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PART - IV

GOVERNMENT OF MEGHALAYA
DISTRICT COUNCIL AFFAIRS DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong, the 30th June, 2003

NO. DC/LVII/1/2003/1282:- In pursuance of Paragraph 11 of the Six Schedule to the Constitution of India, the following Bill of the Khasi Hills Autonomous District Council is hereby published for general information: -

THE KHASI HILLS AUTONOMOUS DISTRICT COUNCIL
(PREVENTION OF DEFECTION) ACT, 2003.

(Passed by the Khasi Hills Autonomous District Council on the 23rd June, 2003.)

(Received the assent of the Governor on 3-3-2004)

(Published in the Meghalaya Gazette on _____)

An
Act

To provide for prevention of defection by the elected Members of the Khasi Hills Autonomous District Council, during their term as Members of the Council, for the purpose of curbing and preventing the growing practice of shifting from one political party to the other by the elected Members, which strikes at the very root of social custom and also to provide stability in the governance and administration.

It is hereby enacted by the Khasi Hills Autonomous District Council in the Fifty Fourth Year of the Republic of India as follows: -

1. Short title, extent and commencement: (1) This Act may be called the Khasi Hills Autonomous District Council (Prevention of Defection) Act, 2003.

(2) It shall extent to the whole of the Khasi Hills Autonomous District Council.

(3) It shall come into force on such date as the Governor may accord his assent.

2. Definition: In this Act, unless the context otherwise requires,

(a) "Act" means the Khasi Hills Autonomous District Council (Prevention of Defection) Act, 2003.

(b) "District Council" means the Khasi Hills Autonomous District Council.

(c) "Governor" means the Governor of the State of Meghalaya.

(d) "House" means the Council of the Khasi Hills Autonomous District Council.

(e) "Member" means a member of the Khasi Hills Autonomous District Council.

(f) "Nominated Member" means a Member who is nominated by the Governor under Paragraph 2 (1) of the Sixth Schedule to the Constitution of India.

(g) "Political Party" means the party to which a Member belongs at a time when the question of defection arises.

(h) "Rules" means the Rules made under this Act.

3. Disqualification of Members on ground of defection: (1) Any Member irrespective of his political affiliation shall be disqualified from such membership of the House on the following grounds: -

a) That a Member has voluntarily given up, resigned, renounced, relinquished or otherwise acted against the Whip of a political party to which he is a Member during such period.

b) That during any voting inside the House, such Member violates the directive or Whip issued by his political party and that such action has not been condoned by the said political party within 15 (fifteen) days from the date of such violation of Party directive.

- (2) An Independent Member who won the election as such non-party candidate shall be allowed to join as a member of any political party of his choice only once during the term and shall be disqualified from being a Member of the House, if subsequently, he gives up, resigns, renounces, relinquishes or otherwise acts against the Whip of a political party, to which he is a Member during such period. However, such an independent Member shall not hold any office either as the Chairman; or Deputy Chairman of the Council or as the Chief Executive Member and member of the Executive Committee.

Provided that disqualification shall not apply if such Member lends support to any party or group, as long as he retains the status of an Independent Member at any time he lends his support. ...

Provided further that such Member shall not be disqualified when subsequently the question arises under the provisions of sections 4 & 5.

- (3) A nominated Member who remains as such Member of the House at the pleasure of the Governor, also comes under the provisions of section 3 (1) a and b, whenever the question of defection arises/in his case.

4. Exemption during Split: Whenever a split in the parliamentary Party of a political party of a Member arises and when not less than half of the total Members of such Parliamentary Party, constitutes a group or a faction to form a separate group or party, disqualification under paragraph 3 in such cases shall not apply.
5. Exemption during Merger: Whenever one or more parties amalgamate, join or merge together into one single party, disqualification under section 3 in such cases shall not apply.
6. Exemption for Chairman and Deputy Chairman: Notwithstanding anything contained in this Act, any Member who is elected to the office of Chairman or Deputy Chairman of the District Council, shall not be disqualified of his membership of the House, if he voluntarily gives up the membership of his political party, during the tenure of his office.

Provided that when any occasion arises that any such Member had ceased to hold the said office of Chairman or Deputy Chairman automatically his membership reverts to the political party to which the said Member belonged immediately before assuming the said office.

7. Authority to decide: If any question arises as to whether or not the Deputy Chairman or a Member of the House is subjected to disqualification under this Act, such question shall be referred to the Chairman of the District Council who shall consider the case impartially and judiciously and his decision shall be final.

Provided that where the question arises as to whether or not the Chairman is subjected to such disqualification, the question shall be referred to a Committee of three Members of the House, one at least from the Opposition, to be elected by the House and the decision of this Committee shall be final.

Provided further that the decision of disqualification of any Member of the house shall be immediately intimated to the Governor by the office of the Legislative.


8. Power to make Rules: The Chairman of the District Council shall make rules for giving effect to the provisions of this Act and such Rules or amendments shall be placed before the House for approval.

STATEMENT OF OBJECTS AND REASONS

With a view to curb and prevent the growing practice of defecting and shifting from one political party to the other by the Council resulting in instability in the administration.

Hence this Act

Certified that the above Act was passed by the Khasi Hills Autonomous District Council on the 23rd June, 2003.


(H. Marwein)
Chairman,
Autonomous District Council,
Shillong.

NO _____

Dated Shillong

The 3rd March, 2004

I assent to this Act



GOVERNOR OF MEGHALAYA.