

## CHAPTER - XIV

### **GOVERNMENT – LOCAL GOVERNMENTS RELATIONS**

#### **SECTION 127: RELATIONS OF GOVERNMENT WITH THE DISTRICT GOVERNMENT.**

- (1) The District Government shall carry out its decentralised functions in accordance with the provisions of this Ordinance and the rules made thereunder.
- (2) The District Government shall collect such Provincial Tax or Taxes within its Local Area as the Government may direct and the District Government shall after the collection of such Tax or Taxes deposit the same in the relevant Government account.
- (3) The Government may provide guidelines and render advice to the District Government through the concerned Zila Nazim for achieving the ends of Government policy and for promoting economic, social and environmental security of the Province.

#### **SECTION 128: DIRECTIONS BY CHIEF EXECUTIVE OF THE PROVINCE.**

- <sup>166</sup> [(1) The Chief Executive of the Province may by himself or through any officer specifically authorised by him, issue directives in public interest to a Nazim for implementation.]
- (2) Where the situation demands immediate action and the <sup>167</sup>[XXX] Nazim fails to comply with the directions given to him under sub-section (1), the Chief Executive of the Province may require the Chief Secretary to direct the <sup>168</sup>[Provincial Police Officer] and the District Coordination Officer concerned to take such actions as the situation may necessitate <sup>169</sup>[:

*Provided that where a grave threat to law and order exists and requires immediate action and the Zila Nazim wilfully abstains from the district, the Government may authorize, in writing, the Naib Zila Nazim or, where the Naib Zila Nazim is also not available, the senior most Presiding Officer of the Zila Council, to act as officiating Zila Nazim.*

*Provided further that such authorisation shall cease forthwith upon the return of Zila Nazim to his office.]*

#### <sup>170</sup> **[SECTION 129: SUSPENSION OF ZILA NAZIM.**

- (1) Where, in the opinion of the Chief Executive of the Province, a Nazim is deliberately avoiding or abstaining wilfully or failing to comply with the directions given by the Chief Executive under Section 128, he may suspend the Nazim for the period not exceeding ninety days for the reasons to be recorded and conveyed to the Nazim.
- (2) During the period of suspension, the Government shall cause to be conducted an enquiry by the Provincial Local Government Commission which shall provide an opportunity of personal hearing to the suspended Nazim.
- (3) The Provincial Local Government Commission shall submit its report of the enquiry alongwith its recommendations which may include removal of the Nazim to the Chief Executive of the Province for appropriate action in light of such recommendations as he may deem appropriate.
- (4) In case no decision is taken within ninety days from the date of suspension of the Nazim, he shall stand re-instated to his office.
- (5) During the period of suspension of the Nazim, the Naib Nazim shall act as Nazim.]

**SECTION 130: ENTRUSTMENT OF CERTAIN FUNCTIONS TO DISTRICT GOVERNMENT.**

- (1) The Government may require the District Government to perform any specific task which requires funds beyond its budgetary provisions, the Government shall provide necessary resources.
- (2) The District Government may, with the consent of the Government, entrust any of its function to the Government.
- (3) The Government may, with the agreement of the District Government, decentralise any of its office other than the offices decentralised to the District Government under Section 15 or entrust any of its functions to the District Government.
- (4) The Government shall provide technical and administrative support and fiscal resources as may be determined by the Government.

**SECTION 131: PROVINCIAL LOCAL GOVERNMENT COMMISSION.**

- (1) The Government shall appoint a Provincial Local Government Commission which shall consist of persons of integrity and good track record of public service-
  - (a) the Minister for Local Government shall be the Chairman;
  - (b) two members from the civil society, one each nominated by the Leader of the House and Leader of the Opposition of the Provincial Assembly;
  - (c) two eminently qualified and experienced Technocrat members selected by the Government; and
  - (d) Secretary, Local Government and Rural Development Department, shall be *ex-officio* member and Secretary of the Commission.

*Provided that in case of equality of vote, the Chairman shall have a casting vote.*

- (2) The Provincial Local Government Commission may, for the performance of its functions, co-opt any official of the Government for any specific assignment.
- (3) The tenure of the <sup>171</sup>[XXX] members of the Provincial Local Government Commission, other than Secretary, Local Government Department, shall be four years.
- (4) The Local Government Department shall provide secretarial support to the Local Government Commission and the Department shall render assistance in the functioning of the Commission <sup>172</sup>[by establishing a separate Secretariat of the Commission with sections for each level of Local Government that is District, Taluka and Union levels.]
- (5) No act or proceedings of the Provincial Local Government Commission shall be invalid by reason or existence of any vacancy in, or defect in the constitution of the Commission.
- (6) The Government shall provide <sup>173</sup>[a separate budget] for the Provincial Local Government Commission in the annual budget.

<sup>174</sup>[(7) The Government shall notify the organogram and schedule of establishment of the Provincial Local Government Commission.

- (8) The Secretary of the Provincial Local Government Commission shall be the Principal Accounting Officer and the Commission shall have its own Drawing and Disbursing Officer.
- (9) The Provincial Departments shall aid and assist the Provincial Local Government Commission in performance of its functions.]

**SECTION 132: FUNCTIONS OF THE PROVINCIAL LOCAL GOVERNMENT COMMISSION.**

<sup>175</sup> [(1)] The functions of the Provincial Local Government Commission shall be as, otherwise, provided in this Ordinance and, in particular, it shall-

- (a) conduct annual and special inspections of the Local Governments and submit reports to the Chief Executive of the Province;
- (b) conduct, on its own initiative or, whenever, so directed by the Chief Executive of the Province, an inquiry by itself or through District Government into any matter concerning a Local Government;
- (c) cause, on its own initiative or, whenever, so directed by the Chief Executive of the Province, a special audit by itself or direct a District Government to arrange a special audit, of any Local Government;
- (d) resolve disputes between any Department of the Government and District Government or between two District Governments:

*Provided that if the Local Government Commission fails to settle the dispute, the aggrieved party may move the Chief Executive of the Province for resolution thereof,*

- (e) enquire into the matters referred to it by the District Coordination Officer under the provisions of sub-section (3) of Section 28 and by the Government under sub-section (4) of Section 30 and give its decision thereon or, as the case may be, make report to the competent authority; <sup>176</sup>[xxx]
- (f) submit to the Chief Executive of the Province an annual report on the over-all performance of the District and Taluka level Local Governments <sup>177</sup>;
- (g) take cognizance of violations of laws and rules by a Local Government in performance of its functions;
- (h) organize consultative planning meetings of National and Provincial legislators, Zila, Taluka or Town Nazims of a District on a periodic basis to provide their participation in development activities of the District with regard to-
  - (i) the consultative process of the Annual Development Plan of the District;
  - (ii) formulating procedure for utilization of the Legislators' development grant;
  - (iii) assessing implementation of decision of these meetings; and
  - (iv) carrying out review of development schemes; and
- (i) facilitate the performance of Provincial departmental functions of the decentralized offices relating to policy analysis, oversight, checks and balances, capacity building and coordination through the Commission.]

<sup>178</sup> [(2)] The directions and orders of the Provincial Local Government Commission arising out of its inspections and inquiries under clauses (a), (b) and (c) of sub-section (1) shall be binding on the concerned Local Government failing which the Commission shall report the matter with specific recommendations to the Chief Executive of the Province for decision and appropriate action.

(3) Where the Provincial Local Government Commission is of opinion that suspension of a Nazim is necessary for the fair conduct of the enquiry under clause (b) of sub-section (1) or preventing the Nazim from continuing with any unlawful activity during the pendency of enquiry, it may recommend to the Chief Executive of the Province for making appropriate order for suspension of such Nazim for a maximum period of ninety days.

(4) Where, on an inquiry under clause (b) of sub-section (1), a Nazim, Naib Nazim or a member of a Council is found guilty of misconduct by the Provincial Local Government Commission, it shall recommend appropriate action, including his removal, to the Chief Executive of the Province.

(5) The Provincial Local Government Commission shall have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for the examination of witnesses.]

**SECTION 133: RESPONSIBILITY OF THE PROVINCIAL LOCAL GOVERNMENT COMMISSION.**

The Provincial Local Government Commission shall be responsible to the Chief Executive of the Province.

<sup>179</sup> **[SECTION 133-A: RESTRUCTURING OF PROVINCIAL DEPARTMENT.**

Administrative realignment of Provincial departments shall be made in compatibility with the features of Devolution Plan ensuring the principles of good governance not later than the 31<sup>st</sup> December, 2005.]

**SECTION 134: ZILA MOHTASIB.**

(1) Without prejudice to the provisions as contained in the Sindh enactment regarding Provincial Mohtasib, in every District there shall be a Zila Mohtasib.

(2) The Zila Mohtasib shall redress citizens complaints against mal administration of the holders of public offices in the Local Governments within the District.

**Explanation.** For the purpose of this Section, the expression 'holders of public office' includes all functionaries of the District Government, Taluka Municipal Administration, Union Administration, Nazims, Naib Nazims, District Police Officers and officials, members of the Councils and all officials of the Council.

(3) All holders of public offices shall aid and assist the Zila Mohtasib in exercise of his functions.

(4) The Zila Mohtasib shall hold office for a term of four year and shall be eligible for reappointment for a similar term.

(5) The Zila Mohtasib may resign his office by writing under his hand addressed to the Zila Council through Naib Zila Nazim.

(6) The manner of selection, appointment, removal, terms and conditions of service, functions, and powers of the Zila Mohtasib and procedures relating thereto shall be as given in the Third Schedule.

