

THE AZAD JAMMU AND KASHMIR ELECTIVE BODIES AND
PUBLIC OFFICES DISQUALIFICATION ACT, 1961

(Act II of 1961)

(Passed under Government Order No. 155/61 dated 13-4-1961)

Whereas numerous instances have come to notice of

maladministration and misconduct on the part of certain persons who have held the office of the President or Minister under the Azad Kashmir Government from time to time ;

And whereas it is necessary to debar such persons from seeking

election for being a member or a candidate for the membership of any elective body or for election to the office of the President or for appointment as Minister ;

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Now, therefore, it is hereby enacted as follows :-

(i) This Act may be called the Azad Jammu and Kashmir Elective Bodies and Public Offices Disqualification Act, 1961.

(ii) It shall come into force at once and shall remain in force until the thirtieth day of June, 1961, where-upon it shall stand repealed.

In this Act, unless there is anything repugnant in the

subject or context:-

(i) 'Government' means the Azad Jammu and Kashmir Government;

(ii) 'President' means President of the Azad Jammu and Kashmir Government;

(iii) 'Minister' means Minister of the Azad Jammu and Kashmir Government, and includes a Minister of State, a Deputy Minister or a Muawin ;

(iv) 'Elective Body' means any assembly, board, committee or similar other body, by whatever name called, established or to be established by or under any law, of which, the constituent members are wholly or partly chosen by means of election, and includes a legislature, a Municipal

Corporation, a Municipal Committee, a Cantonment Board, any body set up under the Azad Jammu and Kashmir Basic Democracies Act, 1960, or any local body or electoral college formed for election to a legislature ;

(v) 'Misconduct' includes any subversive activity, the preaching

of any doctrine or the doing of any act which contributes to political instability, bribery, corruption or having a general and persistent reputation for being corrupt, jobbery, favouritism, nepotism, wilful maladministration or diversion of public money or moneys collected, whether by subscription or otherwise, and any other abuse of whatsoever kind of power or position, and any attempt at, or abetment of such misconduct provided that the act or omission in question relates to a date subsequent to the 24th of October, 1947.

This Act applies to all persons who, on or after 24th day of October, 1947, and before the proclamation of a state of emergency in the Azad Jammu and Kashmir Territory on the 15th day of October, 1958, have held the office of the President or exercised all or any of the powers now being exercised by the President, or who have held the office of the Minister under the Azad Jammu and Kashmir Government.

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All persons mentioned in Section 3 shall stand disqualified and no such person shall be eligible for election to an elective body or for election to the office of the President or for appointment as a Minister unless he obtains a certificate from the Tribunal constituted under Section 5 that he is eligible for such election or appointment.

(ii) Where the Tribunal has refused to grant a certificate referred

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to under Section 6, the decision of the Tribunal shall have the effect of disqualifying him until the thirty-first day of December, 1967, for being a member or a candidate for the membership of any elective body or for election to the office of the President or for appointment as a Minister, unless the Tribunal has declared in respect of any of the persons that he shall not be so disqualified.

The Government may constitute a Tribunal to scrutinize the conduct of all persons to whom this Act applies.

(ii) The Tribunal shall consist of one member who is or has been

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a District and Session Judge under the Azad Jammu and Kashmir Government or in Pakistan.

(i) On receipt of an application, made within 15 days from the date of appointment of the Tribunal under this Act by any person to whom this Act applies, the Tribunal shall obtain the necessary records from the Secretary General, Azad Jammu and Kashmir Government and furnish to the applicant grounds relating to his misconduct which prima facie render him liable for disqualification for membership of an elective body or for election to the office of the President or for appointment as Minister.

(ii) Such a person will be given the opportunity of a hearing in person by the Tribunal which may refuse to call or examine a witness if it considers that his evidence is not material or that he is called on frivolous grounds or for the purpose of delaying the proceedings.

(iii) After the Tribunal has closed the proceedings, it may grant him a certificate referred to in Section 4 or refuse to grant such a certificate if the charge is proved.

Upon a request from the Secretary General, Azad Jammu and Kashmir Government or from an officer or other person nominated by him in this behalf, that the matter to be brought before the Tribunal during the proceedings is of a nature that it should not be made public on ground of the security of the State or public interest, the Tribunal shall hold such proceedings in camera.

Where a respondent appears before a Tribunal, he shall appear personally and by himself and no friend or adviser or legal practitioner shall assist him during the proceedings.

The decision of the Tribunal under this Act shall be final and shall not be called in question in any Court.

No proceedings taken under this Act by any authority shall be called in question in any Court.

Notwithstanding anything contained in this Act or any other law, a person to whom this Act applies shall stand disqualified until the thirty-first day of December, 1967 for being a member or a candidate for the membership of any elective body or for

election to the office of the President or for appointment as a Minister :-

(a) if he is dismissed, removed or made to retire from the service of Azad Jammu and Kashmir Government or of the Government of Pakistan or of a public statutory Corporation, on a charge other than that of inefficiency ; or

(b) if he has been convicted of any offence and sentenced to a term of imprisonment for more than two years or to transportation for any term in the Azad Jammu and Kashmir territory or in Pakistan.

The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing in this Act shall prevent or prejudice the trial and punishment of any person under any other such law.