

GOVERNMENT OF GOA

LAW COMMISSION

Empowering the State Election Commission to undertake delimitation of wards of Panchayats and Municipalities and of reservation of wards for women, OBCs, SCs and STs.

Report No. 17

December 2011

LAW COMMISSION, GOA

(REPORT No. 17)

Empowering the State Election Commission to undertake delimitation of wards of Panchayats and Municipalities and of reservation of wards for women, OBCs, SCs and STs.

Forwarded to the Chief Minister, Government of Goa by Shri Ramakant D. Khalap, Chairman, Law Commission, Goa on the day of 1st December 2011.

The 2nd Law Commission constituted by Government of Goa for a period of one year (Order No. 9/5/2008-LA/100 dated 20th January 2009) and further extended for two years w.e.f. 06/04/2010 (Order No. 22/1/2010-LD(Estt.)/LC/530 dated 05/04/2010).

The Commission consists of the Chairman, and the two Members.

Chairman

Shri Ramakant D. Khalap

Members

Shri Cleofato Coutinho

Shri Mario Pinto Almeida

The Law Commission is located at B S/1, 3rd Floor, Paraiso de Goa, Porvorim-Goa.

Secretarial Support

1. Shri Manohar Shetye, O.S.D. to Chairman/ Acting Secretary

The text of this Report is available on the internet www.goalawcommission.gov.in

Any enquiry relating to this Report should be addressed to the O.S.D. to Chairman/ Acting Secretary and sent either by post to the Law Commission, B S/1, 3rd Floor, Paraiso de Goa, Porvorim-Goa or email to chairman-glc.goa@nic.in or rdkhalap@rediffmail.com

RECOMMENDATIONS

The word “Director” appearing in section 7 of the Goa Panchayat Raj Act and section 10 of the Goa Municipalities Act be substituted by words “State Election Commission”.

We recommend accordingly.

**(Ramakant D. Khalap)
Chairman**

**(Cleofato Coutinho)
Member**

**(Mario Pinto Almeida)
Member**

REPORT

In terms of Article 243(K) and 243(Z)(A) of the Constitution of India, the Superintendence, direction and control of the preparation of election rolls and the conduct of election to the Panchayats and Municipalities shall be vested in the State Election Commission. The said articles further provide that the Legislation of a State may by law, make provisions with respect to all matters relating to, or in connection with, elections to the Panchayats/Municipalities. Since the State Election Commission is vested with, the power to prepare electoral rolls it is imperative that the power of fixation of each Panchayat and Municipal area, the number and extent of wards into which such area shall be delimited ought to be with the State Election Commission. The Election Commission should likewise have the power to reserve seats for women, ST, SCs and OBCs.

In terms of section 7 of Goa Panchayat Raj Act and section 10 of the Goa Municipalities Act, the power of fixation and reservation of wards is with the Director of Panchayats and Director of Municipal Administration respectively.

Before every election, there are charges galore against the Government of misusing the office of the Director to delimit and reserve the wards in a manner that is beneficial to certain interested groups. In our opinion, there should be no room for any suspicion about the fairness of the electoral process either at the Panchayat or Municipal Elections.

The Law Commission therefore recommends that the word “Director” appearing in section 7 of the Goa Panchayat Raj Act be replaced by the word “State Election Commission”. Similarly, the word “Director” appearing in section 10 of the Municipalities Act be replaced by the words “State Election Commission”.

In view of the ensuing Panchayat election and in view of there being no possibility of Legislative Assembly meeting in the immediate future the Law Commission recommends that the Goa Panchayat Raj Act be amended by an Ordinance. The proposed change shall be in tune with Article 243 (K) of the Constitution of India. In so far as, change to section 10 of the Municipalities Act, the required amendment could be proposed as and when the Legislature meets.

