

PUNJAB VIDHAN SABHA

Bill No. 12-PLA-2020

**THE PUNJAB MANAGEMENT AND TRANSFER OF
MUNICIPAL PROPERTIES BILL, 2020**

A

BILL

to provide for inclusive and sustainable delivery of basic civic services in municipal towns and cities of the State of Punjab by unlocking and optimal utilization of resources namely the land and buildings and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Seventy-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Punjab Management and Transfer of Municipal Properties Act, 2020. Short title, extent and Commencement.
- (2) It shall extend to the whole of the State of Punjab.
- (3) It shall come into force on and with effect from the date of its publication in the Official Gazette.
2. In this Act, unless the context otherwise requires,- Definitions.
 - (a) "basic civic services" means services of drinking water supply, drainage, sewerage, solid waste disposal, street lighting and improvement of environment as provided by a Municipality;
 - (b) "building" means a house, out-house, stable, shed, hut and other enclosed structure, whether of masonry bricks, wood, mud, metal or any other material whatsoever, whether used as human dwelling or otherwise and also includes verandahs, fixed platforms, plinths, door-steps, electric meters, walls including compound walls and fencing and the like, but does not include plant or machinery comprised in a building;
 - (c) "Collector" means the Deputy Commissioner and includes an

Additional Deputy Commissioner or Commissioner, Municipal Corporation or any officer specially appointed by the Government to perform the functions of a Collector under this Act;

- (d) "Government" means the Government of Punjab in the Department of Local Government;
- (e) "Municipality" means an institution of local self-government as defined in the Punjab Municipal Act, 1911 or the Punjab Municipal Corporation Act, 1976 or Improvement Trust incorporated or constituted under the Punjab Town Improvement Act, 1922;
- (f) "municipal property" means the land and building owned by a Municipality;
- (g) "occupant" means a person occupying the property owned by a Municipality in an authorized or unauthorized manner;
- (h) "Officer of the Municipality" means the Commissioner under the Punjab Municipal Corporation Act, 1976 or the Executive Officer under the Punjab Municipal Act, 1911 or the Executive Officer under the Punjab Town Improvement Act, 1922, as the case may be;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "relative" means a person as defined in clause (77) of section 2 of the Companies Act, 2013;
- (k) "specified" means specified by notification by the Government in the Official Gazette;
- (l) "tenant" means a person to whom the municipal property has been rented or leased out;
- (m) "transfer" means sale or lease of a municipal property for a price or rent;
- (n) "Tribunal" means the Tribunal constituted under section 17 of this Act;

- (o) "urban area" means the area comprised within the limits of a Municipality; and
- (p) words and expressions used but not defined in this Act shall have the same meaning as assigned to them in the Punjab Municipal Act, 1911 or the Punjab Municipal Corporation Act, 1976 or the Punjab Town Improvement Act, 1922.

3. Notwithstanding anything contained in any law for the time being in force enacted by the State of Punjab, every Municipality shall cause-

Management of municipal property.

- (a) all municipal properties to be identified and entered into a Property Register in such manner as may be specified by the Government;
- (b) all municipal properties to be demarcated and notified for the information of the general public;
- (c) the name and address of the tenant or an occupant, whether authorized or unauthorized, along with the details of the municipal property under the possession of such an occupant, to be notified for the information of the general public; and
- (d) to follow Government orders on Asset Management Policy and Capital Investment Plan.

4. Notwithstanding anything contained in any law for the time being in force enacted by the State of Punjab, a Municipality may transfer a municipal property in a transparent manner through an open e-auction in the case of commercial properties and through draw of lots in the case of residential properties. In case of other properties, the Municipality shall follow the directives of the Government as specified from time to time:

Transfer of municipal property.

Provided that open e-auction and draw of lots shall be conducted in such manner as laid down under this Act.

Vesting of
proprietary rights
in tenants or
occupants.

5. (1) Notwithstanding anything contained in any law for the time being in force enacted by the State of Punjab, a Municipality may vest the proprietary rights of a municipal property in a tenant or an occupant of such a municipal property at a price determined by the Price and Rent Fixation Committee constituted for this purpose under section 7 of this Act and upon satisfaction of such conditions as may be specified by the Government from time to time:

Provided that a tenant or an occupant has been in continuous possession of such a municipal property for at least twelve years:

Provided further that a tenant or an occupant should not be or should not have been an employee of the Municipality or Department of Local Government or an elected member of the Municipality or his relative or Member of Parliament or his relative or a Member of the Punjab Legislative Assembly or his relative.

(2) A tenant or an occupant shall furnish necessary proof in the form of electricity meter connection or water supply connection or ration card or any other Government issued document showing that the municipal property sought to be vested was in his continuous possession for the last twelve years.

(3) A municipal property vested in a tenant or an occupant in accordance with this section shall not be sold or leased or mortgaged with possession, wholly or partially, or otherwise alienated, in any manner, for a period of twenty years, other than by way of inheritance or by way of pledging or mortgaging such a property in favour of the State Government or Semi-Government Organizations or Banks for securing loan for effecting improvements on the said property,

(4) A tenant shall be liable to pay arrear of lease rent, if any, due to the municipality along with due price before the proprietary rights are vested in him.

Sub-letting of a
municipal
property in
future.

6. (1) No person, who has been transferred a municipal property on rent through a written agreement by a Municipality, shall sublet the same to another person.

(2) In case a municipal property is sublet by the tenant, the Municipality shall cancel such a tenancy or lease forthwith and such property shall vest to the Municipality without any notice to the tenant or an occupant.

(3) In case of death of a tenant, the tenancy or lease rights of such a municipal property may be vested in the legal heir(s) of the deceased tenant:

Provided that such a legal heir(s) undertakes in writing to agree with the terms and conditions of the tenancy or lease agreement.

7. (1) The Government shall constitute a Price and Rent Fixation Committee for every district in the State of Punjab to determine the reserve price or rent of a municipal property which a Municipality intends to transfer under the provisions of this Act. Price and Rent Fixation Committee.

(2) The Price and Rent Fixation Committee shall be headed by the Collector and which shall also consist of the following members, namely:-

- (a) the Members of Parliament, and all Members of the Punjab Legislative Assembly or their nominee whose constituency comprises part or whole of the area of the Municipality;
- (b) Mayor or President of the Municipality; and
- (c) Officer of the Municipality, duly deputed by the Government.

(3) The price of the municipal property determined by the Price and Rent Fixation Committee and duly approved by the Government shall be commensurate with the prevailing Collector rate.

(4) The lease money or the rent of a municipal property shall be the rate fixed by the Price and Rent Fixation Committee as duly approved by the Government or the price discovered by a Municipality through an open e-auction, whichever is higher.

(5) The lease money or the rent of a municipal property determined in sub-section (3) shall be enhanced by at least five per cent every year.

(6) The price determined by the Price and Rent Fixation Committee for commercial municipal property as duly approved by the

Government shall be the reserve price for auction of such property.

(7) The rent fixed by the Price and Rent Fixation Committee for residential municipal property as duly approved by the Government shall be the lease money or rent for such municipal property.

(8) Wherever a municipal property has been under continuous lease or occupation for a period of twelve years or more, and is intended to be transferred to the tenant or occupant, the price shall be fixed in the following manner, namely:-

- (i) for Economically Weaker Sections (EWS), having an annual income not more than rupees three lakhs, at the rate of 12.5 per cent of the Collector Rate;
- (ii) for Lower Income Groups (LIG), having an annual income more than rupees three lakhs but not more than rupees eight lakhs, at the rate of 25 per cent of the Collector rate;
- (iii) for Medium Income Groups (MIG), having an annual income more than rupees eight lakhs but not more than rupees fifteen lakhs at the rate of 50 per cent of the Collector rate;
- (iv) for High Income Groups (HIG), having an annual income more than rupees fifteen lakhs, at the Collector rate;
- (v) for the aforesaid purpose, proof of Income shall be the Income Tax Return filed by a tenant or an occupant of the previous year of the year in which the transfer is to be made. In case a tenant or an occupant is not required to file Income Tax Return, in that case, he shall get an income certificate issued from the Sub-Divisional Magistrate of the area concerned; and
- (vi) for categories referred to as items (i), (ii) and (iii), the municipal property only up to fifty square metres shall be transferred at the rate specified therein. However, if the municipal property occupied is more than fifty square metres then on the area of municipal property beyond fifty square metres, collector rate shall be payable.

8. (1) Every auction of a municipal property under this Act shall be done through e-auction and shall be subject to a reserve price determined under section 7 of this Act. Procedure of auction.

(2) The Officer of the Municipality shall cause to publish a public notice of the intention of the Municipality to auction a municipal property:

Provided that no auction shall be conducted until the expiry of at least thirty days from the publication of such a notice.

(3) Every notice issued under sub-section (2) shall give clear details of the municipal property, including its reserve price, location and size in addition to the terms and conditions of the auction:

Provided that the Government may prescribe any or all of the terms and conditions of the auction, and such terms and conditions, shall be clearly mentioned in the notice.

(4) Notwithstanding anything contained in this section, where it is observed that the prospective bidders have come to a tacit understanding to depress the bid price, the Municipality may, after recording reasons in writing and with the prior approval of the Government, invite sealed bids in place of an e-auction.

9. (1) A Municipality may transfer a residential municipal property on rent or allot it through a draw of lots. Draw of lots.

(2) The Officer of the Municipality shall cause to publish a public notice of the intention of the Municipality to transfer a municipal property through a draw of lots:

Provided that no such transfer by draw of lots shall be allowed until the expiry of at least thirty days from the publication of such a notice.

(3) Every notice issued under sub-section (2) shall give clear details of the municipal property, including its price, location and size in addition to the terms and conditions of the draw of lots:

Provided that the Government may prescribe any or all of the terms and conditions of the draw of lots and such terms and conditions shall be clearly mentioned in the notice.

Agreement for transfer of municipal properties.

10. (1) Where a Municipality has decided to transfer a municipal property, it shall execute a registered agreement or a deed, clearly giving the terms and conditions of the transfer.

(2) Every agreement executed by a Municipality for transfer of property under this Act shall have appropriate penal clauses as specified in the agreement and in keeping with the provisions of this Act.

(3) The Municipality shall have the right to get the municipal property vacated in case the agreement executed by it, is violated in any manner by the person in whose favour the municipal property has been transferred.

Payment of rent.

11. In case a Municipality has decided to transfer its property to a tenant on rent, such a tenant shall be liable to pay the agreed rent as per terms and conditions of the agreement:

Provided that where the tenant fails to pay the agreed rent for three months in a row, he shall be liable to vacate the municipal property forthwith without any notice and possession of such municipal property shall be deemed to have reverted to the Municipality.

Identification and notification of municipal property to be transferred.

12. (1) In case a Municipality decides to transfer a municipal property in accordance with the provisions of this Act, it shall identify and prepare a list of such properties, clearly giving details of their measurements, locations, occupants or tenants.

(2) Every list of municipal property prepared under sub-section (1), shall be notified for the information of the general public before these are transferred in accordance with the provisions of this Act.

Resolution of the Municipality.

13. (1) A Municipality desirous of transferring a municipal property in accordance with the provisions of this Act shall pass a resolution to this effect:

Provided that no such resolution of a Municipality shall be valid unless it is approved by at least two third of the total elected members of the Municipality.

(2) Every resolution of the Municipality passed under sub-

section (1) shall be sent to the Government for approval.

(3) The Government may, upon receipt of a resolution of the Municipality under sub-section (2), accord its approval or disapproval, for reasons, to be recorded in writing:

Provided that the Government shall convey its approval or disapproval within sixty days of the receipt of such a resolution from a Municipality, failing which the resolution shall be deemed to have been approved.

14. (1) In the case of transfer of a municipal property through auction or draw of lots by a Municipality, the transferee shall be required to pay the price as per terms and conditions of such a transfer. Payment of Price.

(2) In the case of transfer of a property to a tenant or an occupant, the Municipality shall communicate the decision to transfer the property to him in accordance with the provisions of this Act within fifteen days of the approval of the resolution of the Municipality to this effect by the Government.

(3) In case a Municipality decides to transfer ownership of a municipal property to its tenant or occupant at a price fixed by the Price and Rent Fixation Committee in accordance with the provisions of this Act, the transferee shall give his consent for the same in writing within fifteen days of receipt of communication of such a decision of the Municipality.

(4) Any tenant or occupant, who has given his consent under sub-section (3) shall be required to make payment of due price in following manner, namely:-

- (a) fifty per cent of the amount within one week from the date of issue of letter of decision of transfer by the Municipality;
- (b) balance amount within two months of date of issue of letter of decision of transfer;
- (c) in case the occupier chooses to pay the whole amount in lump sum within one week from the date of issue of letter of decision of transfer, he shall be entitled to a rebate of five percent on the whole amount;

- (d) if the property is in the name of women or a person above the age of sixty-five years then rebate of ten per cent shall be given on lump sum payment; and
- (e) if the due price is not paid by due dates, interest at the rate of twelve percent per annum shall be charged on the due price for the period of delay, for not more than ninety days. Thereafter, the concerned Municipality shall proceed with the eviction of the property. However, the interest shall continue to be levied till the date actual possession is taken by the Municipality.

Vacation of
municipal
property.

15. (1) Where a tenant or an occupant of a municipal property, which the Municipality has decided to transfer in accordance with the provisions of this Act, refuses to accept the transfer or fails to pay the price, he shall be liable to vacate such municipal property within three months of such refusal or failure.

(2) In case a tenant or an occupant fails to vacate the property in accordance with the provisions of sub-section (1), the Municipality shall proceed to get the property vacated by making a reference to the Tribunal constituted under this Act.

Registration of
municipal
property.

16. (1) Where a Municipality transfers a municipal property to a tenant or an occupant under the provisions of this Act, a letter of intent to transfer the property shall be issued by the Municipality.

(2) Every such person, who has been issued a letter of intent to transfer the property by a Municipality, shall be eligible to get the property registered in his name on full payment of price and past arrears, if any.

(3) Where a tenant or an occupant of a municipal property, given to him for a specific purpose, uses the same for a purpose other than that for which it was given, he shall be liable to vacate the property immediately and deed of transfer of such property shall be deemed to have been cancelled, notwithstanding any other law for the time being in force enacted by the State of Punjab.

(4) Where a municipal property is occupied by a person or persons other than a tenant or an occupant, such person or persons shall be liable to vacate the property immediately. The Municipality shall initiate legal proceedings under the Code of Criminal Procedure, 1973 against such person or persons and shall further initiate eviction proceedings by making a reference to the Tribunal constituted under this Act.

17. (1) The Government shall constitute a Tribunal or authorise any officer or officers or do both for the purpose of deciding references or appeal against the order of the Municipality as may be made to it by the Municipalities or by a tenant or an occupant in the State of Punjab, as the case may be, under the provisions of this Act. Constitution of a Tribunal.

(2) The Tribunal shall consist of a President and two other members to be nominated by the Government.

(3) The President of the Tribunal shall be a retired or serving Judge of the Punjab and Haryana High Court or a retired or serving officer not below the rank of a Financial Commissioner or Principal Secretary to the Government of Punjab:

Provided that no person shall be eligible for appointment as the President of the Tribunal if he is or has been elected or nominated as a member of any Municipality in the State of Punjab:

Provided further that no person shall be eligible for appointment as the President of the Tribunal, if he has attained the age of seventy years.

(4) The member of the Tribunal shall be a person who has experience of dealing with matters and laws governing the Municipalities for at least ten years and bears a good moral character or is a retired or serving officer not below the rank of a Secretary to the Government of Punjab:

Provided that no person shall be eligible for appointment as a member of the Tribunal, if he is or has been elected or nominated as a member of any Municipality in the State of Punjab:

Provided further that no person shall be eligible for appointment as the Member of the Tribunal if he has attained the age of seventy years.

(5) The term of office of the President and members of the Tribunal shall be two years:

Provided that upon the expiry of the term of two years, the President or the Member may be reappointed for a further period of two years.

(6) The Government may remove the President or a Member of the Tribunal if such President or Member -

- (i) refuses to act, or becomes, in the opinion of the Government, incapable of acting as such; or
- (ii) has been declared insolvent; or
- (iii) has been convicted of any such offence or subjected by a Criminal Court to any such order which in the opinion of the Government, implies a defect of character and which makes him unfit to continue as a President or a Member of the Tribunal; or
- (iv) has been declared by notification to be disqualified for employment or has been dismissed from public service and the reason for such disqualification or dismissal is, in the opinion of the State Government, a defect of character which makes him unfit to be a President or a Member of the Tribunal.

(7) The terms and conditions of the appointment of a President or a Member of the Tribunal shall be such as may be specified by the Government.

Eviction from
municipal
property.

18. (1) Wherever a municipal property is under unauthorized occupation, the Officer of the Municipality shall make a reference for eviction of such unauthorized occupants to the Tribunal or officer authorised under section 17 of this Act .

(2) The Tribunal or officer shall pass an appropriate order within sixty days from the date of receipt of a reference referred to in sub-section (1).

(3) An eviction order passed by the Tribunal or officer shall be final.

(4) Every order of the Tribunal or officer directing eviction of an unauthorized occupant shall be sent to the Collector for execution.

(5) Upon receipt of an order referred to in sub-section (4), the Collector, or any other officer not below the rank of an Executive Magistrate authorized by him in this behalf, shall cause such order to be executed, within thirty days of the receipt of such an order.

(6) Pursuant to the vacation of a property in compliance with the orders of the Tribunal or officer, the officer of the Municipality shall get such a property demarcated and notified as a municipal property under section 3 of this Act.

19. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, duly published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty. Power to remove difficulties.

20. The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

21. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter for which an authority or Tribunal is empowered to take action in pursuance of any power conferred under this Act. Bar of jurisdiction of civil courts.

22. No suit, prosecution or legal proceedings shall lie against the Government or President or Member of the Tribunal or a Municipality or against any officer or employee of the Government or a Municipality in respect of anything done or intended to be done in good faith in pursuance of this Act or the rules made there under. Protection of action taken in good faith.

23. Every Municipality, which has transferred any municipal property in accordance with this Act, shall submit quarterly reports to the Government, clearly giving details of the municipal property transferred and names and addresses of the persons to whom these have been transferred: Report.

Provided that the Government may, at any time seek such other information as may be required with regard to any action taken or mandated

under this Act as may be necessary in larger public interest.

Savings.

24. Save as otherwise provided in this Act, no action of the Government or a Municipality with regard to transfer or management of any municipal property under any of the earlier law, rules, schemes or instructions, shall be declared invalid merely on the ground of enactment of this Act.

Provided that any action with regard to transfer or management of any municipal property, which is in process at the time of enactment of this Act, shall be pursued further in accordance with the provisions of this Act.

Supersession.

25. On and after the commencement of this Act, all notifications, instructions or schemes related to transfer and management of municipal property issued by the Government under any other law, including the Punjab Municipal Act, 1911, the Punjab Municipal Corporation Act, 1976 and the Punjab Town Improvement Act, 1922, shall stand superseded.

STATEMENT OF OBJECTS AND REASONS

The management of Municipal properties and properties of the Improvement Trusts is a key to unlock the potential of the urban areas as also an important aspect of optimal utilisation of resources. The Municipal and Trust properties have been transferred or let out in the past and there have been many cases of unauthorised occupation of such properties. These have resulted in disputes and litigation which in turn have prevented the optimal utilisation of the land resource and has also resulted into the loss of revenue to the concerned urban local bodies. To address these concerns the Government of Punjab has decided to introduce a new legislation to address the urgent need of effective management of properties of urban local bodies. Accordingly, the present Bill i.e. "The Punjab Management and Transfer of Municipal Properties Bill, 2020" aims to provide a legal framework for management and disposal of the Municipal and Trust properties.

2. It is deemed, therefore, expedient to provide for enactment of the "The Punjab Management and Transfer of Municipal Properties Act, 2020"

BRAHM MOHINDRA,
Local Government Minister, Punjab.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 20 of the, The Punjab Management and Transfer of Municipal Properties Bill, 2020 empowers the State Government to make rules to carry out the purposes of this Act. The Powers sought are necessary for the proper implementation of the provisions of the Act and are normal in nature.

CHANDIGARH
THE 3RD MARCH, 2020

SHASHI LAKHANPAL MISHRA
SECRETARY.

N.B. - The above Bill was published in the Punjab Government Gazette (Extraordinary), dated the 3rd March, 2020 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).