



Legislative Assembly of the State of Goa

**The Goa Members of Legislative
Assembly (Removal of
Disqualification) Bill, 2005**

(Bill No. 16 of 2005)


(To be introduced in the Legislative Assembly of Goa)

**GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
AUGUST, 2005.**

The Goa Members of Legislative Assembly
(Removal of Disqualification)
Bill, 2005

(Bill No. 16 of 2005)

A

BILL

to provide for the removal of certain disqualifications for being chosen as, and for being, a member of the Legislative Assembly of the State of Goa.

5 BE it enacted by the Legislative Assembly of Goa in the Fifty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Members of Legislative
10 Assembly (Removal of Disqualification) Act, 2005.

(2) It shall be deemed to have come into force on the 11th day of July, 2005.

2. *Removal of certain disqualifications.*— A
15 person shall not be disqualified for being chosen as or for being, a member of the Legislative Assembly of the State of Goa merely by reason of the fact that he holds any of the offices specified in the Schedule appended to this Act.

SCHEDULE

20 1. The office of a member of a Home Guard constituted under any law for the time being in force in any State;

2. Any office in connection with the affairs of the Goa University or any committee, council or body connected with the Goa University;
3. The office of Chairman, Economic Development Corporation Limited, Goa; 5
4. The office of Chairman, Kadamba Transport Corporation Limited;
5. The office of Chairman, Goa Housing Board;
6. The office of Chairman, Goa Tourism Development Corporation Limited; 10
7. The office of Chairman, Goa Handicrafts, Rural and Small Scale Industries Development Corporation Limited;
8. The office of Chairman, Goa Industrial Development Corporation; 15
9. The office of the Chairman and Vice-Chairman of the Goa State Infrastructure Development Corporation Limited;
10. The office of the Chairman and Vice-Chairman of the Goa State Planning Board; 20
11. The office of the Chairman of the Goa Khadi and Village Industries Board;
12. The office of the Chairman of the Goa State Scheduled Caste and other Backward Classes Finance and Development Corporation Limited; 25
13. The office of the Chairman of the Goa State Horticultural Corporation Limited;

14. The office of the Chairman of the Goa Forest Development Corporation Limited;
15. The office of the Chairman of the Goa State Scheduled Tribes Finance and Development Corporation Limited; 5
16. The office of a Parliamentary Secretary;
17. The office of the Chairman of Bal Bhavan, Goa;
18. The office of the Chairman of the Goa State Social Welfare Board;
- 10 19. The office of the Chairperson of the Goa State Commission for Women;
20. The office of the Chairman of the Goa Meat Complex;
- 15 21. The office of the Chairman of the Goa Sewerage Corporation;
22. The office of the Chairman of the Goa State Commission for Backward Classes;
23. The office of the Chairman of the Infotech Corporation of Goa Limited;
- 20 24. The office of the Chairman of the Kala Academy, Goa;
25. The office of the Chairman of the Rajiv Kala Mandir, Ponda;
- 25 26. The office of the Chairmen of the Planning and Development Authorities, Goa;

27. The office of the President and Vice-President of the Sports Authority of Goa;

28. The office of Chairman, Director or member of any other statutory or non-statutory body or committee or corporation constituted by the Government of Goa. 5

Explanation.— For the purpose of the entry at serial number 28,-

(i) "statutory body" means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force; 10

(ii) "non-statutory body" means any body of persons other than a statutory body. 15

3. *Repeal.*— On and from the date of commencement of this Act, any law or enactment covering the subject matter of this Act and which was in force in the State of Goa as on such date shall be deemed to have been repealed from such date. 20

4. *Repeal and saving.*— (1) The Goa Members of Legislative Assembly (Removal of Disqualification) Ordinance, 2005 (Ordinance 1 of 2005), is hereby repealed. 25

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the

exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

By Judgments dated 27th May, 2005, delivered in Election Petition No. 1 of 2002 (Chandrakant Uttam Chodankar V/s Shri Dayanand Rayu Mandrekar & Others) and Election Petition No. 2 of 2002 (Jose Philips D. D'Souza V/s Shri Rajendra V. Arlekar & Others), the Hon'ble High Court of Bombay at Goa has held that the Goa, Daman and Diu Members of Legislative Assembly (Removal of Disqualification) Act, 1982 (Act 1 of 1982) would not be valid to provide protection from disqualification to the Members of the Legislative Assembly of the State of Goa since it was not the law made by the Legislative Assembly of the State of Goa in terms of Article 191 (1) (a) of the Constitution. It was held that, in other words, the law passed by the Legislature of the Union Territory for the protection of its own members under section 14 of the Government of Union Territories Act, 1963 (20 of 1963), cannot be equated with the law to be passed by the State Legislative Assembly under Article 191 (1) (a) of the Constitution.

In view of the above Judgments, it became necessary to have a law providing for protection from disqualification to Members of the Legislative Assembly of this State and accordingly, the Goa Members of Legislative Assembly (Removal of Disqualification) Ordinance, 2005 (Ordinance 1 of 2005) was promulgated by the Governor of Goa on 11-7-2005, making necessary provisions to give protection from disqualification to Members of the Legislative Assembly in case they happen to hold Offices of Chairman, Director, etc. of public sector undertakings and other autonomous bodies under the Government of Goa.

This Bill seeks to replace the said Ordinance.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Porvorim-Goa DAYANAND G. NARVEKAR
Dated: 12th August, 2005. Minister for Legislative Affairs

Assembly Hall, SUDHIR NARVEKAR
Porvorim-Goa. Secretary to the Legislative
Dated: 12th August, 2005. Assembly of Goa