



The Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003

Act 3 of 2003

Keyword(s):

Zilla Parishad, Anchal Samiti, Gram Panchayat, Political Party.

Amendment appended: 8 of 2006

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THE ARUNACHAL PRADESH LOCAL AUTHORITIES
(PROHIBITION OF DEFECTION) ACT, 2003
(ACT NO. 3 OF 2003)

AN
ACT

to prohibit defection by the Members of Zilla Parishad, Anchal Samiti and Gram Panchayat from the political parties by which they were set up as candidates and matters connected therewith.

Whereas, it is expedient to prohibit defection by the Members of Zilla Parishad, Anchal Samiti and Gram Panchayat from the political parties by which they were set up as candidates and matters connected therewith ;

BE it enacted by the Arunachal Pradesh State Legislature in the Fifty Fourth Year of the Republic of India as follows :

Short title and Commencement.

1. (i) This Act may be called the Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003.

(ii) They shall come into force on the date of their publication in the official gazette.

Definitions.

2. **In this Act, unless the context otherwise requires -**

(i) "Zilla Parishad" means Zilla Parishad established under the Arunachal Pradesh Panchayat Raj Act, 1997 ;

(ii) "Anchal Samiti" means Anchal Samiti established under the Arunachal Pradesh Panchayat Raj Act, 1997 ;

- (iii) "Gram Panchayat" means Gram Panchayat established under the Arunachal Pradesh Panchayat Raj Act, 1997 ; .
- (iv) "Member" means a member of Zilla Parishad, Anchal Samiti and Gram Panchayat elected under the Arunachal Pradesh Panchayat Raj Act, 1997 ;
- (v) "Political Party" in relation to a member means a political party recognised by the Election Commission of India as National Party or a State Party in the State of Arunachal Pradesh under the Election Symbols (Reservation and Allotment) Order, 1968 and to which he belongs for the purpose of sub-section (1) of Section-3.

3. (1) Subject to the provisions of Sections-4, 5 and 6 a member, belonging to any political party, shall be disqualified for being such member :

Disqualification on the ground of defection.

- (a) if he has voluntarily given up his membership of such political party ; or
- (b) if he votes or abstains from voting in, or intentionally remains absent from any meeting of the Zilla Parishad or Anchal Samiti or Gram Panchayat contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf without obtaining the prior permission of such party, person or authority and such voting, abstention or absence has not been condoned by such political party, person or authority within fifteen days from the date of voting or such abstention or absence ;

Explanation :- For the purpose of this sub-section a person elected as a member, shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member ;

(2) A person elected as a member, otherwise than as a candidate set up by a political party, shall be disqualified for being a member if he joins any political party after such election.

Disqualification on the ground of defection not to apply in case of split.

4. Where a Member makes a claim that he and any other members of his political party constitute the group representing a faction which has arisen as a result of a split in his political party and such group consists of not less than one - third of the members of such political party -

(a) he shall not be disqualified under sub-section (1) of Section-3 on the ground :-

- (i) that he has voluntarily given up his membership of his political party ; or
- (ii) that he has voted or abstained from voting in, or, intentionally remained absent from any meeting of the Zilla Parishad or Anchal Samiti or Gram Panchayat contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining in any case, the prior permission of such political party person or authority and such voting or abstention or absence has not been condoned by such political party, person or authority within fifteen days from the date of voting or such abstention or absence ; and

(b) from the time of such split, such faction shall be deemed to be political party to which he belongs for the purpose of sub-section (1) of Section-3 and to be his political party for the purpose of this section.

5. (1) A member shall not be disqualified under sub-section (1) of Section-3, where his political party merges with another political party and he claims that he and any other members of his political party,

Disqualification on the ground of Defection not to apply in case of merger.

- (a) have become members of such other political party, or as the case may be, of a new political party formed by such merge ; or
- (b) have not accepted the merger and opted to function as a separate group; and from the time of such merger, such other political party or new political party or group, as the case may be, shall deemed to be the political party to which he belongs for the purpose of sub-section (1) of Section 3 and to be his political party for the purposes of this section.

(2) for the purpose of sub-section (1) of this section :

- (a) the merger of the political party or a Member shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the political party concerned have agreed to such merger ;
- (b) the expression "such other political party" and "new political party" shall include a political party whether such political party has been recognised or not by the Election Commission of India as a National Party or a State Party in the State of Arunachal Pradesh under the Election Symbols (Reservation and Allotment) order, 1968.

6. (1) A complaint that a member has become subject to the disqualification under Section 3 may be made by a member or a political party to the Member Secretary of the concerned local authority :-

Decision on the question as to disqualification on the ground of defection.

- (a) in a case falling under clause (a) of sub-section (1) after the Member gives up the membership of the political party ;
- (b) in a case falling under clause (b) of sub-section (1), after the expiry of fifteen days specified therein ;
- (c) in a case falling under sub-section (2) after he joins the political party.

(2) Where a complaint under sub-section (1) is received by the Member Secretary of the concerned local authority, he shall, within twenty-four hours from the receipt of such complaint, refer the same for decision to the State Election Commissioner who shall decide the question within thirty days after the receipt by him of the reference and his decision shall be final.

Bar on
Jurisdiction
of Courts.

7. Notwithstanding anything contained in any law, no Court shall have any jurisdiction in respect of any matter connected with disqualification of a Member under this Act.

Power to make
Rules.

8. The State Government may, by notification and after previous publication, make rules for carrying out the purpose of this Act.

Explanation : In this section :-

(1) "Member Secretary" means :-

- (a) in case of a Zilla Parishad, the Member Secretary of the Zilla Parishad ;
- (b) in case of an Anchal Samiti, the Member Secretary of the Anchal Samiti.
- (c) in case of a Gram Panchayat, the Member Secretary of the Gram Panchayat.

(2) "Local Authority" means the Zilla Parishad, Anchal Samiti and the Gram Panchayat.

(3) "State Election Commissioner" means the State Election Commissioner appointed under section-104 of the Arunachal Pradesh Panchayat Raj Act, 1997.

THE ARUNACHAL PRADESH LOCAL
AUTHORITIES (PROHIBITION OF DEFECTION)
(AMENDMENT) ACT, 2006
(ACT NO. 8 OF 2006)

(Received the assent of the Governor on 5th May,
2006)

AN
ACT

*further to amend the Arunachal Pradesh Local
Authorities (Prohibition of Defection) Act, 2003 (Act
No. 3 of 2003).*

BE it enacted by the Legislative Assembly of
Arunachal Pradesh in the Fifty seventh year of the
Republic of India as follows :-

Short title and
commence-
ment.

1. (1) This Act may be called the Arunachal Pradesh Local Authorities (Prohibition of Defection) (Amendment) Act, 2006.

(2) It shall come into force at once.

Amendment
of Section 3
(1).

2. In the Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003 in Section 3 (1), the figure '4' shall be omitted.

Omission of
Section 4.

3. In the Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003 Section 4 shall be omitted.

Substitution
of words at
Section 6.

4. In the Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003 in Section 6 (2) the words, 'State Election Commissioner' shall be substituted by the words, 'Deputy Commissioner.'

Omission of
Sl. No. 3 of
Explanation
below Section
8.

5. In the Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003 Sl. No. 3 of the explanation below Section 8 shall be omitted

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