

Law (Mock Test - 6)

14/04/23

Ques No. 1.

Persons entitled to vote : S. 13-E of UP Municipality Act

According to S. 13-E of UP Municipality Act, every person is entitled to vote, whose name is in electoral roll in the ward of the municipality -

↳ ~~The person will be entitled~~

Who can not vote - S. 13-E (2), (3), (4) & (5)

The following person ~~will~~ will be disqualified to vote.

① The person who is disqualified under 2-D of the Act

② The person whose name is registered for voting more than one ward.

③ The person who votes more than one time in the same ward.

④ The prisoner whose name is in the electoral roll.

U can conclude with ruling of election commission apt from section 13 G

②

Qualification for electors: [S-12-C]

According to S-12-C of the UP Municipality Act, The following conditions must be fulfilled to be qualified for electors-

④ Subject to the provision of S. 12-D, S 12-E of the Act -

① The person must have attained the age of 18 yrs on 01 Jan of the year.

② The person must be ordinary resident of the ward.

Disqualification: [S-12-D]

According to S-12-D of the Act the following persons are disqualified ~~from~~ for electors-

① If he is not citizen of India

② If he is unsound mind or so declared to be unsound mind by the competent authy.

③ He has been disqualified from voting due to some corrupt practices.

③

Case - Anugrah Narayan Singh vs SO UP 1976

Held - That the electoral roll shall be prepared under the superintendence and direction of the state election commission

Thus the person whose name is in electoral roll will be very well entitled for voting.

Ques. 2

Consequence of dissolution of municipalities [S. 30]

According to S. 30 of UP Municipality Act 1976

The state Govt is empowered to dissolve the Municipality after giving the reasonable opportunity of hearing on the following grounds:

① If the municipality persistently makes default -

② If it exceeds or abuses the power vested in it -

Case - Municipal Board Fairabad vs SO UP 1992

Consequences : [S. 31-A]

Under sec 31-A of the Act, the following consequences will be occurred on dissolution of the municipality. -

(4)

① vacation of office :-

On dissolution of Municipality the office of President and other officers bearer will become vacant :-

② Appointment of person -

On dissolution and due to vacation of office, the person will be appointed by the State Govt to exercise the power, function and duties of Municipality -

③ Payment and salary -

The payment and salary of the appointed person shall be paid out from the Municipality fund :-

④ Incidental and Consequential provision

Due to dissolution of Municipality, ~~many~~ the representation of ward in the form of corporators and ~~press~~ will not be there. and there will be no discussion of the public

⑤


issues in the council, because that time there will no existence of council.

Thus due to dissolution, the purpose of Municipality, the purpose of ^{incorporate case law-municipality board faizabad vs UP} will be defec-1992.

Ques 3

Duties of municipalities : [S. 7]

~~Under~~ Sec 7 of UP Municipality Act 1916 provides following duties of municipality.


- ① The municipality shall ensure lighting of public streets and places.
- ② Duty to supply water to public streets and places.
- ③ The authority of municipality should survey and to erect the boundary mark surrounding of ward and Municipality.
- ④ It should  carry out cleaning public streets and places and drains.
- ⑤ Duty of municipality to remove the noxious vegetation if available within the municipality.

(6)

(6) It should ~~ab~~ try ~~and~~ ensure to abate the public nuisance of any and ensure the public peace within the municipality.

(7) It should regulate the offensive, dangerous or abnoxious trades, calling or practices, if being carried out in the municipality.

(8) ~~to~~ It should do the confinement, removal or destruction of stray dogs, dangerous animals.

(9) It should  the securing or removing of dangerous bldgs or places, if available in the municipality.

(10) It should carry out the construction, alteration and maintaining of public streets, culverts, markets, latrines etc within the municipal area.

⑦

⑪ It should maintain the register of births and deaths of inhabitants of Municipality.

⑫ It establish and maintain the system of public vaccination within the Municipal Area through Hospitals or health centres

⑬ It should establish, maintain or support the public hospitals and dispensaries.

⑭ Establish and maintain the primary schools - within the Municipal Area.

⑮ It should promote cultural, education & aesthetic activities within the Area.

⑯ It ~~can~~ should carry out slum improvement and upgradation within the Area.

⑰ It should try  alleviate the urban poverty.

Thus the Municipality by carrying out the above duties ~~to~~ should try to fulfill the aspiration of ~~self govt~~ people residing in




the areas -



Ques 4

Power of municipality to impose tax -
Sec 128 of UP Municipality Act, 1916 provides
~~following~~ powers to impose ~~the~~
following tax upon the people of
Municipal area subject to the
provision contained in Art 285
of constitution.

↳ The municipality may impose the following taxes on —

① Tax on annual value of bldgs or lands
may be imposed by the municipality -
So that the  earnings of municipality
can be main ~~land~~ ~~to~~ cater the
aspirations of the people.

② Tax on water — municipality
may impose water tax for ~~the~~
providing of ~~so~~ clean and hygienic
water to every house of within

the Municipal areas.

③ ~~The~~ Municipality may impose the drainage tax upon the people residing within the areas.

④ ~~It is~~ It can impose conservancy tax upon the people for providing the conservancy services to the people.

⑤ Tax on trades - Municipality may impose the taxes on trades, carried out within the municipal areas.

⑥ Theatre Tax - Municipality will impose the tax on theatres, running within the areas.

⑦ Scavenging Tax - The Municipality will recover the scavenging tax from the people/public of the areas for providing them scavenging services.

⑧ The municipality will charge the taxes on transfer deeds, if it is ~~carried out~~ transfer of property is carried out.

9) It will impose taxes on advertisement ⁽¹⁰⁾
-ment shown on the board of
Municipality placed within the
area.

10) It the Tax on vehicle and
other conveyance will be
imposed by Municipality.

11) The Municipality may impose
the betterment **sections 129/129A** the
'development / betterment' has been
carried out of that area.

Thus by imposing above
tax the Municipality does the
collection of fund and carry
out the other welfare schemes
for the public within the
area.

Ques 5

Who can order the demolition of the building : [S 27]

~~The~~ According to S. 27 of UP Urban Planning and development Act 1973, the development authority is empowered to order for demolition of building on the following grounds -

Grounds

- ① If the ~~be~~ development or construction of building has been carried in the contravention of master plan or zonal plan ~~of~~, prepared by development authority.
- ② If the construction/development of building ~~was~~ has been done ~~in~~ ^{out} with the permission, approval or sanction by authority as referred to S. 14 of the Act.
- ③ If the construction of building ~~and~~ development was done in contravention of any other condition ^{of} the authority.

S. 26 of the Act provides the procedure ~~for pass~~ for passing the order of demolition.

① Notice - The authority will pass a order directing for ~~owner~~ removal to owner or the person on whose instance the construction or development of building was carried out. The period for removal shall not be less than 15 days and ~~not more~~ upto 45 days.

② On failure to follow the direction/ order by the owner / the person, the development authority with the order of vice chairman or authorised such officer, shall remove for cause to be removed the construction / development of building.

and shall recover the expenses ⁽¹³⁾ incurred in the removal or demolition from the owner.

Remedy : §. 27(2)

Under Sec 27(2) of the Act. The owner is having right to appeal before the chairman of the development authority against order of removal passed by vice-chairman or any such **case law- Abbas Ansari vs Up**
2022
in 30 days of the date of order.

Thus by this provision, the authority is able to make a control over the unauthorised construction done against master plan or zonal plan.

Quest

(14)

Acquisition and disposal of land under UP
Urban Planning and Development Act, 1973

Acquisition of land: [S-17(1)]

Sec 17(1) of the UP Urban Planning and Development Act 1973, ~~provides~~ about ~~the~~ empowers the State Govt to acquire the land for development of the area as Master plan or zonal plan approved by the State Govt under Land Acquisition Act 1894 and hand it over to the Development Authy for such purpose ~~on~~ payment incurred ~~by~~ the acquisition process.

Restoration of land [Proviso to S 17(1)]

According to Proviso to S 17(1) of the Act, ~~If the development authy has failed to~~ the acquired land will be restored to the owner. on the following grounds -

- ① If the development authy has failed to carry out development as

for the purpose it is also acquired (15)
within 5 yrs. On expiry of 5 yrs, the
land will be restored to the owner.

(2) The State Govt restores the land
on the application of the owner, if
it is not utilized for the purpose
by the development authority.

(3) The land will be restored to the owner, on
repayment of the acquisition charges,
and interest at rate 12% p.a. and
development charges (if any development
done) - by the owner.

Case - Smt. Sukhdeji Puro vs SOUP 2018

Transfer of land : [S. 17(2)]

See 17(2) of the Act relates Transfer of
land to the development authority or
local authority (if any) by the State
Govt on payment of acquisition by
the authority.

Disposal of Land by Authy: [S18(1)] (16)

~~The develop~~
According to s. 18(1), the development
authy or local authy, subject
to any direction by the State
Govt shall carry out the
development of that area in
accordance with master plan
or zonal plan.

By the
case law - Sukh devi Vs state of up
land is acquired by State Govt
and developed by the develop-
ment authy / local authy.

comment- content is good, there is
need to include relevant case laws,