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The West Bengal Municipal Act, 1993 (excerpts)

(Excerpts - water supply and sanitation provisions)

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THE WEST BENGAL MUNICIPAL ACT, 1993

(West Bengal Act XXII of 1993)

As amended by the West Bengal Municipal (Amendment) Act, 2006

(Chapter VI - Powers and Functions)

63. Obligatory functions.— It shall be the obligatory duty of every Municipality to make reasonable and adequate provision for the following matters within the territorial limits of the municipal area and the financial means at its disposal :

(1) in the sphere of public works, —

(a) providing by itself or by an agency, means for supply of water for public and private purposes

(b) construction, maintenance and cleansing of sewers and drains, sewerage and drainage works

(c) construction, maintenance and cleansing of public latrines, urinals and similar conveniences

CIVIC SERVICES

CHAPTER XV

Water-supply

226. The Municipality to provide water-supply.— (1) It shall be the duty of every Municipality to provide a supply of wholesome water for the domestic use of the inhabitants.

(2) The supply of water for domestic and non-domestic uses may be charged for at such scale of fee, or price, as may be prescribed:

Provided that in the case of Water Supply Projects, implemented in any municipal area with external aid or on joint venture basis or through private participation, the Municipality may make regulations fixing fees for supply of water and other allied matters associated with the project, as may be necessitated by the terms and conditions of the project.

(3) The Board of Councillors, for the purpose of measuring or recording the quantity of water consumed, may provide for devices of attachment of meter in the premises or adopt a system of calculation by the size or number of ferrules through which the supply is made or any other method or measurement or recording in such manner and in accordance with such procedure as may be prescribed.

227. Public tanks, sub-soil water, etc., to vest in the Municipality.— (1) All public tanks, reservoirs, cisterns, wells, tube-wells, aqueducts, conduits, tunnels, pipes, taps and other water-works, whether made, laid or erected at the cost met from the Municipal Fund or otherwise, and all bridges, buildings, engines, works, materials, and things, connected therewith or appertaining thereto, and any adjacent land (not being private property) appertaining to any public tank, which is situated within the municipal area, shall vest in the Municipality.

(2) All rights over the sub-soil water resources within a municipal area shall vest in the Municipality.

228. Construction of water-works.— (1) Subject to the approval of the State Government, the Board of Councillors may, either singly or jointly with any other Board of Councillors or local authority, within or without a municipal area, undertake construction of water works and operate, manage or maintain any water-works intended to serve the inhabitants of the municipal area.

(2) Whenever the State Government has approved any work outside the limits of municipal area, the Board of Councillors may exercise all the powers for construction, maintenance and repair throughout the line of the country in which such work is situated or through which it is to run, as if such work is situated within the municipal area.

229. Power to lay or carry pipes through public or private land.— The Board of Councillors may lay or carry any water-main or service-main or any pipe or channel of any kind for the purpose of providing or carrying out or maintaining a system of water-supply on, across, under or over any street or public place, and after giving a reasonable notice of not less than a month to the owner or the occupier, across, under or over any private land or building whatsoever, situated within the limits of a municipal area, may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such pipe or channel, as the

case may be, in an effective state for the purpose for which such pipe or channel, as the case may be, may be used or intended to be used:

Provided that in the case of sudden water-logging of any area within a municipal area, the Board of Councillors may, if it considers it necessary so to do in the interest of public health and convenience, take such action as is necessary under this sub-section for draining out the water across, under, over or up the side of any land or building within a municipal area without prior service of any notice on the owner or the occupier of such land or building:

Provided further that a reasonable compensation shall be paid to the owner or the occupier for any damage at the time sustained by him through, or in consequence of, any such operation.

230. Control of constructions on land through which water- main etc. passes.— No building or private street shall be constructed over any municipal water-main or service-main, except with the written permission of the Board of Councillors which may impose such conditions for such construction as it may deem fit.

231. Power to permit connection to houses and lands.— (1) Subject to such conditions and restrictions as may be prescribed and such terms as the Chairman-in-Council may, from time to time, determine, the Chairman-in-Council may, on the application of the owner or the occupier of any house or land in respect of which property tax is paid, make or cause or permit to be made communication or connection from any main, service-main or distribution pipe, belonging to the Municipality or from any channel maintained, owned or vested in the Municipality.

(2) The Chairman-in-Council may require the amount necessary for the execution of any work under this section and other charges or fees, if any, to be paid or deposited before such work is executed by it.

232. Power to require water supply to be taken.— (1) If, at any time, it appears to the Chairman-in-Council that any building or land in the municipal area is without a proper supply of wholesome water, the Chairman may, by written notice, require the owner or the lessee or the occupier of the building or the land, or any person having any interest therein, as the case may be, to obtain from municipal water-mains such quantity of water as may be adequate for the requirement of the person usually occupying or employed upon the building or the land, and provide connection pipes of such size, materials and description, and take such necessary steps for the purpose, as may be provided by regulations within such period as may be specified in the notice.

(2) On receipt of the written notice under sub-section (1), the owner or the lessee or the occupier of the building or the land, or the other person having an interest therein, as the case may be, shall —

(a) obtain from the municipal water-mains such quantity of water as may be adequate for the requirement of the persons usually occupying in, or employed upon, the building or the land, as the case may be, and

(b) provide connection pipes of such size, materials and description and take such necessary steps for the purpose, as may be provided by regulations, within such period as specified in the notice.

(3) If the owner or the lessee or the occupier of the building or the land or the other person, as the case may be, having an interest therein, does not comply with the notice within the period specified therein, the Board of Councillors shall —

(a) obtain from the municipal water-mains such quantity of water as may be adequate for the requirement of the persons occupying in or employed upon, the building or the land, as the case may be, and

(b) provide connection pipes of such size, materials and description and take such necessary steps for the purpose, as may be provided by regulations.

and the cost incurred therefore by the Board of Councillors shall be recovered from the owner or the occupier of the building of the land or the other person having an interest therein, as the case may be, as an arrear of tax under this Act.

233. Water supply through hydrants, stand-posts and other conveniences.—

(1) The Chairman-in-Council may erect hydrants or stand-posts for supply of wholesome water to the public within a municipal area.

(2) The Board of Councillors may, by regulation provide for safety, maintenance and use of such public hydrants or stand-posts; or it may place such public hydrants or stand-posts under the charge of any person who may realise from each consumer such fee as the Board of Councillors may determine from time to time.

(3) The Board of Councillors may fix hydrant on water-mains at such places as may be most convenient for affording a supply of water for extinguishing any fire in the locality and denote the situation of every such hydrant with marks or figures prominently displayed on any convenient structure near such hydrant:

Provided that on deposit of requisite expenses by any owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a water main is laid, the Board of Councillors shall fix such hydrants to be used only for extinguishing fire.

(4) The operation and maintenance of hydrants for extinguishing fire shall be in accordance with such procedure as may be prescribed.

234. Vesting of private connections to premises in the Municipality.— (1) All private connections of premises to the mains of a Municipality for the supply of water thereto and all pipes, taps, and other fittings used for such supply shall be made, maintained and regulated in the manner prescribed.

(2) The Municipality may, if it thinks fit, take charge of all communication-pipes and fittings of any existing private service connected with water-supply system within a municipal area up to and including the stopcock nearest to the doorstep of the concerned premises and such communication-pipes and fittings shall thereafter vest in, and shall be maintained at the expenses of, the Municipality as part of the waterworks of the Municipality.

235. Owner to bear expenses of repairs of works connected with the supply of water.— Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expenses of repairs of all works connected with the supply of water

thereto and, if he fails to do so, the occupier may give to the owner and the Chairman three days notice in writing in such form as may be approved by the Municipality, and if the Municipality fails to get the repairs of all works done connected with the supply of water to the premises within three days from the date of receipt of the notice, the occupier may himself have the repairs done and deduct the expenses for such repairs from any rent due from him to the owner in respect of such premises.

236. Permission to person outside the municipal area to take water.— The Board of Councillors may, with the sanction of, and on such terms as may be

approved by, the State Government, supply water to a local authority or other person outside the municipal area.

237. Power to State Government to take control over imperfect, inefficient or unsuitable waterworks etc.— (1) If, at any time, it appears to the State Government that any water-works executed by, or vested in, the Board of Councillors, are maintained or run in an imperfect, inefficient or unsuitable manner, the State Government may, by order, direct the Board of Councillors or other local authority to show cause within the period specified in the order as to why the water-works with all plants, fittings and appurtenances thereof should not be handed over to the control and management of any other agency belonging to the State Government or any statutory body for such period as the State Government may fix.

(2) If no cause is shown to the satisfaction of the State Government within the period specified in the order under sub-section (1), the State Government may, by order, direct that the water-works with all plants, fittings and appurtenances thereof shall be made over to such agency or statutory body as the State Government may fix, and for such period, and on such terms and conditions, as the State Government may determine.

238. Water not to be wasted.— (1) No person, being the occupier of any premises to which water is supplied by the Board of Councillors under this Chapter, shall, on account of negligence or other circumstances under the control of the said occupier, allow the water to be wasted, or allow the pipes, works or fittings for the supply of water in his premises to be out of repair causing thereby waste of water.

(2) No person shall unlawfully flood, draw off, divert or take water from, any water-works belonging to, or under the control of, the Board of Councillors, or from any water-course or stream by which such water-works are supplied.

(3) Any person, who contravenes the provisions of this section, shall be liable to such fine imposed by the Board of Councillors, not exceeding three hundred rupees, as may be prescribed.

239. Power to cut off or to turn off supply of water to premises.— (1) Notwithstanding anything contained in this Chapter, the Chairman-in-Council may cut off the connection of water-supply to any premises, or may turn off such supply, in any of the following cases, namely:

(a) if the premises are unoccupied or prohibited for human habitation; or

(aa) if, in respect of the premises, any taxes or rates or fees or charges are in arrear for payment for more than one year; or

(b) if, after receipt of a written notice from the Chairman requiring him to refrain from so doing, the owner or the occupier of the premises continues to use the water or permit the same to be used in contravention of the provisions of this Act or the rules or the regulations made thereunder; or

(c) if any pipe, tap, works or fittings connected with the supply of water to the premises be found, on examination by any officer of the Municipality duly authorised in this behalf, to be out of repairs to such an extent as may cause so serious a waste or contamination of water that, in the opinion of the Chairman, immediate prevention is necessary; or

(d) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached; or

(e) if, by reason of a leak in the service-pipe or the fittings, damage is caused to the public street and immediate prevention is necessary;

Provided that no action under clause (1) or clause (aa) or clause (b) shall be taken without giving a notice of not less than three days to the owner or the occupier, as the case may be.

(2) The expenses of cutting off the connection or of turning off the water and of restoring the same, as determined by the Chairman-in-Council in any case referred to in sub-section (1), shall be paid by the owner or the occupier of the premises.

(3) No action taken under, or in pursuance of, this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

240. Digging of wells etc. without permission prohibited.— (1) No new well, tube-well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission, in writing, of the Chairman-in-Council.

(2) If any such work is begun or completed without such permission, the Chairman-in-Council may —

(a) by written notice require the owner or the other person who has done such work to fill up or demolish such work; or

(b) grant permission to retain such work or portion thereof on such terms and conditions as the Chairman-in-Council may consider fit to impose.

241. Power to set apart wells, tanks, etc. for drinking, culinary, bathing and washing purposes.— The Board of Councillors may, by order published at such places as it thinks fit, set apart any tank, well, spring or water-course or any part thereof, vested in it or, by an agreement with the owner thereof, any private tank, well, spring or water-course or part thereof, subject to any rights which the owner may retain with the consent of the Board of Councillors, for any of the following purposes, namely:—

(a) for the supply of water exclusively for drinking or for culinary purposes or for both, or

(b) for the purpose of bathing, or

(c) for washing animals or clothes, or

(d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants, and may, by like order, prohibit the bathing or the washing of animals or clothes or other things at any public place not set apart for such purposes, or prohibit any other act by which water in any public place may be rendered foul or unfit for use, or provide for alternative facilities and conveniences to regulate the use of any tank, well, spring or watercourse to promote public safety, health and welfare.

242. Analysis of water for drinking or culinary purposes.— The State Government may make rules to provide for the proper analysis of the water of any water-works, tank, well, spring or any water-course or other source, unused or likely to be used for drinking or culinary purposes in any municipal area and, in particular, may require the Chairman-in-Council to take samples of water in the manner prescribed and make it over at such time and place, and to such person or persons, as the State Government may appoint in this behalf.

243. Power to make rules.— The State Government may make rules to provide for —

(a) the preparation of plans and estimates for water-works or for introduction of a public distribution network;

(b) the power of the Board of Councillors or the State Government to accord sanction to such plans and estimates;

(c) the publication of the particulars and the nature of any water- work or scheme, its cost, and the manner in which it is to be financed and carried out;

(d) the size and nature of water-works, mains, service-mains, pipes or channels to be constructed or laid by the Board of Councillors for the supply of water;

(e) the maintenance of municipal water-works and of pipes and fittings in connection therewith;

(f) the size and nature of the stand-posts or pumps to be erected by a Municipality and of the ferrules and all pipes, stand- pipes, stop-cocks, taps, hydrants and other fittings, whether within or outside any premises, that may be necessary for the regulation of the supply and use of water;

(g) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited;

(h) the periodical analysis by a qualified analyst of the water supplied by a Municipality;

(i) the conservations of, and the prevention of injury or contamination to, sources and means of water supply and appliances for the distribution of water, whether within or without the limits of a municipal area;

(j) the manner in which connections with water-works or supply-system shall or may be constructed, altered or maintained, the fees to be levied for such connections and the person by whom they shall be paid, and the agency to be employed for such construction, alteration or maintenance;

(k) the rates at which the charges for water supplied for domestic purposes and for various non-domestic purposes may be levied by the Board of Councillors and the use, maintenance and testing of meters and ferrules;

(l) the regulation of all matters and things connected with the supply and use of water, and the turning on, and turning off, and preventing the waste, of water; and

(m) any other matter relating to the supply of water in respect of which this Act or any other law for the time being in force makes no provision or makes insufficient provision and further provision is, in the opinion of the State Government, necessary.

244. Power to make regulations.— The Board of Councillors may make regulations, not inconsistent with the provisions of this Act and the rules made thereunder for carrying out the purposes of this Chapter.