

DRAFT PROVISIONS
IN THE INTEND
GOVT. OF KOLHAPUR ACT.

N4

S. I. S.

DRAFT PROVISIONS IN THE INTEND
GOVERNMENT OF BILHAPUR A.C.

Dhananjayrao Gadgil Library



GIPE-PUNE-036902

DRAFT PROVISIONS IN THE INTENDED GOVERNMENT OF KOLHAPUR ACT

Prepared by

THE CONSTITUTION COMMITTEE APPOINTED
BY THE KOLHAPUR SANSTHAN
FRAJA PARISHAD

At

ITS SECOND SESSION 1942.

COMMITTEE MEMBERS

- Sjt. BALASAHEB KHER, *Chairman*
.. ANNASAHEB LATHE
.. MAHADEV DUNDAPPA SHRESTHI
.. RAJARAM TUKARAM BAGADE
.. VASANTRAO KHANDERAO BAGAL
.. HARIBHAU MORESWAR JOSHI
.. RATNAPPA BHARMAPPA KUMBHAR

Publisher.— Sjt. Ratnappa Bharmappa Kumbhar, B. A.,
General Secretary, Kolhapur Saristhan Praja Parishad.
Printer.— S. R. Rajaguru, 'Rajaguru Press', 405 Narayan Path,
Commonwealth Colony, Poona 2.

1/23144:2.11-1
30902

Draft Provisions in the Intended Government of Kolhapur Act.

Proclamation:

To promulgate the Act.

To declare that the intention of this Act is that the Maharaja should constitute a Constitutional and Limited Monarch enjoying the same rights, privileges and position as the British Monarch does.

By this Act, the Government shall now be vested in the Cabinet which will be constituted by the provisions of the Constitution Act. Being the Maharaja's desire that the Cabinet should remain always responsible to the Legislature and to carry out this desire, the Maharaja shall summon an elected Representative of the Legislature constituted under the Constitution Act, who is most likely to command a stable majority in the Legislature; such person shall be asked to form a Cabinet from amongst the elected Representatives of the Legislature who will also best be in a position collectively to command the confidence of the Legislature including all sections and interests represented therein. Such Cabinet shall be on the basis of joint responsibility. Such Cabinet shall always tender advice on all affairs of the State to the Maharaja who shall follow such advice. The Ministers holding office would legally remain in office during the Maharaja's pleasure but they shall Constitutionally resign office as soon as they lose confidence of the Legislature. All rights, authority and jurisdiction heretofore vested in the Maharaja appertaining or incidental to the Government of Kolhapur shall henceforth be exercisable by the Government intended to be constituted under the Constitution Act.

To declare that the Government so constituted shall always safeguard the religious and cultural rights of all people of the State including the minorities.

Subject to the observance of the principles of non-violence and public morality, the Maharaja and his Government constituted under the Constitution Act guarantee to every citizen of Kolhapur freedom of person, freedom of speech, liberty of the press, freedom of assembly and discussion, freedom of worship, freedom from all political disabilities arising from birth, sex, caste, religion or colour or material standing, complete equality in the eyes of the law, cheap and speedy justice, universal free compulsory basic education, universal and equal suffrage for all adults, universal and equal rights to work at a minimum living wage, all these as defined by the Laws of the State, which may be passed from time to time.

To declare that the people of the Feudatory Jagirs of the Kolhapur State shall also be equally governed by the Constitution Act and this Proclamation. Accordingly, the people of the Feudatory Jagirs shall enjoy the same rights, privileges, duties and obligations and status as provided for in the Constitution Act and as declared in this Proclamation.

To declare *inter alia* that the State shall join the Indian Union when constituted, and the State shall send an elected Representative to the Union.

Preamble :

Reciting the grant of full responsible Government etc.

PART I.

INTRODUCTORY

Provisions :—

1 Extent and Commencement.

Note.—Apply also to the Territories of the Feudatory Jagirs.

2 Government of the State in the name of His Highness.

3 His Highness's Royal Prerogative saved: provided however that the Royal Prerogative shall be exercised to the same extent and in the same manner as that of the British Monarch.

PART II.

THE EXECUTIVE.

Provisions:—

- 4 The Executive Authority of the State.
- 5 The Council of Ministers; the Prime Minister and not more than four other Ministers.
- 6 (1) The appointment of Ministers;
(2) Their salaries to be fixed by a separate Act of the Legislature.
- 7 Temporary appointment of Ministers in case of the Council not being formed; duration only six months.
Note.—Tenure "during pleasure" of His Highness by the Proclamation responsible to the Legislature.
- 8 Oath of Ministers.
- 9 Allotment of Portfolios.
- 10 Conduct and business of the Council of Ministers.
- 11 Authentication of Orders.
- 12 Rules to be made.
- 13 Advocate General.

PART III.

THE LEGISLATURE.

CHAPTER I.

- 14 The Legislative Assembly.
Note.—The Laws also to be made applicable to the Feudatory Jahagirs.
- 15 The Powers of the Legislature.
- 16 The composition of the Legislature.
Note.—The Assembly to consist of 69 elected members, out of whom 51 elected representatives to be from various General Territorial Constituencies by reservation, 9 Feudatory Jahagidars, 2 Muslims, 4 Harijans and Aborigines, 2 Women and 1 representative, 6 Inamdars and Sardars, all elected from General Territorial Constituencies by reservation.

Provisions :

- 51 Elected representatives.
 - *9 Feudatory Jehagirdars.
 - *2 Muslims.
 - *2 Women.
 - *4 Harijans and Aborigines.
 - *1 Representative of Inamdars and Sardars, making the total of 69.
- * No separate Electorates; only joint Electorates.
- 17 Nomination of not more than two Experts—not more than two at a time—as temporary members without power to vote. Their duration, during the course of the Bill for which appointed. No power to sit and debate when any other Bill or matter before the House.
 - 18 Oath of Members.
 - 19 Duration of three (or five) years.
No extension.
*Exception:—*In case of any grave emergency such as danger to the peace and tranquility of the State at the time, on the advice of the Prime Minister, Power to His Highness to extend the Legislature for a period not exceeding one year in any event.
 - 20 May be dissolved earlier by His Highness on the advice of the Prime Minister or the council of Ministers.
 - 21 Sessions, prerogation, etc.
 - 22 The right of His Highness to send messages to the Legislature.
 - 23 (1) The appointment of the Officers of the Assembly;
 - (a) Speaker.
 - (b) Deputy Speaker.
 - (c) Parliamentary Secretaries.
 - (2) Their salaries and honorariums by a separate Act of the Legislature.

Provisions :

- 24 Voting, etc.
- 25 Quorum.

- 26 Miscellaneous :
Adjournment Motions, No-confidence, etc.
- 27 Questions and Resolutions.
- 28 Constituencies :

Note :—For first elections, the Government may constitute Constituencies but after a Government is formed under this Act, the new Government with the approval of the Legislature, may constitute new Constituencies. Franchise for the first elections shall be on the basis of the Grama Panchayat as at present constituted in the State. The subsequent elections, shall however, be on the basis of universal adult franchise. Adult means a person of 21 years of age.

CHAPTER II.

- 29 Vacating Seats.
- 30 Disqualification for membership.
- 31 Penalty for sitting and voting inspite of being not qualified or disqualified.
- 32 Privileges.
- 33 Salaries, allowances and honorariums of members by a separate Act of the Legislature.

CHAPTER III.

- 34 Introduction of Bills.
- 35 Assent to Bills.
- 36 (1) Return of Bills by His Highness on the certification by the Prime Minister with or without amendments.
- (2) Reserved for consideration but could not be so reserved for more than one calendar year.

CHAPTER IV.

Financial Matters :

- 37 Annual Financial Statement.

Note—(1) This Annual Financial Statement should include the Budgets of all Feudatory Jaha-girs.

- (2) Privy Purse of the Durbar shall be fixed at not more than 10 per cent of the gross revenues of the State.
- (3) Privy Purse of the Jahagirdars shall also be fixed at not more than 10 per cent of respective gross revenues of the Jahagirdars.
- 38 Classification of expenditure.
- 39 Expenses charged on the Revenues of the State.
Note: This item should include the Privy Purse of the Durbar and the Feudatory Jahagirdars, Judicial, Auditors, obligations arising out of various treaties and to meet the expenses of obligations of the Paramountcy and to the other States.
- 40 (1) Procedure in respect of Annual Financial Statement in the Legislature.
 (2) (a) Votable, (b) Non-votable.
- 41 Authentication of the Final Financial Annual Statement.
- 42 Supplementary Financial Statement and its authentication.
- 43 Finance Act to be passed every year.
- 44 Supplementary Finance Act during the year.
- 45 Penalty for expenditure not provided for either in the Finance Act or the Supplementary Finance Act.
- 46 (1) Temporary expenditure in case of grave emergency that has already arisen. Indemnity.
 (2) Ratification by the Assembly, when it next assembles, i. e., during the next session.

Note:—This provision to apply *mutatis mutandis* to the provisions of Budget of the Feudatory Jahagirs.

CHAPTER V:

- 47 Language: Marathi. However, those not sufficiently acquainted with the Marathi language, may use Kanarese or Hindustani with the permission of the Speaker.

- 48 Courts not to have jurisdiction in the matter of proceedings of the Legislature.

CHAPTER VI :

Emergency Legislative Powers :

- 49 (1) Power of His Highness to issue Ordinances in case of any emergency when the Legislature is not in sessions.
 (2) Its duration for six months.
 (3) Indemnity.
- 50 (1) Power of His Highness to issue Ordinances in case of emergency when the Legislature is prorogued.
 (2) Its duration, six months.
 (3) Indemnity.
- 51 (1) Powers of His Highness to issue Ordinances in case of any emergency when the Legislature is dissolved.
 (2) Its duration, one year.
 (3) Indemnity.
- 52 (1) Legislative and consequential powers of His Highness in case of temporary breakdown of the Constitution Act.
 (2) Maximum duration, one year.
 (3) Indemnity.

PART IV

The Judicature :

- 53 The High Court.
- 54 Seat of the High Court.
- 55 Seal of the High Court.
- 56 Appointment and tenure of Judges including temporary and additional.
 (Tenure to be of ' good behaviour ' and till 60 years of age. Adopt also 220 (2) proviso (b)).
- 57 Procedure.
- 58 Qualifications.
- 59 (1) Salaries.
 (2) The same to be a charge on the revenue of the State.

- 60 Jurisdiction—extent of—(Appellate—revision—review).
- 61 (1) Original Jurisdiction:—
 (a) In case of any disputes relating to the construction or interpretation of the Constitution Act or any Rule made thereunder.
 (b) In case of revenue matters committed to the High Court by the highest Revenue Authority of the State.
 (2) These cases to be heard by a Bench of two Judges.
- 62 (1) Reference of disputes arising under the Constitution Act or any Rule made thereunder to the High Court by His Highness.
 (2) The reference to be heard as one under Section 66.
- 63 Powers to make Rules.
- 64 Constitution of Benches.
- 65 Administrative Control.
- 66 Superintendence over subordinate courts.
- Note:—Interalia* adopt Section 107 of the Government of India Act of 1919, which is wider than Section 224 of the Act of 1935.
- 67 Transfer of certain cases to High Court.
- 68 Official Court Language.
- 69 Expenses of and incidental to the High Court to be a charge on the revenues of the State.
- 70 Appeals from the Judgment of any single Judge.
- 71 Judicial Supreme Council,
 (1) (a) Appointment, (b) tenure, (c) charge on the revenues of the State, etc.
 (2) To hear appeals in case under the Constitution Act or any Rule made thereunder on a certificate of the High Court that it is a fit case to appeal.
 (3) To hear appeals which include substantial question of law and which involve a subject matter of property in dispute of value over Rs. 5,000 on a Certificate by the High Court that it is a fit case for appeal.

- (4) To adjudicate infirmity or otherwise or any mis-behaviour of any High Court Judge or J. S. P. under Sec. 58 & 77 (i) (Provision similar to Sec. 220 (2) Prov. (b)).
- 72 Power of His Highness to send for records, returns and statements and to remit any matter for re-hearing or to send the same for hearing by Judicial Supreme Council.
- 73 His Highness's prerogative of mercy, etc., saved.
- 74 Savings and definitions.
- 75 Recruitment of Subordinate Judiciary by the Government on the advice of High Court and Public Service Commission.

PART V :

CHAPTER I.

Revenue, property, contracts and suits :

- 76 Meaning of Revenue.
- 77 Charge on the Revenue of the State (such as salaries of Judges, Auditor-General, Advocate-General, etc.)
- 78 Savings.
- 79 Custody of public money.
- 80 Power to acquire property, borrow money, make contracts, etc.
- 81 Suits by and against the State.

CHAPTER II :

Account and Audit :

- 82 Accounts to be kept of the receipts and expenditure of the State Revenues.

Provisions :

- 83 (1) Auditor General of the State to be appointed by His Highness.
- (2) His salary to be a charge on the revenue of the State.
- 84 His powers.
- 85 Audit Reports.
- 86 Rules to be made for the guidance of the Auditor General and his Department

PART VI.**SERVICES OF THE STATE.****CHAPTER I.****Public Services Commission :**

- 87 Public Services Commission.
- 88 Secretarial staff of P. S. C.
- 89 Functions of P. S. C.
- 90 Expenses of P. S. C. to be a charge on the Revenues of the State.
- 91 Rules to be made for the guidance of the P. S. C.

PART VII.**Miscellaneous :**

- 92 Compulsory acquisition of land.
- 93 Power to make Rules for matters, not otherwise provided for.
- 94 Standing orders.
- 95 Savings.
- 96 Repeals.
- 97 Existing laws to continue untill otherwise amended or repealed.
- 98 Adaptation of existing Laws
- 99 Protection of existing rights, Privileges.
- 100 Removal of certain disqualification from the first elections under the Act.

PART VIII.**Provisions :**

- 101 Amendment of the Constitution Act by a $\frac{2}{3}$ majority of the total strength of the Legislature.

PART IX.**Regency :**

- In case of minority or infirmity of the Ruler :
- 102 In case the Maharaja happens to be a minor or suffers from such infirmity as would disable him from attending to his duties under this act or in case he is to be

absent from the State, whereby, he is disabled from attending to the affairs of the State as required by this Act, a Regency shall be constituted.

In case of minority of the Maharaja, the Royal Mother of the minor Maharaja who may be the Senior Maharani of the late Maharaja, or the Senior Maharani, as the case may be, shall be the Regent under this Act, and she shall exercise all the powers, rights, privileges, duties and obligations of the Maharaja as provided for in this Act.

- 103 In case of infirmity of the Maharaja disabling him from attending to the affairs of the State, his Yuvaraj, if major, or in the absence of such Yuvaraj, his Senior Maharani, shall act as the Regent and he or she, as the case may be, shall exercise all the powers, rights, privileges, duties and obligations of the Maharaja as provided for in this Act.
- 104 In case of the absence of the Maharaja from the State disabling him from attending to the affairs of the State as required by this Act, the Maharaja's eldest son (the Yuvaraj), if major, and in his absence the Senior Maharani, shall be the Regent exercising all the powers, rights, privileges, duties and obligations of the Maharaja as required by this Act.

PART X

Succession to the Gadi :

- 105 If the Maharaja dies leaving sons, the eldest son shall succeed to the Gadi according to the Law of primogeniture. In the absence of any son but the Maharaja leaving daughters, the eldest daughter shall succeed to the Gadi in the same way as the eldest son or the Yuvaraj would have done. In that event, she shall be the Maharani of the State and shall be entitled to exercise all powers, rights, privileges, duties and obligations of Durbar provided by this Act.
-