.

COMMENTS

Bye-law- Levy of parking fee.- Applicability of bye-laws for levy of parking fees. [Greater Guwahati United Motor Transport Association v. Gauhati Municipal Corporation, 1996 (2) GLR 473.]

Levy of toll on vehicles and animals entering into city.- Section 144 of the Act, empowered the GMC to levy toll without setting down any standard for the guidance of the executive. [Zakir Hussain v. State of Assam and another, 2003 (1) GLT 644.]

417. Penalty or breach of bye-law.- (1) In making a bye-law under this Act the Corporation may provide that a contravention thereof shall be punishable —

(a) With fine which may extend to five hundred rupees, or

(b) With fine which may extend to five hundred rupees and in the case of a continuing contravention, with an additional fine which may extend twenty rupees for every day during which such contravention continue after conviction for the first such contravention, or

(c) With fine, which may extend to twenty rupees for every day during which the contravention continues after the receipt of a notice, from the Commissioner or any municipal employee, contravening the bye-law requiring such person to discontinue such contravention.

(2) Any such bye-law may also provide that a person contravening the same shall be required to remedy so far as lies in his power, the mischief, if any caused by such contravention.

¹[417-A. Punishment for violation of the provisions of the Act, rules or bye-laws.-

(i) If any Officer or Authority including the Appellate Authority or any agency under this Act issues permission for construction of building in contravention of the provisions of this Act and the rules and bye-laws made thereunder, he shall be liable to be punished with imprisonment for a term of six months along with a fine of rupees ten thousand.

1.Ins. By the Guwahati Municipal Corporation (Second Amendment) Act, 2006 (Act No. XII of 2006), Section 6, w.e.f. 17.8. 2006

(ii) If any building or promoter or owner erects or constructs or occupiers any building in contravention of the provisions of this Act and the rules and bye-laws made thereunder, except the provisions of compoundable limit as provided in the bye-laws, he shall be liable to be punished with imprisonment for a term of six months along with a fine of rupees ten thousand.]

418. Supplementary provisions regarding bye-laws.- The power to make bye-laws under this Act is subject to the conditions of the bye-laws being made after previous publication.

419. Bye-laws to be available for inspection and purchase.- (1) A copy of all bye-laws made under this Act shall be kept at the municipal office and shall during office hours, be open free of charge to inspection by any inhabitant of the city.

(2) Copies of all such bye-laws shall be kept at the municipal office and shall be available for sale to the public;

PART VIII

CHAPTER XXIX

SUPERVISION AND GUIDANCE

420. Government's power to call for records, etc.-The Government may at any time require the Corporation (a) to produce any records correspondence, plan of other documents in its possession or under its control; (b) to furnish any return, plan, estimate statement, accounts or statistics relating to the proceedings, duties or works of the Corporation or any of the municipal authorities: and (c) to furnish or obtain and furnish any report.

COMMENT

Nature and scope of.-Provision of Section 420 of the Act, do not provide any power of revision against an order of the standing appeal committee. [Kamal Goswami v. State of Assam, 2006 (3) GLT 348].

421. Government's power to cause inspections to be made.-The Government may depute any Government employee to inspect or examine any municipal department, office service work or thing and to report thereon and any employee to deputed may, for the purposes of such inspection or examination, exercise all the powers conferred by section 420.

422. Government's power to require performance of duties in default or any municipal authority.- (1) If whether on receipt of any information report obtained under section 420 or section 421 or otherwise the Government is of opinion —

(a) That any duty imposed on the Corporation or any municipal authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

(b) That adequate financial provision has not been made for the performance of any such duty, it may by an order direct the Corporation or the municipal authority concerned, within a period to be specified in such order, to make arrangements to its satisfaction for the proper performance of the duty, or as the case may be to make financial provision to its satisfaction for the proper performance of the duty, and the Corporation or the municipal authority concerned shall comply with such order;

Provided that, unless in the opinion of the Government the immediate execution of such order is necessary, it shall before making an order under this section give the Corporation or the municipal authority concerned an opportunity of showing cause why such order should not be made.

(2) If, within the period specified in any orders issued under sub-section (1), any action directed under that sub-section has not been duly taken, the Government may make arrangements for the taking of such action and may direct that all expenses connected therewith shall be defrayed out of the Municipal Fund.

423. Government power to annul illegal proceedings of Corporation.- The Government may, after consideration of any representation which may be made by the Corporation, by written order annul or omit from the records any proceedings of the Corporation which it considers not to be in conformity with this Act, or any rules or bye-laws made thereunder and may do all things necessary to secure such conformity.

424. Government's power to suspend action.- If the Government is of opinion that the execution of any resolution or order of the Corporation or of any other Municipal authority or employee subordinate thereto or the doing of any act which is about to be done or is being done by or on behalf of the Corporation is in contravention of or in exercise of the powers conferred by this Act or of any other law for the time being in force or is likely to lead to a breach of the peace or to cause injury or annoyance to the public or to any class or body of persons, the Government, may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act:

Provided that, unless in the opinion of the Government the immediate making of such order is necessary, it shall, before making an order under this section, give the Corporation or the Municipal authority concerned an opportunity of showing cause why such an order should not be made.

425. Government's power to supersede.- (1) If, at any time, the Government is satisfied that a Corporation is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law, or exceeds or abuses its powers, the Government may, by notification in which the reasons for so doing shall be stated, declare the Corporation ¹[to be dissolved for a period not exceeding six months:]

Provided that before such an order is made, reasonable opportunity ²[of being heard] shall be given to the Corporation [:]³

⁴[Provided further that an election to constitute the Corporation shall be completed,-

(a) before the expiry of the duration specified in Section 55;

(b) before the expiration of a period of six months from the date of its dissolution.

1.Subs. by the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act No. XXVI of 1994), Section 10, w.e.f. 5.5. 1994.

2. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act No. XXVI of 1994), Section 10, w.e.f. 5.5. 1994.

3.Subs. by Assam Act, XI of 1979, w.e.f. 11.5.1979.

4. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 1994 (Act No. XXVI of 1994), Section 10, w.e.f. 5.5. 1994.

Provided further that where the remainder of the period for which the Corporation is dissolved is less than six months, it shall not be necessary to hold the election for constituting the Corporation for such period:

Provided also that the Corporation constituted upon dissolution before the completion of its duration shall continue only for the remainder of the period for which the dissolved Corporation would have continued under Section 55 had it not been so dissolved.]

(2) When a Corporation is so superseded, the following consequences shall ensure, namely —

(a) All councillors shall from the date of the notification vacate their offices as such without prejudice to their eligibility for re-election;

(b) Such person or persons as the Government may appoint in that behalf, shall, so long as the supersession of the Corporation lasts, exercise and perform, so far as may be, the powers and duties of the Corporation and shall be deemed to be the Corporation for the purpose, and such person or persons shall comply with such direction as may be given to him or them by the Government, from time to time, for carrying out the purpose of this Act;

¹[(bb) the person or persons so appointed under the preceding clause shall also exercise and perform, as far as may be, the powers and duties of various ²[Mayor-in-Council] and Joint committees under the provisions of this Act and for the purpose of such exercise such person or persons shall be deemed to be the respective ³[Mayor-in-Council] or Joint Committee, as the case may be, within the meaning of this Act;]

(c) All property vested in the Corporation shall until it is reconstituted, vest in the Government; and

(d) Before the expiry of the period of supersession election shall be held for the purpose of reconstituting the Corporation.

⁴[(e) (i) notwithstanding anything contained in the principal Act, during the period of supersession , the Commissioner shall sanction any estimate or contract for a particular work the amount of which does not exceed twenty thousand rupees;

(ii) if the amount of estimate or contract exceeds twenty thousand rupees, the Commissioner shall sanction the estimate or contract with the approval of the State Government.]

(3) The person or persons appointed by the Government under clause (b) of sub-section (2) shall be designated as administrator or council of administrators and shall, where the Government so directs, receive from the Municipal Fund such payment for his or their services as the Government may, from time to time determine.

1. Clause (bb) inserted by Assam Act XI of 1979, w.e.f. 11.5.1979.

2. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Clause (e) inserted by Assam Act X of 1983, w.e.f. 1.8.1983.

COMMENT

Supersession of Municipality.- It has been held that supersession of municipality following en mass resignation of Commissioner is valid because such resignation amount to persistent default in performance of their duties. [Rashik Ch. Deb Barma v. the Government of Tripura, AIR 1976 Gauhati 87.]

¹[425-A. Power of the Government to give direction.- The government may give such directions to the Corporation on questions of policy as it may consider it to be necessary in the public interest , in writing and the Corporation shall be bound by such directions.]

426. Power of Government Prescribe to forms and make rules.- (1) The Government may make rules consistent with this Act for carrying out all or any of the purposes of this Act, and prescribe by rules such forms for any proceedings of the Corporation for which it considers that a form should be provided.

(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) With respect to all matters expressed, required or allowed by this Act to be prescribed;
- (b) Qualification of electors and the preparation publication, correction and revision of electoral rolls;
- (c) The appointment of returning officers, assistant returning officers, presiding officers and polling officers for the conduct of elections;
- (d) The nomination of candidates, form of nomination paper, objections to nominations and security of nominations;
- (e) The deposits to be made by candidates, time and manner of making such deposits may be refunded to candidates or forfeited to the Corporation;
- (f) The withdrawal of candidatures;
- (g) The appointment of agents of candidates;
- (h) The procedure in contested and uncontested elections;
- (i) The date, time and place for poll and other matters relating to the conducts of election including—
 - (i) The selection of Polling Stations for each ward;
 - (ii) The hours during which the Polling station shall be kept open for the casting of votes;
 - (iii) The printing and issue of ballot papers;
 - (iv) The checking of voters by reference to the electoral roll;

1. Ins. by the Guwahati Municipal Corporation (Second Amendment) Act, 2006 (Act No XII of 2006), Section 7, w.e.f. 17.8.2006.

- (v) The marking with indelible ink of the left forefinger or any other finger or limb of the voter and prohibition of the delivery of any ballot paper to any person if at the time such person applies for such paper has already such mark, so as to prevent personation of voters;
- (vi) The manner in which votes are to be given and in particular in the case of illiterate voters or voters under physical or other disability;
- (vii) The procedure to be following in respect of challenged votes and tendered votes;
- (viii) The scrutiny of votes, counting of votes, the declaration of results and the procedure in case of equality of votes or in the event of a councillor being elected to represent more than one ward;
- (ix) The custody and disposal of papers relating to elections;
- (x) The suspension of polls in case of any interruption by riot, violence or any other sufficient cause and the holding of fresh poll;
- (xi) The holding of a fresh poll in the case of destruction of or tampering with ballot boxes before the poll; and
- (xii) The countermanding of the poll in the case of the death of a candidate before the poll;
- (j) The fee to be paid on an election petition;
- (k) For rendering incapable of municipal office either permanently or for a term of years any person who may have been proved guilty of a corrupt practice or of conniving at or abetting the same;
- (l) Any other matter relating to elections or election petitions in respect to which the Government deem it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Government, necessary;
- (m) The constitution and disposal of special funds;
- (n) The publication of notices;
- (o) The condition on which property may be acquired by the Corporation or on which property vested in the Corporation may be transferred by sale, mortgage, lease, exchange or otherwise;
- (p) The authority on which money may be paid from the Municipal Fund, and the management and regulation of provident funds;
- (q) The preparation of plans and estimates for works partly or wholly to be constructed at the expense of the Corporation, and for the preparation, and periodical revision of maps and registers and for the authorities by which the conditions subjects to which such plans, estimates, maps and registers are to be prepared and sanctioned;
- (r) The preparation of estimates of income and expenditure of the Corporation;

- (s) The manner of making applications for permission to borrow money, the enquiries to be made in relation to loans and the manner of conducting such enquiries, the inspection of any works carried out by means of loans, and the utilisations of unexpended balances of loans, etc;
- (t) The manner in which accounts are to be kept by the Corporation, the conditions on which such accounts are to be opened to inspection by inhabitants paying any tax under this Act and manner in which such accounts are to be audited;
- (u) The assessment and collection of and the compounding for taxes imposed under this Act, and preventing evasion of the same, and for fixing the fee, payable for notice of demands;
- (v) The conditions on which the Corporation may receive animals or articles into a bonded warehouse and the agreement to be signed by traders and others wishing to deposit animals or articles therein;
- (w) The returns, statements and reports to be submitted by the Corporation;
- (x) The formation and working of the municipal fire-brigade;
- (y) The language in which business shall be transacted, proceedings recorded and notices issued; and
- (z) Generally for the guidance of the municipal authorities and public servants in carrying out the purposes of this Act; and also for the same purposes as those for which the Corporation may make bye-laws under the provisions of Section 416.

(3) In making a rule under this section the Government may provide that a person guilty of contravention thereof shall, on conviction be punished with fine which may extend to five hundred rupees and where the contravention is a continuing one with such further fine which may extend to twenty-five rupees for every day after the first on which the contravention continues.

(4) All rules made under this Act shall be subject to previous publications.

(5) Every rule made under this section shall be laid as soon as may be after it is made, before the State Legislature while it is in session for a total period of fourteen days which may be combined in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislature agrees in making any modification in the rule or 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.

(6) Notwithstanding anything hereinbefore contained the Government shall not make rules under clause (z) of sub-section (2) for the city unless the Corporation has been required by the Government to make bye-laws under section 416 and has failed to make any such bye-laws, and any rules made by the Government under clause (z) of sub-section (2) shall have effect as if they were, and shall be deemed for all purposes to be bye-laws made by the Corporation.

PART IX
CHAPTER XXX
MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS
MISCELLANEOUS

427. Validity of notices and other documents.- No notice, order, requisition, licence, permission in writing or any other document issued under this Act shall be invalid merely by reason of defect of form.

428. Admissibility of document or entry of evidence.- A copy of any receipt, application, plan, notice, order or other document or of any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorised by the Commissioner in this behalf, be admissible in evidence of the existence of the document or entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters and transactions.

429. Evidence of municipal employee.- No municipal employee shall in any legal proceedings to which the Corporation is not a party, be required to produce any register or document the contents of which can be provided under section 428 by a certified copy, or to appear as a witness to prove any matter of transaction recorded therein save by order of the court made for special cause.

430. Prohibition against obstruction of Mayor or any Municipal authority, etc.- No person shall —

(a) Obstruct or molest the Mayor or the Deputy Mayor and Councillor or any person employed by the Corporation or any person with whom the Commissioner has entered into a contract on behalf of the Corporation in the performance of their duty or of anything which they are empowered or required to do by virtue or in consequence of any provision of this Act or of any rule, or bye-law made thereunder;

(b) Remove any mark set up for the purpose of indicating any execution of any work authorised by this Act or of any rule or bye-law made thereunder;

(c) Without authority in that behalf, remove, destroy, deface or otherwise obliterate any notice exhibited by or under orders of the Corporation or any municipal authority or any municipal employee specified by the Commissioner in this behalf; and

(d) Without authority in that behalf remove, earth, sand or other material or deposit any matter or make any encroachment from, in or on any land vested in the Corporation or in any way obstruct the same.

431. Councillor and municipal employees to be public servant.- Every Councillor, the Commissioner and every municipal employee and every contractor or agent for the collection of any municipal tax and every employee or other person employed by any such contractor or agent shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 and in the definition of “Legal remuneration” in section 161 of that Code the word “Government” shall for the purpose of this section be deemed to include the Corporation

SPECIAL CONDITIONS REGARDING ESSENTIAL SERVICES

432. Conditions of service of sweepers and certain other class of persons employed in municipal (essential services).- (1) No person being a member of the essential services, employed by the Corporation shall, in the absence of any contract authorising him so to do and without reasonable cause, resign his employment or absent himself from duty without having given one month's notice to be Commissioner or shall neglect or without reasonable cause refuse to perform his duties.

(2) The Corporation may by resolution direct that on or from such date as may be specified in the resolution, the provisions of this section shall apply in the case of any specified class of persons employed by the Corporation whose functions are intimately concerned with public health or safety.

433. Conditions of service of sweepers employed for doing house scavenging.- No sweeper, being employed for doing house scavenging of any building shall, discontinue to do such house scavenging without reasonable cause or without having given fourteen days notice to his employer.

434. Saving of other enactments.- Save as provided in this Act, nothing contained in this Act shall be construed as authorising the disregard by the Corporation or any municipal authority or any municipal employee of any law for the time being in force.

435. Dispute between Corporation and local authorities.- If any dispute arises between the Corporation and any local authority as regards anything done or to be done under this Act, it shall be referred to the Government for decision, and such decision may include an order as to the cost of any enquiry ordered by the Government, and shall be final and binding on the parties and be given effect to:

Provided that it shall be competent for the Corporation and the local authority to agree in writing that any such dispute shall, instead of being referred to the Government for decision, be referred to the decision of an arbitrator or arbitrators appointed under the Indian Arbitration Act, 1940, (X of 1940) or to a Civil Court under section 90 of the Code of Civil Procedure 1908 (V of 1908)

436. Disputes between Government and Corporation.- (1) If at any time it appears to the Government that a dispute has arisen or is likely to arise between the Government and the Corporation as to the interpretation of any of the provisions of this Act or any of the rules made there under which is of such a nature and of such public importance that it is expedient to obtain the opinion of the High Court upon it; the Government may refer the question to the Court for consideration, and the Court may after such hearing as it thinks fit, report to the Government.

(2) The report submitted by the High Court under sub-section (1) shall be binding on the Government and the Corporation and shall not be called into question in any other court.

(3) Nothing in this section shall derogate from the authority of the Government as laid down in Part VIII.

437. Power to remove difficulty.- If any difficulty arises in relation to the transition from the provisions of any of the enactment referred to in section 2, or in giving effect to the provisions of this Act, the Government may, by order as occasion requires, do or cause to be done anything which appears to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of one year from the establishment of the Corporation.

APPEALS

438. Appeals from Commissioner to ¹[Mayor-in-Council].- Notwithstanding anything contained in the provisions of this Act in the matter of appeal, an appeal shall lie to the Standing Committee from —

- (a) Any notice issued or other action taken or proposed to be taken by the Commissioner —
 - (i) Under any section of this Act;
 - (ii) Under any bye-law concerning house-drainage, or the connection of house-drains, with municipal drains or house connections with municipal water supply or lighting mains;
- (b) Any refusal by the Commissioner to grant permission to construct or reconstruct a building;
- (c) Any refusal by the Commissioner to grant permission under any section of this Act;
- (d) Any refusal by the Commissioner to grant a licence;
- (e) Any order of the Commissioner suspending or revoking a licence; and
- (f) Any other order of the Commissioner that may be made applicable by rules framed under this Act.

(2) If, on any such appeal ²[in full compliance of rules and regulations for the time being in force], the ³[Mayor-in-Council] reverses or substantially modifies any action taken or proposed to be taken by the Commissioner or any order passed by him, he may, within sixty days of the date of such ⁴[receipt of order], refer the matter to the Corporation, and pending the decision of the Corporation on such reference the Commissioner shall not be bound to give effect the decision of the ⁵[Mayor-in-Council].

The decision of the ⁶[Mayor-in-Council], or where the matter has been referred to the Corporation as aforesaid, the decision of the Corporation shall be final [.]⁷ :-

1. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

2. Ins. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 26(i) (a), w.e.f. 9.3.2006.

3. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 26(ii) (b), w.e.f. 9.3.2006

5. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

6. Ibid.

7. Subs. for full stop “.” By Assam Act X of 1983, w.e.f, 1.8.1983.

¹["but if the decisions are in violation of the rules and regulations for the time being in force, then the Commissioner shall refer the matter to the Government."]

²[Provided that notwithstanding anything contained in the Act, during the period of supersession , an appeal shall lie before the State Government against the decision of the ³[Mayor-in-Council].]

⁴[(3) Notwithstanding anything contained in the principal Act, the State Government may, at any time, call for the records in any matter from the Corporation and give such order as may be deemed necessary after examination of such records. The order of the State Government, in this regard, shall be final.]

COMMENTS

Illegal construction.-Illegal order of Standing Appellate Committee could not vest in the petitioner any right to make any construction. [Landmark Establishments (Pvt.) Ltd. V. GMC,2006 (3) GLT 582].

Illegal construction-Demolition.- Mere setting aside of order of rejection of permission for construction by Standing Appellate Committee could not be construed as permission granted by the Commissioner as necessary permission could be obtained from Commissioner. Therefore order of demolition of illegal construction not to be interfered. [Priyanka Estate International Pvt. Ltd v. State of Assam,2009 (5) GLT 1 (SC)].

Permission for construction.- Unless the building plan is approved, no construction can be made by any person notwithstanding any order of the appellate authority to the effect that permission can be granted.[Priyanka Estate International Pvt. Ltd v. State of Assam,2006 (3) GLT 1].

Scope of.- Provision of Section 438 (3) is not meant for any power of revision to be exercised by the Government from the appellate order of the standing committee. [Kamal Goswami v. State of Assam, 2006(3) GLT 348].

439.Limitation of time for appeals.- In any case which no time is laid down in the forgoing provisions of this Act for the presentation of an appeal allowed thereunder, such appeal shall, subject to the provisions of section 5 of the Indian Limitation Act, 1908⁵ be presented, —

(a) Where the appeal is against an order granting a licence or permission, within thirty days after the date of the publication of the order on the notice board of the Corporation, and

(b) In order cases within thirty days after the date of receipt of the order or proceeding against which the appeal is made.

1. Ins. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 26(ii), w.e.f. 9.3.2006.

2. Proviso inserted by Assam Act X of 1983, w.e.f. 1.8.1983.

3. Subs. by the Guwahati Municipal Corporation (Amendment) Act, 2006 (Act No IV of 2006), Section 3, w.e.f. 9.3.2006.

4. Sub-section (3) inserted by Assam Act X of 1983, w.e.f. 1.8.1983.

5. Limitation Act, 1963 which has repealed the Indian Limitation Act, 1908.

440. Effect of absorption of Panchayat area in to the City of Gauhati.- If any local area consisting of one or more revenue villages in respect of which a Panchayat has been constituted, is included in the City of Gauhati under the provisions of this Act, the following consequences shall ensure, namely: —

(a) The Panchayat of such local area (herein after referred to as the Panchayat) shall cases to have jurisdiction over such area;

(b) The unexpended balance of the Panchayat fund and the property (including areas of rates, taxes and fees) belonging the Panchayat fees) belonging to the Panchayat and all rights and powers to which prior to such vested in the Panchayat shall subject to all charges and liabilities affecting the same, vest in the Corporation of the city of Gauhati hereinafter refer to as the Corporation;

(c) Any appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law, or form made, issued, imposed or granted under the Assam Panchayat Act, 1959 immediately before the said date in respect of the said local area shall continue to be in force and be deemed to have been made, issued, imposed or granted under this Act, until it is superseded or modified by any appointment notification, notice, tax, order, scheme, licence permission, rule by-law or form made, issued, imposed or granted under this Act;

(d) All budget estimate assessments, assessment lists, valuation or measurements, made or authenticated under the Assam Panchayat Act, 1959 immediately before the said date in respect of the said local area shall be deemed to have been made or authenticated under this Act;

(e) All debts and obligation incurred and all contracts made by on behalf of the Panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the corporation in exercise of the power conferred on it by the Act;

(f) All officers and staff in the employ the Panchayat immediately before the said date shall be officers and staff of the Corporation under this Act and shall, until other provision is made in accordance with the provisions of this Act receive salaries and allowances and be subject to the condition of service to which they were entitled or subject immediately before such date.

Provided that it shall be competent to the corporation subject to the previous sanction of the Government to discontinue the services of any officer or staff who in its opinion is not necessary or suitable for the requirement of the municipal service after giving such officer or employee such notice as is required to be given by the terms of his employment and every officer or employee whose services are dispensed with shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service, as if the Panchayat, in the employ of which he was, had not ceased to exist;

(g) All proceedings pending on the said date before the Panchayat shall be deemed to be transferred to and shall be continued before the Corporation;

(h) All appeals pending before any authority shall, so far as may be practicable, be disposed of as if the said local areas had been included in the City of Gauhati when they were filed;

(i) All prosecutions instituted by or on behalf of the Panchayat and all suits or other legal proceedings instituted by or against the Panchayat or any officer of the Panchayat pending on the said date shall be continued by or against the Corporation as if the said local areas had been included in the City of Gauhati when such prosecutions, suits or proceedings were instituted;

(j) All arrears of rates, taxes and fees vesting in the Corporation shall, notwithstanding that such rates and fees cannot be levied under this Act, be recoverable in the same manner as a tax recoverable under this Act; and

(k) Until the reconstitution of the Corporation in accordance with the provisions of this Act (notwithstanding anything to the contrary contained in section 5 of this Act) such number of persons ordinarily resident in the local area included in the City of Gauhati who are nominated by the Government shall be additional Councillors of the Corporation.

441. Effect of absorption of a part of Panchayat area in to the City of Gauhati.- If any part of an area within the limits of a Panchayat is included in the City of Gauhati then notwithstanding anything contained in this Act, or in the Assam Panchayat Act, with effect from the date on which such area is included in the City of Gauhati the following consequences shall ensure namely: —

(a) So much of the Panchayat Fund and other property vesting in the Panchayat shall be transferred to the Municipal Fund as the Government may, by order in writing, direct;

(b) The rights and liabilities of the Panchayat in respect of civil and criminal proceedings, contracts and other matters, or things (including arrears of taxes, fees and cess) arising in or relating to any part of the area included in the City of Gauhati shall vest in the Corporation and such rights and liabilities may be enforced by or against the Corporation under this Act or the rules, bye-laws and orders made thereunder;

(c) Such officers and staff of the Panchayat shall be transferred to the Corporation as the Government may by order direct; and

(d) If the area included is area in which not less than ten thousand persons reside, until the reconstitution of the Corporation in accordance with the provisions of this Act, one person ordinarily resident in such area who is nominated by the Government shall be an additional Councillor of the Corporation.

442. Removal of difficulties.- If any difficulty arises in giving effect to the provisions of section 440 or section 441, the Government may, by an order published in the official Gazette, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.

443. Special provisions as to rural areas.- Notwithstanding anything contained in the foregoing provisions of this Act, —

(a) The Corporation with the previous approval of the Government may, by notification in the official Gazette—

(i) Exempt the rural areas or any portion thereof from such of the provisions of this Act as it deems fit; and

(ii) Levy taxes, rates, fees and other charges in the rural areas or any portion thereof at rates lower, than those at which such taxes, rates, fees and other charges are levied in the urban areas or exempt such areas or portion from; any such tax, rate, fee or other charges; and

(b) The Corporation with the previous approval of the Government may, by notification in the official Gazette, declare that any portion of the rural areas shall cease to be included, therein and upon the issue of such notification, that portion shall be included in and form part of the urban area.

444. Exemption from Assam Urban Areas Rent Control Act, [1972].-

Notwithstanding anything contained in the Assam Urban Areas Rent Control Act, [1972]¹ the provision of the said Act shall not apply to any land or building or any property belonging to or vesting in the Corporation.

²[445. x x x]

1.Subs. by Assam Act X of 1983, w.e.f. 1.8.1983, for “1951”.

2. The word “ **Continuance of the functions of the existing Mayor, Deputy Mayor and Councillors for a certain period.**” Notwithstanding anything contained in the Guwahati Municipal Corporation (Amendment) Act, 2006 (hereinafter called the said Act), the existing Mayor, Deputy Mayor and Councillors shall continue to hold office and function under the principal Act, as if the said Act, had not come into force and they shall function until the Mayor, Deputy Mayor and the Ward Councillors are directly elected under the provisions of the said Act .” inserted by the Guwahati Municipal Corporation (Second Amendment) Act, 2006, Section 6 , w.e.f. 17.8.2006 is omitted by the Guwahati Municipal Corporation (Amendment) Act, 2009, Section 9, w.e.f. 28.8.2009.

THE FIRST SCHEDULE

(See Section 167)

Rates of Taxes leviable on Vehicles, Animals and Boats

		Maximum amount of tax per annum	
		For vehicle with pneumatic tyres	For vehicle without pneumatic tyres
		Rs.	Rs.
1	Each four-wheeled vehicle drawn by horses ponies, mules, donkeys, bullocks or buffaloes:- (a) Labour Carts (b) Other vehicles in this class	12 32	24 48
2	Each two-wheeled vehicle drawn by horses ponies, mules, donkeys, bullocks or buffaloes:- (a) Labour Carts (b) Other vehicle in this class	¹ [200] 16	¹ [200] 24
3	Each vehicle drawn or impelled otherwise than by horses, ponies, mules, donkeys, bullocks buffaloes or machinery	8	12
4	Each cycle rickshaw	.....	24
5	Each bicycle	.....	² [50]
6	Each horse pony or mule of height of 12 hands or upwards	.....	20
7	Each horse, pony or mule of a height of less than 12 hands	.....	12
8	Each bullock or buffalo kept for draught or pack purposes	.....	6
9	Each donkey/ass kept for draught or pack purposes or for riding	.....	6
10	Each pig	.....	6
11	Each dog	.....	6
12	Each she-buffalo kept for milking	.....	24
13	Each cow kept for milking	.....	24
14	Each motor boat or steam launch plying for hire and carrying more than six passengers	.....	150
15	Each steam or motor tug	.....	105
16	Each barge or other vessel or attachable to a steam or motor tug.	.....	60
17	For every other motor boat or steam launch	.....	50
18	Each cabin boat	.....	15
19	Each country boat	.....	10

1. Subs. *vide* notification No.GLS/52/173/Pt/96-97/29, published in the Assam Gazette Extraordinary, dated 25.07.2008.
2. Subs. *Vide* notification No.GLS/52/173/Pt/96-97/29, published in the Assam Gazette Extraordinary, dated.25.07.2008.

THE SECOND SCHEDULE
(See Section 171)
Theatre Tax

	Type of Entertainment	Maximum amount of tax
	(1)	(2)
		Rs
1	Cinema or theatre	7 per show
2	Drama, concert, circus, variety entertainment or tamasha	7 per show
3	Carnivals or fere	10 per day
4	Any other entertainment	7 per show or if there are no separate shows Rs.7 per day

Explanation- For the purpose of this Schedule Class I cinema theatres and Class II cinema theatres mean theatre classified respectively as Class I cinema theatres and Class II cinema theatres by bye-laws made in this behalf.

THE THIRD SCHEDULE

(See Section 173)

Tax on Advertisement other than Advertisements published in the Newspapers

Sl No.	Particulars	Maximum amount of tax per annum
(1)	(2)	(3)
		Rs.
1	Non-illuminated advertisements on land, building, wall, hoardings, frame, posts, structures etc.- (a) For a space upto 10 sq. feet (b) For a space over 10 sq. feet and upto 25 sq. feet (c) for every additional 25 sq. feet or less	 18 80 30
2	Non-illuminated advertisements carried on vehicles, drawn by bullocks, horses or other animals, human beings, cycle or any other device, carried on any vehicle or tramcar- (a) For a space up to 50 sq. feet (b) For every addition 50 sq. feet or less	 120 120
3	Illuminated advertisement boards carried on vehicles- (a) For a space to 50 sq. feet (b) For every additional 50 sq. feet or less	 240 240
4	Non-illuminated advertisement board, carried by sandwich boardmen – (a) For each board not exceeding 10 sq. feet (b) For each board exceeding 10 sq. feet up to 25 sq. feet (c) For each additional 10 sq. feet in area or less	 24 48 24
5	Illuminated advertisement boards carried by sandwich boardmen- (a) For each board not exceeding 10 sq. feet (b) For each board exceeding 100 sq feet and up to 25 sq. feet (c) for each additional 10 sq feet in area or less	 48 96 48
6	Illuminated advertisements on land, building, wall or hoardings, frame, post, structures, etc- (a) For a space up to 2 sq. feet (b) For a space over 2 sq. feet and up to 5 sq. feet (c) For a space over 5 sq. feet and up to 25 sq. feet (d) For every additional 25 sq. feet or less	 24 48 60 60
7	Advertisements exhibited on screens in cinema houses and other public places by means of lantern slides or similar device- (a) For a space up to 5 sq. feet (b) For a space over additional 5 sq. feet and up to 25 sq. feet. (c) For every additional 25 sq. feet or less	 96 120 120
8	Non-illuminated advertisement suspended across streets-	

	(a) For a space over 10 sq.feet (b) For a Space over 10 sq. feet and up to 25 sq. feet (c) For every additional 25 sq.feet or less	18 30 30
NB:-The tax for item 8 will be in addition to the space which will be chargeable according to the scale to be determined by the Commissioner		
9	Non-Illuminated advertisement hoardings standing blank but bearing the name of the advertiser or with the announcement "To be let" displayed thereon- (a) For a space up to 10 sq. feet (b) For a space over 10 sq. feet and up to 25 sq. feet (c) For every additional 25 sq. feet or less	9 15 15 200
10	Permission to auctioneers to put up not more than two boards or reasonable size advertising each auction other than those in the premises where the auction is held, one on a prominent site in the locality and one on municipal lamp post	(including the rent for exhibiting the board on a municipal post).

THE FOURTH SCHEDULE
(See Section 180)

Every license shall be granted under one or other of the classes mentioned in the second column of the following table and there shall be paid annually for the same fee mentioned in that behalf in the third column of the table.

Sl. No.	Classes	Fees		
		Existing		Proposed rate
Class-I				
1.	Company or association or body of individuals the paid up capital of which is equivalent to twenty lakhs to rupees or upwards and the trades mentioned in Annexure-I	Which exercise or carries on any profession, trade or calling whatsoever rupees	Seven thousand five hundred	7500.00
Class-II				
2	Company or association or body of individuals the paid up capital of which is equivalent to ten lakhs of rupees or upward	Which exercise or carries on any profession, trade or calling whatsoever but is not included in Class-I	Three thousand seven hundred fifty rupees	1500.00
3	Consulting or practising physician, practising surgeon, licentiate of medicine or surgery, medical practitioner, kabiraj, hakim, homeopath, graduate of the Assam Veterinary College, dentist, barrister, attorney, vakil or advocate OF THE High Court, pleader, proctor, notary public, public accountant, average adjuster, statistical reporter analyst, shroff or banian	In respect of whose income out of the profession mentioned under column -I, income tax is payable on an income of not less than Rs.10,000	Three thousand seven hundred fifty Rupees	1500.00
4	Freight -broker	-do-	Three thousand seven hundred fifty Rupees	1500.00
5	Proprietor of newspaper, periodical of journal	-do-	Three thousand seven hundred fifty Rupees	1500.00
6	Broker or <i>dalal</i> employed in the wholesale transfer of purchases of imports or exports, country produced silk or other merchandise, in respect of whose income out of the profession mentioned under column I income tax is payable on an income of not less than Rs.10,000	-do-	Three thousand seven hundred fifty Rupees	1500.00
7	Dealer in precious stones or precious metals and articles of precious stones and metals	-do-	Three thousand seven hundred fifty Rupees	1500.00
8	Marchant, businessmen, banker, wholesale trader, commission agent, engineer, architect, builder, contractor,	In respect of whose income out of the profession	Income tax is payable on an income of not less	Three thousand seven

	auctioneer of carrier, the fair letting value of whose place of business of Rs.500 per mensem or upwards.	mentioned under column I	than Rs.10,000/-	hundred fifty Rupees
9	Owner or occupier of a cotton, jute, hide or other screw- houses or press house	-do-	Three thousand seven hundred fifty Rupees	1500.00
10	Owner or occupier of a market theatre, cinema house or a place of public entertainment kept up for the purpose of profit	-do-	Three thousand seven hundred fifty Rupees	1500.00
11	Printer, publisher, lithographer, engraver, diesinker, photographer or phototyper	-do-	Three thousand seven hundred fifty Rupees	1500.00
12	Hotel-Keeper, boarding house keeper, lodging house-keeper manufacture, retail-trader or shop-keeper	-do-	Three thousand seven hundred fifty Rupees	1500.00
13	Owner or occupier of any depot or godown for storage of goods for wholesale business	-do-	Three thousand seven hundred fifty Rupees	1500.00
14	Proprietor of nursing home or sanatorium	-do-	Three thousand seven hundred fifty Rupees	1500.00
15	Radiologist	-do-	Three thousand seven hundred fifty Rupees	1500.00
16	Keeper of a hydrotherapy, bath or other clinic or health resort	-do-	Three thousand seven hundred fifty Rupees	1500.00
17	Keeper of a laundry	-do-	Three thousand seven hundred fifty Rupees	1500.00
18	Cinema film producer or keeper of a film studio	In respect of whose income out of the profession mentioned under column -I, income tax is payable on an income of not less than Rs.10,000	Three thousand seven hundred fifty Rupees	1500.00
19	Cinema film distributor	-do-	Three thousand seven hundred fifty Rupees	1500.00
20	Owner of twenty or more taxi-cabs, buses, lorries or contract cars which are used for carrying passengers or goods on payment of hire	In respect of whose income out of the profession mentioned under column -I, income tax is payable on an income of not less than Rs.10,000	Three thousand seven hundred fifty Rupees	1500.00
21	Book Maker or Turf Accountant	-do-	Three thousand seven hundred fifty Rupees	1500.00
22	Stevedores	-do-	Three thousand	1500.00

			seven hundred fifty Rupees	0
Class-III +				
23	Company or association or body of individuals the paid up capital of which is equivalent to five lakhs of rupees or upwards	Which exercises or carries on any profession, trade or calling whatsoever, but is not included in Class I of in Class II	Three thousand	1250.0 0
24	Marchant, businessman, banker, wholesale trade, commission agent, engineer, architect, builder, contractor, auctioneer or carrier, the fair letting value of whose place of business is Rs.350/- per mensem or upwards	-do-	Three thousand	1250.0 0
25	Owner or occupier of a cotton, jute, hide or other screw house or press-house	-do-	Three thousand	1250.0 0
26	Owner or occupier of a market, theatre, cinema house or a place of public entertainment kept up for the purpose of profit	-do-	Three thousand	1250.0 0
27	Printer, publisher, lithographer, engracer, die-sinker, photographer or photo-typer	-do-	Three thousand	1250.0 0
28	Hotel-Keeper, boarding-house keeper, lodging-house keeper, manufacturer, retail trader or shop-keeper	-do-	Three thousand	1250.0 0
29	Owner or occupier of any depot or godown for storage of goods for wholesale business	-do-	Three thousand	1250.0 0
30	Proprietor of nursing home or sanatorium	Which exercise or carries on any profession	Trade or calling whatsoever but is not included in Class I or in Class II	Three thousand
31	Radiologist	-do-	Three thousand	1250.0 0
32	Keeper of a hydro-therapy or bath or other clinic or health resort	Who is not included in class II and the fair letting value of whose place of business is Rs.350/- per mensem or upwards	Three thousand	1250.0 0
33	Keeper of a laundry	-do-	Three thousand	1250.0 0
34	Cinema film producer or keeper of a film studio	Who is not included in Class II and the fair letting value of whose place of business is Rs.350/- per men sum of	Three thousand	1250.0 0

		upwards		
35	Keeper of a shop for the sale of any liquor or intoxicating drug	-do-	Three thousand	1250.00
36	Owner of ten or more, but less than twenty taxi cabs, buses, lorries or contract cars which are used for carrying passengers or goods on payment or hire	-do-	Three thousand	1250.00
Class-IV +				
37	Merchant, businessman, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier	Who is not included in Class-II and the fair letting value of whose place of business is Rs.250/- per mensem or upwards	One thousand eight hundred seventyfiveRupees	600.00
38	Owner or occupier of a cotton, jute, hide or other screw-house or press-house	-do-	One thousand eight hundred seventy five Rupees	600.00
39	Owner or occupier of a market, theatre, cinema house or a place or public entertainment kept up for the purpose of profit	-do-	One thousand eight hundred seventy five Rupees	600.00
40	Printer, publisher, lithographer, engraver, die-sinker, photographer or photo-typer	-do-	One thousand eight hundred seventy five Rupees	600.00
41	Hotel-keeper, boarding-house keeper, lodging-house keeper, manufacturer, retail trader or shop-keeper	-do-	One thousand eight hundred seventy five Rupees	600.00
42	Owner or occupier of any depot or godown for storage of goods for wholesale business	-do-	One thousand eight hundred seventy five Rupees	600.00
43	Proprietor of nursing home or sanatorium	-do-	One thousand eight hundred seventy five Rupees	600.00
44	Radiologist in Class II or Class III and the fair letting value of whose place of business is Rs.250/- per mensem or upwards	-do-	One thousand eight hundred seventy five Rupees	600.00
45	Keeper of hydrotherapy bath or other clinic or health resort	-do-	One thousand eight hundred seventy five Rupees	600.00
46	Keeper of a laundry	-do-	One thousand eight hundred seventy five Rupees	600.00
47	Cinema film producer or keeper of a film studio	-do-	One thousand eight hundred	600.00

			seventy five Rupees	
48	Keeper of a shop for the sale of any liquor or intoxicating drug	Who is not included in Class III and the fair letting value of whose place of business is Rs.250/- per mensem or upwards	One thousand eight hundred seventy five Rupees	600.00
48	Consulting or practising physician, practising surgeon licentiate of medicine or surgery, medical practitioner, <i>Kabiraj</i> , <i>hakim</i> homeopath, graduate, barrister, attorney, <i>Vakil</i> or advocate of the High Court, pleader, proctor, notary public, public accountant, average adjuster, statistical reporter analyst, shroff or banian	Who is not included in Class II and in respect of whose income out of the profession mentioned under column I, income tax is payable on an income of not less than Rs.6000	One thousand eight hundred seventy five Rupees	600.00
50	Freight broker	Who is not included in Class II and in respect of whose income out of the profession mentioned under column I, income tax is payable on an income of not less than Rs.6000	One thousand eight hundred seventy five Rupees	600.00
51	Broker or <i>dalal</i> employed in wholesale transfer or purchases of imports or exports, country produced silk or other merchants	-do-	One thousand eight hundred seventy five Rupees	600.00
52	Dealer in precious stones or precious metals and articles of precious stones and metals	Who is not included in Class III and the fair letting value of whose place of business is Rs.250/- per mensem or upwards	One thousand eight hundred seventy five Rupees	600.00
Class-V				+
53	Company or association on body of individuals, the paid-up capital of which is equivalent to one lakh of rupees or upwards	Which exercise or carries on any profession, trade or calling whatsoever but is not included in Class or in class II or Class III. One thousand eight Rupees	300.00	
54	Marchant, businessman, banker, wholesale trader, commission agent, engineer architect, builder, contractor, auctioneer or carrier	Who is not included in Class II or Class III or Class IV and the fair letting value	One thousand eight Rupees	300.00

		of whose place of business is Rs.150/- per mensem or upwards		
55	Owner or occupier of a cotton, jute, hide or other screw-house or press-house	-do-	One thousand eight Rupees	300.00
56	Owner or occupier of a market, theatre, cinema house or a place of public entertainment kept up for the purpose of profit	-do-	One thousand eight Rupees	300.00
57	Printer, publisher, litho-grapher, engraver, diesinker, photographer or photo-typer	-do-	One thousand eight Rupees	300.00
58	Hotel-Keeper, boarding-house keeper, lodging-house keeper, manufacturer, retail trader or shop-keeper	Who is not included in Class II or Class III or Class IV and the fair letting value of whose place of business is Rs.150/- per mensem or upwards	One thousand eight Rupees	300.00
59	Owner or occupier of any depot or godown for storage of goods for wholesale business	-do-	One thousand eight Rupees	300.00
60	Proprietor of nursing home or sanatorium	-do-	One thousand eight Rupees	300.00
61	Radiologist	-do-	One thousand eight Rupees	300.00
62	Keeper of a hydrotherapy, bath or other clinic or health resort	-do-	One thousand eight Rupees	300.00
63	Cinema film producer or Keeper of a studio	-do-	One thousand eight Rupees	300.00
64	Keeper of a laundry	-do-	One thousand eight Rupees	300.00
65	Hairdressing saloon keeper, the fair letting value of whose place of business is Rs.150/- per mensem or upwards	-do-	One thousand eight Rupees	300.00
66	Dyer or Cleaner	-do-	One thousand eight Rupees	300.00
67	Owner of five or more but less than ten taxi-cabs, buses, lorries or contract cars which are used for carrying passengers or goods on payment of hire	-do-	One thousand eight Rupees	300.00
68	Advertising Agent		One thousand eight Rupees	300.00
Class-VI				
69	Company or association or body of individuals	the paid up capital of which is less than one lakh of rupees	Which exercises or carries or any profession, trade or calling whatsoever	Five hundred forty Rupees
70	Consulting or practising physician,	In respect of whose	Five hundred forty	150.00

	practising surgeon, licentiate of medicine or surgery, medical practitioner, <i>kabiraj</i> , <i>hakim</i> , homoeopath, graduate of the Assam Veterinary College, dentist, barrister, attorney, <i>vakil</i> , advocate of the High Court pleader, proctor, notary public, public accountant, average adjuster, 3statistical reporter, analyst shroff or <i>banian</i>	income out of the profession income tax is payable on an income of not less than Rs.6,000/-	Rupees	
71	Fright Broker	-do-	Five hundred forty Rupees	150.00
72	Broker or <i>dalal</i> employed in the wholesale transfer or purchases of imports or export, country produced silk or other merchandise	-do-	Five hundred forty Rupees	150.00
73	Dealer in precious stones or precious metals and articles or precious stones and metals	In respect of whose income out of the profession income tax is payable on an income of not less than Rs.6,000/-	Five hundred forty rupees	150.00
74	Proprietor of a newspaper periodical or journal	Who is not included in Class II	-do-	Five hundred forty Rupees
75	Marchant, businessman, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier	Who is not included in Class II or Class III or Class IV or Class V	Five hundred forty Rupees	150.00
76	Owner or occupier of a market, theatre, cinema house or a place of public entertainment kept up for the purpose of profit	Who is not included in Class II or Class III or Class IV or Class V	Five hundred forty Rupees	150.00
77	Owner or occupier of any depot or godown for storage goods for wholesale business	-do-	Five hundred forty Rupees	150.00
78	Proprietor of nursing home or sanatorium	-do-	Five hundred forty Rupees	150.00
79	Radiologist	-do-	Five hundred forty Rupees	150.00
80	Keeper of a hydrotherapy both or other clinic or health resort	-do-	Five hundred forty Rupees	150.00
81	Cinema film producer or keeper of a film studio	-do-	Five hundred forty Rupees	150.00
82	Keeper of a laundry	-do-	Five hundred forty Rupees	150.00
83	Keeper of a shop for the sale of any liquor or intoxicating drug	Who is not included in Class III or Class IV	Five hundred forty Rupees	150.00
84	Owner or occupier of a cotton, jute, hide or other screw house or press house	Who is not included in Class II or Class III or Class IV and the fair letting value	Five hundred forty Rupees	150.00

		of whose place of business is Rs.75/- per mensem or upwards		
85	Printer, publisher, lithographer, engraver, diesinker, photographer or photo-typer	-do-	Five hundred forty Rupees	150.00
86	Hotel-keeper, boarding house keeper, lodging house-keeper, manufacture, retail trader or shop keeper	-do-	Five hundred forty Rupees	150.00
87	Dyer or cleaner, who is not included in Class V and the fair letting value of whose place of business is Rs.75/- per mensem or upwards	-do-	Five hundred forty Rupees	150.00
88	Hair-dressing saloon keeper	-do-	Five hundred forty Rupees	150.00
89	Order-supplier or house-decorator	The fair letting value of whose place of business is Rs.75/- per mensem or upwards	Five hundred forty Rupees	150.00
90	Carriage-dealer or house-dealer	-do-	Five hundred forty Rupees	150.00
91	Plumber, electronic fitter or gas fitter	-do-	Five hundred forty Rupees	15.00
92	Keeper of a billiard room	The fair letting value of whose place of business is Rs.75/- per mensem or upwards	Five hundred forty Rupees	150.00
93	Pawnbroker or moneylender	-do-	Five hundred forty Rupees	150.00
94	Owner of a steam ferryboat or steam cargo boat	-do-	Five hundred forty Rupees	150.00
95	Commercial traveller or manufacturer's representatives	-do-	Five hundred forty Rupees	150.00
96	Broker or dealer in houses, landed property, Government securities, shares or bills of exchange	-do-	Five hundred forty Rupees	150.00
97	Advertisement broker	-do-	Five hundred forty Rupees	150.00
98	Owner of less than five taxi-cabs, buses, lorries or contract cars which are used for carrying passengers or goods on payment of hire	-do-	Five hundred forty Rupees	150.00
99	Railway freight negotiator	-do-	Five hundred forty Rupees	150.00
100	Broker in precious stones	-do-	Five hundred forty Rupees	150.00
Class-VII				+
101	Consulting or practicing physician practicing 2surgeon, licentiate or medicine or surgery, medical	In respect of whose income out of the profession no	Three hundred sixty Rupees	100.00

	practitioner,kabiraj,hakim,homoeopath, graduate of the Assam Veterinary College, dentist, barrister, attorney, <i>vakil</i> or advocate of High Court, pleader, proctor,notary public, public accountant, average adjuster, statistical reporter,analyst, shroff or banian	income-tax is payable		
102	Freight Broker	In respect of whose income out of the profession no income-tax is payable	Three hundred sixty Rupees	100.00
103	Dealer in precious stones or precious metals and articles of precious stones or metals	-do-	Three hundred sixty Rupees	100.00
104	Mukhtear, Revenue Agent (or) petition writer	In respect of whose income no income tax is payable	Three hundred sixty Rupees	100.00
105	Owner or occupier of a cotton, jute, hide or other screw houses or press-house	Who is not included in Class II or Class III or Class IV or Class V or Class VI and the fair letting value of whose place of business is Rs,30/- per mensem or upwards	Three hundred sixty Rupees	100.00
106	Printer, Publisher, lithographer, engracer, die-sinker, photographer or photo-typer	-do-	Three hundred sixty Rupees	100.00
107	Hotel-keeper, boarding house keeper, lodging-house keeper, manufacture, retail trader or shop keeper	-do-	Three hundred sixty Rupees	100.00
108	Dyer or Cleaner	Who is not included in Class II or Class III or Class V or Class VI and the fair letting value of whose place of business is Rs.10/- per mensem or upwards	Three hundred sixty Rupees	100.00
109	Hairdressing Saloon-Keeper	-do-	Three hundred Sixty Rupees	100.00
110	Order-Supplier or house decorator	-do-	Three hundred Sixty Rupees	100.00
111	Plumber, electric fitter or gas fitter	-do-	Three hundred Sixty Rupees	100.00
112	Carriage dealer or house dealer	-do-	Three hundred Sixty Rupees	100.00
113	Poddar or money changer	The fair letting value of whose place of business is Rs,15/- per mensem	Three hundred Sixty Rupees	100.00

		or upwards		
114	Private detective	-do-	Three hundred Sixty Rupees	100.00
115	Professional astrologer	-do-	Three hundred Sixty Rupees	100.00
116	Insurance agent, broker or canvasser	-do-	Three hundred Sixty Rupees	100.00
117	Purchaser of goods in the city of Guwahati for transport and sale beyond the limits of the city of Guwahati	-do-	Three hundred Sixty Rupees	100.00
118	Broker or <i>dalal</i>	Who is not included in Class IV or Class VI	Three hundred Sixty Rupees	100.00
119	Professional artist, sculptor, actor, singer or musician	-do-	Three hundred Sixty Rupees	100.00
120	Labour-supplier, licensed shipping broker, boat supplier or custom-house agent	-do-	Three hundred Sixty Rupees	100.00
121	Surveyor (including a licensed building surveyor) or professional measurer	-do-	Three hundred Sixty Rupees	100.00
122	Practising apothecary or practising veterinary surgeon	-do-	Three hundred Sixty Rupees	100.00
123	Owner of ten or more jinkrikshaws,carriages,passenger boats, hand carts, bullock or buffalo carts or palanquins which are let out for hire	Who is not included Class IV or Class VI	Three hundred Sixty Rupees	100.00
Class VIII				+
124	Printer, publisher	Who is not included in Class II or Class III or Class IV or Class V or Class VI or Class VII 2and the fair letting value of whose place of business is Rs,15/- per mensem or upwards	Three hundred sixty Rupees	100.00
125	Hotel-keeper, boarding-house keeper, lodging-house keeper, manufacturer, retail trader or shop keeper	-do-	Three hundred sixty Rupees	100.00
126	Dyer or Cleaner	-do-	Three hundred sixty Rupees	100.00
127	Hairdressing Saloon keeper	Who is not included in Class II or Class III or Class IV or Class V or Class VI or Class VII 2and the fair letting value of whose place of business is Rs,15/- per mensem or upwards	Three hundred sixty Rupees	100.00
128	Order-supplier or house decorator	-do-	Three hundred	100.00

			sixty Rupees	
129	Plumber or electric fitter or gas fitter	-do-	Three hundred sixty Rupees	100.00
130	Carriage dealer or horse dealer	-do-	Three hundred sixty Rupees	100.00
131	Poddar or money changer	Whop is not included in Class VII	Three hundred sixty Rupees	100.00
132	Mukhtear	In respect of whose income no income tax is payable	Three hundred sixty Rupees	100.00
133	Professional draftsman	-do-	Three hundred sixty Rupees	100.00
134	Fortune-teller	-do-	Three hundred sixty Rupees	100.00
135	Owner of a cargo-boat	-do-	Three hundred sixty Rupees	100.00
136	Owner horse-broker	-do-	Owner horse-broker	100.00
137	Band supplier or stamp vender	-do-	Three hundred sixty Rupees	100.00
138	Owner of three or more huts, less than ten jinrickshaws, carriage, passenger-boats, hand carts, bullock or buffalo carts or palanquins which are let out for hire	-do-	Three hundred sixty Rupees	100.00
Class IX				+
139	Keeper of a shop or other place of business	Who is not included in any other class	Ninety Rupees	30.00
140	Owner of less than three, jinrickshwas, carriages, passengers boats, hand carts, bullock or buffalo carts or palanquins which are let out on hire	-do-	Ninety Rupees	30.00
141	Peddler, vendor of goods in carts, hawker or bon-wallah	Who is not included in Class X	Ninety Rupees	30.00
142	Professional, pettion, letter or bill-writer	-do-	Ninety Rupees	30.00
Class X				+
143	Itinerant dealer hawking goods for sale in a basket or tray	-do-	Forty-five Rupees	15.00
144		Where total gross income- (i) Does not exceed Rs.6,000 (ii) Exceeds Rs.6,000 but does not exceed Rs.10,000 (iii) Exceeds rs.10,000 but does not exceed 15,000 (iv) Exceeds Rs.15,000 but	Nil Three hundred seventy five Rupees Five hundred forty Rupees Seven hundred fifty Rupees One thousand five	

		does not exceed Rs.20,000	Rupees	
		(v) Exceeds Rs.20,000 but does not exceed Rs.25,000	Two thousand two hundred fifty Rupees	
		(vi) Exceeds Rs.25,000 but does not exceed Rs.30,000	Three thousand Rupees	
		(vii) Exceeds Rs.30,000 but does not exceed Rs.35,000	120.00	
		(viii) Exceeds Rs.35,000	150.00	
			225.00	
			280.00	
			450.00	
			700.00	
			1250.00	

ANNEXURE-I

Trades to be included in Class-I Category

Company or association or body or individuals with special mention to –
(1) Independent Godown (2) Doctor's Chamber with testing facilities (3) Chartered Accountant Firm (4) C&F Agents (5) Recreational club with multi facilities (6) Air Conditioned Show Room (7) All kinds of vehicle show room (8) Banker (9) Wholesale/Distributor/Dealer (10) Drug Distributor (11) Private Schools above 300 nos. of students (12) Electronic Media (13) Bibah Bhawan (14) Builders (15) Wine Shop, Bar, Bonded Ware House (16) Architectural Firm (17) Insurance Sector (18) Hotel/lodge above 20 beds (19) Clinical/Diagnostic Centre having multi facilities (20) A.C.Restaurant (21) Private Hostel /Paying Guest above 30 beds (22) Private Hospital/Nursing Home (23) Cable Operator (24) Audio/Video Production Centre (25) Advertising Agencies paying more than Rs.5.00Lakhs as Advertisement Tax (26) Automatic Bakery Plant (27) Branded Show Room (28) Furniture Show Room (29) Timber Depot (30) Gas Agency (31) Petrol Pump (32) Any Financial Agencies (33) Commercial Institutions (34) Coal Depot (35) All Private Limited Trade Agencies (36) Proprietor of news paper or journal (37) Luxurious Restaurant (38) Call Centre (40) Contractor (A&B-Class) (41) Departmental Store (42) Private Parking (43) Malls (44) Big Hard ware shops (45) House fitting accessories show room (46) Paints show room (47) Advocate Chamber.

THE FIFTH SCHEDULE

[See third and fourth proviso to sub-clause (v) of Section 5 (1) (a)]

- 1st Unreserved.
- 2nd Women
- 3rd Scheduled Caste
- 4th Unreserved
- 5th Women
- 6th Unreserved
- 7th Women
- 8th Scheduled Tribes
- 9th Women
- 10th Unreserved
- 11th Unreserved
- 12th Women
- 13th Unreserved
- 14th Unreserved
- 15th Women
- 16th Unreserved
- 17th Women
- 18th Unreserved
- 19th Women
- 20th Unreserved

COMMENTS

Inserted *vide* Assam Act XXII of 1995.

¹[SIXTH SCHEDULE

(1.Ins by Guwahati Municipal Corporation (Amendment) Act,2003 (Act No.VII of 2004) Section 3, w.e.f. 2.3.2004.)

Affidavit to be furnished by candidate along with nomination paper before the Returning Officer for election to Guwahati Municipal Corporation as a Councillor, District Ward No..... Name, if any

I, son/daughter/wife of age years, resident of candidate at the above election, d hereby solemnly affirm and state on oath as under :-

(1) I have in the past, been convicted of a criminal offence in the following case(s) and the details are as under,-

- (i) Case No.
- (ii) Section of the Act and description of the offence for which convicted.
- (iii) Date (s) of conviction.
- (iv) Court (s) by which convicted.
- (v) Punishment imposed (indicate period of imprisonment awarded and/ or quantum of the imposed).
- (vi) Details of appeals/revision, etc. filed against above conviction (s).

(2) That I have in the past been discharged/acquitted in the following cases:-

- (i) Section of the Act and description of the offence with which charged.
- (ii) Case No.
- (iii) Name of the Court by which acquitted/discharged.
- (iv) Date of acquittal/discharged.
- (v) Details of appeals (s)/application (s) for revision/review, if any filed against above acquittal/discharge.

(3) That I have, in the period ending six months prior to the date of filling the present nomination, been accused of the following offences punishable with imprisonment with two years or more, and in which a charge has been framed or cognizance taken by the Court as indicated hereunder :-

(Note.-This excludes the cases mentioned in (1) and (2) above)

- (i) Section of the Act and description of the offence with which charged/cognizance taken;
- (ii) The Court which has framed the charge/taken cognizance;
- (iii) Case No.
- (iv) Date of the order of the Court framing charge/taking cognizance;
- (v) Details of appeal (s)/application(s) for revision, etc., if any, filed against above order framing charge/taking cognizance.

(4) That I give hereinbelow the details of the assets (Immovable, Movable, Bank balance, etc.) of myself, my spouse and dependants.

A. Details of movable assets :-

Assets in joint name indicating the extent of joint ownership will also have to be given:-

Sl.No.	Description	Self	Spouse (s) Name(s)	Dependant-1 Name:	Dependant-2 Name:	Dependant-3 Name:
1	2	3	4	5	6	7

- (i) Cash
- (ii) Deposit in Banks, Financial Institutions and Non-Banking Financial Companies
- (iii) Bonds, Debentures and Shares in Companies
- (iv) Other Financial Instruments, NSS, Postal Savings, LIC Policies, etc.
- (v) Motor Vehicles (Details of make, etc.)
- (vi) Jewellery (give details of weight and value),
- (vii) Other assets, such as values of claims/interests.

Note:-1. Dependant here means a person substantially dependent on the income of the candidate.

2. Value of Bonds/Shares/Debentures as per the latest market value in Stock Exchange in respect of listed companies and as per books in the case of non-listed companies should be given.

(B) Details of Immovable Assets:-

(**Note.-** Properties in joint ownership indicating the extent of joint ownership will also have to be indicated).

Sl.No.	Description	Self	Spouse (s) Name(s)	Dependant-1 Name:	Dependant-2 Name:	Dependant-3 Name:
1	2	3	4	5	6	7

- (i) Agricultural Land
 - Location(s)
 - Survey number (s)
 - Extent (Total measurement)
 - Current market value
- (ii) Non-Agricultural land
 - Location(s)
 - Survey number (s)
 - Extent (Total measurement)
 - Current market value

- (iii) Buildings (Commercial and residential)
- Location (s)
 - Survey/door number (s)
 - Extent (Total measurement)
 - Current market value
- (iv) House/Apartments, etc.
- Location(s)
 - Survey/Door number (s)
 - Extent (Total measurement)
 - Current market value
- (v) Other (Such as interest in property)

(5) I give hereinbelow the details of my liabilities/overdues to public financial institutions and Government dues :-

(Note:- Please give separate details for each item)

Sl.No.	Description	Name and address of Bank/Financial Institution (s) Department (s)	Amount Outstanding as on
1	2	3	4
(a)	(i) Loans from Banks. (ii) Loans from Financial Institutions. (iii) Government dues (Other than income tax and wealth tax) (No Due Certificate to be enclosed in case holding or having held any public office).		
(b)	(i) Income tax including surcharge (Also indicate the assessment year upto which income tax return filed. Give also Permanent Account Number (PAN) (ii) Wealth Tax (Also indicate the assessment year upto which wealth tax return filed). (iii) Sale tax (Only in case of proprietary business). (iv) Property tax.		

(6) My Educational Qualification are as follows, (Give details of School and University education) (Name of School/College/University and the year in which the course was completed should also be given).

DEPONENT

VERIFICATION

I, the deponent above named, do hereby verify and declare that the contents of this declaration are true and correct to the best of my knowledge and behalf; no part of it is false and nothing materials has been concealed therefrom.

Verified atthis theday of20.....

DEPONENT
Verified before me

Place.....
Date.

(Signature of Verifying
Authority with Seal)]
