

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 20th April, 1980.

No. 2283/LD/80. The following Ordinance made by the President on the 20th day of April, 1980, is hereby published for general information :-

(ORDINANCE LX OF 1980)

AN

ORDINANCE

to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance :-

1. **Short title and Commencement.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Ordinance, 1980.
(2) It shall come into force at once.
2. **Amendment of Section 2, Ordinance X of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) herein-after referred to as the said Ordinance, in Section 2, after clause (xxiv) the following new clause (xxv) shall be inserted, namely :-
"(xxv) 'Validly nominated candidate' means a candidate whose nomination has been accepted;"
and existing clause (xxv) shall be re-numbered as clause (xxvi).
3. **Amendment of Section 5, Ordinance X of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), in Section 5, for sub-section (2) the following shall be substituted, namely :-
“(2) A person shall be disqualified for being elected or chosen and for being, a member,-

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- (a) if, as provided in Section 24 of the Azad Jammu and Kashmir Interim Constitution Act, 1974,-
 - (i) he is of unsound mind and stands so declared by competent court; or
 - (ii) he is un-discharged insolvent unless a period of ten years has elapsed since his being adjudged as insolvent; or
 - (iii) he has been on conviction for any offence sentenced to transportation for any term or imprisonment for a term of not less than two years unless a period of five years has elapsed since his release ; or
 - (iv) he holds any office of profit in the service of Azad Jammu and Kashmir, or in the service of Pakistan other than an office which is not a whole time office remunerated either by salary or by fee other than an office specified in the Second Schedule; or
 - (v) he has been dismissed for mis-conduct from the service of Azad Jammu and Kashmir or the service of Pakistan unless a period of five years has elapsed since his dismissalal ; or
- (b) if he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (c) if he is propagating any opinion, or acting in any manner, prejudicial to the Ideology of Pakistan, or the sovereignty, integrity of Pakistan, or security of Azad Jammu and Kashmir or Pakistan, or morality, or the maintenance of Public Order, or the Integrity or independence of the judiciary of Azad Jammu and Kashmir or Pakistan, or which defames or brings into ridicule the judiciary of Azad Jammu and Kashmir or Pakistan, or the Armed Forces of Pakistan: or
- (d) if-

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- (i) he has been removed or compulsorily retired from the service of Jammu and Kashmir or Pakistan on the ground of misconduct unless a period of three years has elapsed since his removal or compulsory retirement ; or
- (ii) he has been in the service of Azad Jammu and Kashmir or Pakistan of any statutory body or any body which is owned or controlled by the "Government or the Government or the Government of Pakistan, on which any of the Government has a controlling share or interest unless a period of two years has elapsed since he ceased to be in such service; or
- (iii) he is found guilty of corrupt or illegal practice under any other law for the time being in force, unless a period of seven years has elapsed from the date on which that order takes effect: or
- (iv) he has, at any time on or after the ninth day of September, 1979, been an office-bearer of a political party dissolved under sub-section (2) of Section 7 of the Azad Jammu and Kashmir Political Parties Ordinance, 1979 and has not, before a declaration in respect of such party is made under sub-section (1) of that section, resigned, or publicly announced disassociation, from such party, unless a period of five years has elapsed from the date of such dissolution ; or
- (v) he has been convicted under Section 8 of the Azad Jammu and Kashmir Political Parties Ordinance, 1979, unless a period of five years has elapsed from the date of such conviction ; or
- (vi) he is a member of a political party which is not eligible under the political parties Ordinance, 1979 to participate in an election to a seat in the Legislative

Assembly or to nominate or put up a candidate at any such election ;or

- (vii) he is a member of a political party which has not been registered, or the registration of which has been cancelled, under the Azad Jammu and Kashmir Political Parties Ordinance, 1979 ; or
- (viii) he is for the time being dis-qualified from being elected or chosen as a member of the legislative Assembly of Azad Jammu and Kashmir under any law for the time being in force ; or
- (ix) he has, during the period of two months preceding the publication of the notification under Section 10, been a member or supporter of or associated with, a political party, unless he is put up by that political party as a candidate ; or
- (x) if, he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or the performance of any services undertaken by, Government :

Provided that the disqualification under this clause shall not apply to a person –

- (a) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him or such longer period as the President may, in any particular case, allow ; or
- (b) where the contract has been entered into by or on behalf of a public company as defined in the Companies Act, 1913 (Vi! of 1913), of which he is a share-holder but is neither a director holding

in office of profit under the company nor a managing agent : or

- (c) where he; is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on separate business in which he has no share or interest.

Explanation I.- In sub-clause (iv) and (v) of clause (a) and sub-clause (i) and (ii) of clause (d) 'Service of Azad Jammu and Kashmir and 'Service of Pakistan' have the same meaning as assigned to them in Section 2 of the Azad Jammu and Kashmir Interim Constitution Act, 1971 and in Article 260 of the Constitution of Pakistan respectively.

Explanation—II.- In sub-clause (iv) of clause (d) 'office-bearer of a political party' means in office-bearer at the National or District set up of tin party otherwise than as a mere member of the Working, Central, District or other committee of party.

Explanation—III.- In sub-clause (x) of clause (d) 'goods' does not include agricultural produce or commodity grown or produced by him or such goods as lie is, under any directive of Government or any law for the time being in force, under a duty or obligation to supply

(3) If a person having been elected to the Azad Jammu and Kashmir Legislative Assembly as a candidate or nominee of a political party, withdraws himself from that party, he shall, from the date of such withdrawal, be disqualified from being a member of the Assembly for the unexpired period of his term unless he has been reflected at a bye-election held after his dis-qualification.

4. **Amendment of Section 10, Ordinance X of 1970.-** In the said Ordinance, in Section 10 -

- (a) in sub-section (1) for clause (a) the following shall be substituted, namely :-(a) a day on or before which nomination of the candidate is to be made."
- (b) in sub-section (3) for the word "before" the word 'by' shall be substituted.

5. **Insertion of Section 10-A, Ordinance X of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) after Section 10 the following new Section shall be inserted, namely:-

”(10-A)Alteration in Election Programme.- Notwithstanding anything contains in Section 10, the Commissioner may at any time after the issue of notification under sub-section (1) of that Section, make such alterations in the programme announced in

that notification for the different stages of the election as may in his opinion be necessary.

6. **Amendment of Section 11, Ordinance X of 1970.-** In the said Ordinance, in Section 11,-

- (a) after sub-section (3), the following proviso shall be added :-

"Provided that a candidate may deliver or cause to be delivered, to the Commissioner a duplicate of the nomination paper on or before the nomination day or may send it to the Commissioner by registered post so as to reach him on or before that day."

- (b) in sub-section (5) the words 'except the one received first by the Returning Officer' shall be omitted.

7. **Amendment of Section 13, Ordinance X of 1970.-** In the said Ordinance, in Section 13,-

- (a) In sub-section (3), in clause (d), in sub-section (ii) of the proviso, between the word 'nature' 'and' the words and comma, including an error in regard to the name, serial number in the Electoral Roll or other particulars of the candidate, his proposer, or seconder shall be inserted.

- (b) for sub-sections (4) and (5) the following shall be substituted, namely:-

(4) The Returning Officer shall endorse on each nomination paper decision accepting or rejecting it and shall, in the case of rejection, record the reasons for rejection and, in the case of an objection being raised to his decision to accept the nomination paper, record brief reasons for rejecting the objection.

(5) Any person aggrieved by an order under sub-section "(4) may appeal within a prescribed period to the Commissioner whose decision shall be final.

(6) Announcement of the day and time appointed for the hearing of an appeal under sub-section (5) over the radio or by publication in the press shall be deemed to be sufficient notice of the day and time so appointed."

8. **Insertion of New Section 13-A, Ordinance X of 1970.-** In the said Ordinal, after Section 13 the following new Section 13-A, shall be inserted, namely:

"13-A. **Action on duplicate of nomination paper.-** (1) In a case in which the Returning Officer denies receipt of the

nomination paper of a candidate and the candidate asserts that the duplicate of the nomination paper had

18. **Amendment of Section 53, Ordinance X of 1970.-** In the said Ordinance, in Section 53 for sub-section (2) the following shall be substituted, namely :-
"(2) An Election Tribunal shall consist of a person who has been, or is, or, at the time of his retirement as a District and Sessions Judge, was qualified to be, a Judge of the High Court."
19. **Amendment of Section 64, Ordinance X of 1970.-** In the said Ordinance, in Section 64, in sub-section (1) clause (a) and (b) shall be omitted.
20. **Amendment of Section 86, Ordinance X of 1970.-** In the said Ordinance in Section 86 -
 - (a) after the word and comma 'Ordinance', the words, brackets and figures 'or any person required under sub-section (2) of Section 4, to perform any functions or render any assistance, shall be inserted; and
 - (b) after the word 'omission' at the end, the comma and words, 'or fails to perform such functions or render such assistance' shall be added.
21. **Amendment of Section 88, Ordinance X of 1970.-** In the said Ordinance, in Section 88, after the words 'Police Officer' twice occurring, the words 'member of the armed forces' shall be inserted.
22. **Substitution of Section 92, Ordinance X of 1970.-** In the said Ordinance, for section 92 the following shall be substituted, namely:-

“92. Commissioner to ensure fair election etc. Save as otherwise provided, the Commissioner may-

 - (a) Stop the polls at any stage of the election, if he is convinced that he shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale malpractices, including coercion, intimidation and pressures, prevailing at the election ;
 - (b) revise an order passed by an officer under this Ordinance, or the rules, including rejection of ballot papers; and
 - (c) issue such instructions and exercise such powers, and make such consequential orders, as may, in his opinion, be necessary for ensuring that the election is conducted honestly, justly and fairly, and in accordance with the provisions of this Ordinance, and the Rules.'

23. **Insertion of Section 92-A, Ordinance X of 1970.-** In the said Ordinance, after Section 92, the following new Section shall be inserted, namely:-
- "92-A. Directions of Commissioner in certain matters.-**
Anything required to be done for carrying out the purposes of this Ordinance, for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commissioner may direct."
24. **Savings.-** Notwithstanding any judgment, decree or order of any court including High Court, every thing done, all actions taken, notifications issued, orders or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Ordinance, 1977 (Ordinance VI of 1977) or its succeeding Ordinances issued from time to time shall be deemed to have been validly done, taken, issued, made, initiated or exercised under this Ordinance.

(Mohammad Hayat Khan)
President
Azad Jammu & Kashmir.
Sd/-
Khalil Ahmed Qureshi
Secretary Law