West Bengal Act XLI of 1973

THE WEST BENGAL *PANCHAYAT* ACT, 1973.

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FIRST SCHEDULE : *(Omitted.)*

SECOND SCHEDULE : Offences triable by a *Nyaya Panchayat.*

THIRD SCHEDULE : Form of oath or affirmation to be made by a member of a *Gram Panchayat*, a *Panchayat Samiti*, a *Zilla Parishad* or *Mahakuma Parishad.*

©

West Bengal Act XLI of 1973

THE WEST BENGAL *PANCHAYAT* ACT, 1973.[1]

[*As modified up to the 31st May, 2009.*]

[*17th January, 1974.*]

[2]*An Act to reorganize, strengthen and expand the activities of* Panchayats *in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith.*

[3]WHEREAS it is necessary and expedient to reorganize, strengthen and expand the activities of *Panchayats* in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

PART I

CHAPTER I

Preliminary

Short title, extent and commencement.

1. (*1*) This Act may be called the West Bengal *Panchayat* Act, 1973.

[4](*2*) It extends to the whole of West Bengal, except the areas to which the provisions of—

2 of 1924. (*a*) the Cantonments Act, 1924,

West Ben. Act LVIII of 1980. (*b*) the Howrah Municipal Corporation Act, 1980,

West Ben. Act LIX of 1980. (*c*) the [5][Kolkata] Municipal Corporation Act, 1980,

West Ben. Act XXX of 1990. (*d*) the Siliguri Municipal Corporation Act, 1990,

West Ben. Act XXXI of 1990. (*e*) the Asansol Municipal Corporation Act, 1990,

West Ben. Act XXXII of 1990. (*f*) the Chandernagore Municipal Corporation Act, 1990,

West Ben. Act XXII of 1993. (*g*) the West Bengal Municipal Act, 1993,

West Ben. Act LIII of 1994. (*h*) the Durgapur Municipal Corporation Act, 1994, or

any parts or modifications thereof apply or may hereafter be applied.

[1]For Statement of Objects and Reasons, *see* the *Calcutta Gazette, Extraordinary*, Pt. IVA, of the 3rd May, 1973, page 1354; for report of the Select Committee on the Bill, *see* the *Calcutta Gazette, Extraordinary*, Pt. IVA, of the 27th August, 1973, pages 2511-2602; for proceedings of the West Bengal Legislative Assembly, *see* the proceedings of the meetings of the West Bengal Legislative Assembly held on the 10th May, 1973, 30th and 31st August, 1973.

[2]Long title was substituted by s. 2 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]Preamble was substituted by s. 3, *ibid.*

[4]Sub-section (2) was first substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), then again substituted by s. 2 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[5]The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

(*3*) This section shall come into force at once; the remaining sections shall come into force[1] on such date or dates and in such area or areas as the State Government may, by notification, appoint and different dates may be appointed for different sections and for different areas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "auditor" means an auditor appointed under section 186 and includes any officer authorised by him to perform all or any of the functions of an auditor under Chapter XVIII;

(*2*) "Block" means an area referred to in section 93;

(*3*) "Block Development Officer" means an officer appointed as such by the State Government [2][and includes the Joint Block Development Officer-in-charge of the Block];

(*4*) "case" means a criminal proceeding in respect of an offence triable by a *Nyaya Panchayat*;

[3](*4a*) "Collector" means an officer appointed as such by the State Government;

[4](*4aa*) "Commissioner of *Panchayats* and Rural Development" means an officer appointed as such by the State Government and includes a Joint Director of *Panchayats* and Rural Development, Deputy Director of *Panchayats* and Rural Development and Assistant Director of *Panchayats* and Rural Development, Government of West Bengal;

[5](*4b*) "Council" means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988; West Ben. Act XIII of 1988.

(*5*) "District Magistrate" includes an Additional District Magistrate, a Deputy Commissioner, an Additional Deputy Commissioner and any other Magistrate appointed by the State Government to discharge all or any of the functions of a District Magistrate under this Act;

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[1]All sections from 2 to 224 of the Act came into force on the 1st February, 1974 in the whole of West Bengal except the areas included in (*i*) police stations of Asansol, Chittaranjan, Kulti, Hirapur, Salanpur, Jamuria, Barabani, Faridpur, Ranigunj, Durgapur, Ondal in the district of Burdwan; (*ii*) coalfied areas in the district of Bankura, Purulia, and Darjeeling; and (*iii*) Tea gardens, Cinchona Plantations and Reserve Forests, *vide* notification No. 1385-Panch, dated the 29th January, 1974, published in the *Calcutta Gazette, Extraordinary*, Pt. I, of the 1st February, 1974, page 199.

[2]The words within the square brackets were inserted by s. 2(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Clause (*4a*) was inserted by s. 2(*b*), *ibid.*

[4]Clause (*4aa*) was inserted by s. 2(*1*) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[5]Clause (*4b*) was inserted by s. 2(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[1]* * * * * * * * * *

[2](*7*) "District *Panchayat* Officer" means a District *Panchayat* and Rural Development Officer appointed as such by the State Government;

(*8*) "District Planning Committee" means the District Planning Committee established by the State Government for a district;

[3](*8a*) "Divisional Commissioner" means an officer appointed as such by the State Government;

[4]* * * * * * * * *

[5](*9a*) "general election" means an election of members held simultaneously for constitution of *Gram Panchayats, Panchayat Samitis, Mahakuma Parishad,* or *Zilla Parishads* or any two or more of *Gram Panchayats, Panchayat Samitis, Mahakuma Parishad,* or *Zilla Parishads* in such area as the State Government may by notification specify;

[6](*10*) "*Gram*" means an area referred to in section 3;

(*11*) "*Gram Panchayat*" means a *Gram Panchayat* constituted under section 4;

[7](*11a*) "*Gram Sabha*" means a body consisting of persons registered in the electoral rolls pertaining to a *Gram* declared as such under sub-section (*1*) of section 3;

[7](*11b*) "*Gram Sansad*" means a body consisting of persons registered at any time in the electoral rolls pertaining to a constituency of a *Gram Panchayat* delimited for the purpose of last preceding general election to the *Gram Panchayat*;

West Ben. Act XIII of 1988.

[7](*11c*) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;

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[1]Clause (*6*) was first substituted for the original clause by s. 3(*1*) of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997). Thereafter, the same was omitted by s. 2(2) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[2]Clause (*7*) was substituted for the original clause by s. 3(2) of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[3]Clause (*8a*) was inserted by s. 2(*3*) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[4]Clause (*9*) was omitted by s. 2(*4*), *ibid.*

[5]Clause (*9a*) was inserted by s. 2(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[6]Clause (*10*) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[7]Originally clause (*11a*) was inserted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1978 (West Ben. Act X of 1978). Then the same was substituted by s. 2(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Finally, the present clauses (*11a*), (*11b*) and (*11c*) were substituted for the previous clause (*11a*) by s. 3(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(*12*) "*Karmadhyaksha*" means the *Karmadhyaksha* of a *Sthayee Samiti* of a *Panchayat Samiti* elected under section 125 or of a *Sthayee Samiti* of a *Zilla Parishad* elected under section 172, as the case may be;

[1](*12a*) "*Mahakuma Parishad*" means the *Mahakuma Parishad* for the sub-division of Siliguri in the district of Darjeeling constituted under section 185B;

[2](*13*) "*mouza*" means an area defined, surveyed and recorded as such in the revenue record of a district and referred to in clause (g) of article 243 of the Constitution of India as the lowest unit of area for the purpose of public notification for specifying a village;

[3](*13a*) "Municipality" means an institution of self-government constituted under article 243Q of the Constitution of India;

(*14*) "notification" means a notification published in the *Official Gazette*;

(*15*) "*Nyaya Panchayat*" means a *Nyaya Panchayat* constituted under section 51;

[4](*15a*) "office bearer" means the *Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati* or *Sahakari Sabhadhipati* or any two or more of them together;

[4](*15b*) "*Panchayat*" means an institution of [5][self-government constituted under article 243B of the Constitution of India], and includes *Gram Panchayat, Panchayat Samiti, Mahakuma Parishad* or *Zilla Parishad*;

[6](*15c*) "*Panchayats* Development Officer" means an officer appointed as such by the State Government;

(*16*) "*Panchayat Samiti*" means a *Panchayat Samiti* constituted under section 94;

[7](*16a*) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

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[1]Clause (*12a*) was inserted by s. 2(c) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[2]Clause (*13*) was substituted by s. 3(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Clause (*13a*) was inserted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[4]Clauses (*15a*) and (*15b*) were inserted by s. 3(*3*) of the West Bengal *Panchayat* (Amendment) Act 1994 (West Ben. Act XVIII of 1994).

[5]The words within the square brackets were substituted for the words "self-government" by s. 2(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[6]Clause (*15c*) was inserted by s. 2(*5*) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[7]Clause (*16a*) was added by s. 2(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(*17*) "*Pradhan*" means a *Pradhan* of a *Gram Panchayat* elected under section 9;

(*18*) "prescribed" means prescribed by rules made under this Act;

(*19*) "prescribed authority" means an authority appointed by the State Government, by notification, for all or any of the purposes of this Act;

(*20*) "public street" means any street, road, lane, *gully*, alley, passage, pathway, bridge, square or court, whether a throughfare or not, over which the public have a right of way, and includes side drains or gutters and the land up to the boundary of any abutting property, notwithstanding the projection over such land or any verandah or other superstructure;

[1](*20A*) "recognised political party" means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;

(*21*) "*Sabhapati*" means a *Sabhapati* of a *Panchayat Samiti*, elected under section 98;

(*22*) "*Sabhadhipati*" means a *Sabhadhipati* of a *Zilla Parishad* [2][elected under section 143, and includes the *Sabhadhipati* of *Mahakuma Parishad*];

(*23*) "*Sahakari Sabhapati*" means a *Sahakari Sabhapati* of a *Panchayat Samiti*, elected under section 98;

(*24*) "*Sahakari Sabhadhipati*" means a *Sahakari Sabhadhipati* or a *Zilla Parishad*, [3][elected under section 143, and includes the *Sahakari Sabhadhipati* of the *Mahakuma Parishad*];

(*25*) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes, in relation to the State of West Bengal under article 341 of the Constitution of India;

(*26*) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of West Bengal under article 342 of the Constitution of India;

[4](*26A*) "State Election Commissioner" means the State Election Commissioner referred to in sub-section (*1*) of section 3 of the West Bengal State Election Commission Act, 1994;

West Ben. Act VIII of 1994.

[1]Clause (*20A*) was inserted by s. 3(*4*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words and figures within the square brackets were substituted for the words and figures "elected under section 143" by s. 2(*d*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[3]The words and figures within the square brackets were substituted for the words and figures "elected under section 143" by s. 2(*e*), *ibid.*

[4]Clause (*26A*) was added by s. 3(5) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1](*26B*) "State Government" means the State Government in the Department of Panchayats and Rural Development;

(*27*) "State Planning Board" means the West Bengal State Planning Board established by the State Government;

[2](*27A*) "Sub-divisional Officer" means an officer appointed as such by the State Government, and includes an Additional Sub-divisional Officer having jurisdiction;

(*28*) "suit" means a civil suit triable by a *Nyaya Panchayat*;

(*29*) "*Upa-Pradhan*" means an *Upa-Pradhan* of a *Gram Panchayat*, elected under section 9;

(*30*) "year" means the year beginning on the first day of April;

(*31*) "*Zilla Parishad*" means a *Zilla Parishad* of a district constituted under section 140.

PART II

GRAM PANCHAYAT

CHAPTER II

Constitution of *Gram Panchayat*

Gram.

3. (*1*) The State Government may, by notification, declare for the purposes of this Act any *mouza* or part of a *mouza* or group of contiguous *mouzas* or parts thereof to be a *Gram*:

[3]Provided that any group of *mouzas* or parts thereof, when they are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (*3*) of section 1 have not come into force, may also be declared to be a *Gram.*

(*2*) The notification under sub-section (*1*) shall specify the name of the *Gram* by which it shall be known and shall specify the local limits of such *Gram.*

(*3*) The State Government may, after making such enquiry as it may think fit and after consulting the views of the *Gram Panchayat* or *Panchayats* concerned, by notification—

(*a*) exclude from any *Gram* any area comprised therein; or

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[1]Clause (*26B*) was inserted by s. 2(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Clause (*27A*) was inserted by s. 3(*3*) of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[3]This proviso was inserted by s. 3(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[1](*b*) include in any *Gram* any area contiguous to such *Gram* or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (*3*) of section 1 have not come into force; or

(*c*) divide the area of a *Gram* so as to constitute two or more *Grams*; or

(*d*) unite the area of two or more *Grams* so as to constitute a single *Gram.*

Gram Panchayat and its constitution.

4. (*1*) For every *Gram* the State Government shall constitute a *Gram Panchayat* bearing the name of the *Gram.*

(*2*) Persons whose names are included in the electoral roll [2][prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election] pertaining to the area comprised in the *Gram*, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members [3][not being less than five] or [4][more than thirty] [5][as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine] [6]* * * * *:

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[1]Clause (*b*) was substituted by s. 3(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[2]The words "in force on last date of nominations for *Panchayat* election" were first substituted for the words "for the time being in force" by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Thereafter, the words within the square brackets were substituted for the words "of the West Bengal Legislative Assembly in force on last date of nominations for *Panchayat* election" by s. 4(*1*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The words within the square brackets were substituted for the words "not being less than seven" by s. 4(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[4]The words within the square brackets were substituted for the words "more than twenty-five" by s. 4(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[5]The words within the square brackets were substituted for the words "as may be determined by the prescribed authority in accordance with such rules as may be made in this behalf by the State Government" by s. 3(*a*) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978).

[6]The words ", and the members so elected shall be the members of the *Gram Panchayat*" were omitted by s. 3(*1*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[1]Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Gram Panchayat*, and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Gram Panchayat* to be filled up by election as the population of the Scheduled Castes in that *Gram* or of the Scheduled Tribes in that *Gram*, as the case may be, bears to the local population of that *Gram* and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Gram*, as the case may be, bears with the total population in that *Gram*:

[1]Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[1]Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a *Gram Panchayat* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

[1]Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section [2]* * * *, when the number of members to be elected to a *Gram Panchayat* is determined by the prescribed authority or when seats are reserved for the Scheduled Casts and the Scheduled Tribes in a *Gram Panchayat* in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

[1]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Gram Panchayat*, be disqualified for election to any seat not so reserved:

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[1]These provisos were inserted by s. 3(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]The words "or elsewhere in this Act" were omitted by s. 3(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[1]Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing [2][, by order, direct the prescribed authority to make fresh determination] of the number of members of a *Gram Panchayat* or fresh reservation on rotation of the number of seats in such *Gram Panchayat* and, on such order being issued by the State Election Commissioner, the determination of the number of members [3][or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for [4][the next] three successive general elections:

[1]Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

[5](*2A*) The *Gram Panchayat* shall consist of the following members:—

(i) members elected under sub-section (*2*);

(ii) members of the *Panchayat Samiti*, not being *Sabhapati* or *Sahakari Sabhapati*, elected thereto from the constituency comprising any part of the *Gram.*

(*3*) For the convenience of the election the prescribed authority shall, in accordance with such rules as may be made in this behalf by the State Government,—

(a) divide the area of a *Gram* into constituencies, [6]* * * on the basis of number of members of *Gram Panchayat* determined under sub-section (*2*);

(b) allocate to each such constituency seats, [7][not exceeding two], on the basis of electorate of the *Gram*:

[8]Provided that such division into constituencies and such allocation of seats shall be made in such manner that the ratio between the population of the *Gram* and the number of seats in the *Gram Panchayat* shall, so far as practicable, be the same in any *Gram Panchayat.*

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[1]These two provisos were inserted by s. 4(*1*)(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words within square brackets were substituted for the words "and by notification, order fresh determination" by s. 3(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]The words within square brackets were substituted for the words "and the reservation of the number of seats" by s. 4 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[4]The words within square brackets were inserted by s. 3(*b*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[5]Sub-section (*2A*) inserted by s. 3(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[6]The words "not being less than three or more than fourteen" were omitted by s. 4(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[7]The words within square brackets were substituted for the words "not exceeding three" by s. 4(*b*)(*ii*), *ibid.*

[8]The proviso was added by s. 4(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1]* * * * * * * *

(*4*) Every *Gram Panchayat* constituted under this section shall [2]* * * * * be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

(*5*) Every *Gram Panchayat* shall be a body corporate having perpetual succession and a common seal and shall, by its corporate name, sue and be sued.

Effect of alteration of the area of a *Gram*.

5. (*1*) When an area is excluded from a *Gram* under clause (*a*) of sub-section (*3*) of section 3, such area shall, as from the date of the notification referred to in that sub-section, cease to be subject to the jurisdiction of the *Gram Panchayat* of that *Gram* and, unless the State Government otherwise directs, to the rules, orders, directions and notifications in force therein.

(*2*) When an area is included in a *Gram* under clause (*b*) of sub-section (3) of section 3, the *Gram Panchayat* for that *Gram* shall, as from the date of the notification referred to in that sub-section, have jurisdiction over such area and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that *Gram* shall apply to the area so included.

[3](*3*) When the area of any *Gram* is divided under clause (*c*) of sub-section (*3*) of section 3 so as to constitute two or more *Grams*, there shall be reconstitution of the *Gram Panchayat* for the newly constituted *Grams* in accordance with the provisions of this Act, and the *Gram Panchayat* of the *Gram* so divided shall, as from the date of coming into office of the newly constituted *Gram Panchayats*, cease to exist.

[4](*4*) When the areas of two or more *Grams* are united under clause (*d*) of sub-section (*3*) of section 3 so as to constitute a single *Gram*, there shall be reconstitution of the *Gram Panchayat* for the newly constituted *Gram* in accordance with the provisions of this Act, and the *Gram Panchayats* of the *Grams* so united shall, as from the date of coming into office of the newly constituted *Gram Panchayat*, cease to exist.

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[1]Sub-section (*3A*) was first inserted by s. 3(*b*) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978) and thereafter it was omitted by s. 4(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[2]The words and figures ", notwithstanding anything contained in section 210" were first inserted by s. 3(*c*) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 4(*3*) of the West Bengal *Panchayat* (Amending) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Sub-section (*3*) was substituted by s. 5(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[4]Sub-section (*4*) was substituted by s. 5(*b*), *ibid.*

(*5*) When under sub-section (*3*) of section 3 any area is excluded from, or included in, a *Gram*, or a *Gram* is divided so as to constitute two or more *Grams*, or two or more *Grams* are united to constitute a single *Gram*, the properties, funds and liabilities of the *Gram Panchayat* or *Panchayats* affected by such reorganisation shall vest in such *Gram Panchayat* or *Panchayats*, and in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(*6*) An order made under sub-section (*5*) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

[1]*Explanation.*—For the purpose of reconstitution of the *Gram Panchayat* after division referred to in sub-section (*3*) or after unification referred to in sub-section (*4*),—

(*a*) it shall not be necessary to hold general election to the newly constituted *Gram Panchayat* or *Gram Panchayats* when the terms of office of the members of the former *Gram Panchayats* within the scope and meaning of sub-section (*1*) of section 7, do not expire; and

(*b*) such members having unexpired terms of office shall be declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, by notification in the *Official Gazette*, as members to the newly constituted *Gram Panchayat* that comprises the constituencies, wholly or in part, from which such members were elected to the former *Gram Panchayats* and any such member shall hold office in the newly constituted *Gram Panchayat* for the unexpired portion of the term of his office.

Effect of inclusion of a *Gram* or part thereof in Municipality, etc.

6. [2](*1*) If, at any time, the whole of the area of a *Gram* is included in a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a

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[1]This "*Explanation*" was added by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Sub-section (*1*) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004). Prior to this substitution there occur following changes in original sub-section (*1*):—

(i) the words "by notification under any law for the time being in force or in an area under the authority of" were substituted for the words, figures and letter ", or in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation," by s. 3(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995),

(ii) the words "within six months from the date of notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier," were inserted by s. 3(*b*), *ibid.*,

[*Foot-note 2 continued on page12.*]

Cantonment, the *Gram Panchayat* concerned shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayat* shall vest in and devolve on the Commissioners of the Municipality or on the Town Committee or on the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The employees of such *Gram Panchayat* shall be given an opportunity to exercise their option for joining the Municipality or the Town Committee or the Cantonment Authority as may be constituted over the area of the *Gram*, or any of the *Gram Panchayats* within the State where such vacancy exists, as may be prescribed by the State Government. On the basis of their option they shall be deemed to be employees of the Municipality or the Town Committee or the Cantonment Authority or any other *Gram Panchayat*, as the case may be, and their services shall be continuous.

[1][*(2)* If, at any time, a part of the area of a *Gram* is included in a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the area of the *Gram* shall be deemed to have been reduced to the extent of the part so included in such Municipality or under the authority of such Town Committee or Cantonment on expiry of six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which election to the newly constituted body from the area so included are completed, whichever

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[*Foot-note 2 continued from page 11.*]

(iii) the words "or the notified area authority or on the Municipal Corporation" were omitted by s. 3(*c*), *ibid.*,

(iv) the words "in accordance with the orders of the prescribed authority. The persons employed under such *Gram Panchayat* shall, with effect from the date of such inclusion, be deemed to be employed by the Municipality or the notified area authority or the Municipal Corporation or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they are entitled to immediately before such inclusion" were inserted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

(v) the words "with effect from the date on which the *Gram Panchayat* ceases to exist" were substituted for the words "with effect from the date of such inclusion," by s. 3(*d*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995),

(vi) the words "or the notified area authority or the Municipal Corporation" were omitted by s. 3(*e*), *ibid.*

[1]Sub-section (2) was substituted for the original by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

is earlier and the properties, funds and liabilities of the *Gram Panchayat* in respect of the part so included shall vest in and devolve on the Municipality, Town Committee or Cantonment Authority, as the case may be, in accordance with such allocations as may be determined by the prescribed authority and such determination shall be final and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in the area under the authority of the Municipality, Town Committee or Cantonment, as the case may be, shall apply to the part of the area of the *Gram* so included.

Constitution of *Gram Panchayat* comprising whole or part of area of Municipality.

[1]**6A.** (*1*) If the State Government is of opinion that the whole or any part of the area of a Municipality has changed its character and should constitute one or more *Gram Panchayats*, the State Government may, by notification, after previous publication of the draft of the notification in the *Official Gazette*,—

(*a*) include such area in an existing *Gram Panchayat* to be specified in the notification, or

(*b*) constitute one or more *Gram Panchayat* in such area:

Provided that the draft of the notification shall also be published in at least two local newspapers published from any place within the district in which the area of the Municipality is situated, inviting objections and suggestions within a period of two months from the date of such publication, and any objection or suggestion which may be received, shall be considered by such authority as may be appointed by the State Government in this behalf, within three months, from the date of such publication after giving the persons concerned an opportunity of being heard.

(*2*) Within six months from the date of publication of the notification under sub-section (*1*), elections shall be held to the *Gram Panchayat* from the area specified in the notification and, with effect from the date of completion of such elections, the area shall be deemed to be included in the *Gram Panchayat* so specified or so constituted, as the case may be, and the Municipality in the area so notified shall cease to exist:

Provided that if such area or any part thereof constitutes under any law for the time being in force one or more constituencies of a *Panchayat Samiti* or *Zilla Parishad* or of the *Mahakuma Parishad*, elections to that *Panchayat Samiti* or *Zilla Parishad* or to the *Mahakuma Parishad*, as the case may be, from such constituency or constituencies shall be held simultaneously with the elections to the *Gram Panchayat*:

[1]Section 6A was inserted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Provided further that if such area cannot constitute one or more constituencies of a *Panchayat Samiti* or *Zilla Parishad* or of the *Mahakuma Parishad*, the area shall be included in a contiguous constituency and no election shall be held from that constituency to the *Panchayat Samiti* or the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, during the unexpired term of the members of such body holding office at that time.

(*3*) With effect from the date on which the area as aforesaid is included in a *Gram Panchayat*,—

(*a*) the properties, funds and liabilities of the Municipality in respect of the area so included, shall vest in and develove on the *Gram Panchayat*, the *Panchayat Samiti*, and *Zilla Parishad* or the *Mahakuma Parishad* in accordance wih such allocation as may be determined by the prescribed authority, and

(*b*) the persons among those employed by the Municipality in respect of the area so included shall be deemed to be employed by the *Gram Panchayat*, the *Panchayat Samiti*, the *Zilla Parishad* or the *Mahakuma Parishad* in accordance with such allocation as may be determined by the prescribed authority.

Term of office of members of *Gram Panchayat.*

[1]**7.** (*1*) The members of a *Gram Panchayat* shall, subject to the provisions of sections 11 and 213A, hold office for a period of five years from the date appointed for its first meeting and no longer.

[2](*2*) There shall be held a general election for the constitution of a *Gram Panchayat* on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that *Gram Panchayat* following the preceding general elections.

[3]**7A.** [(*General election to* Gram Panchayat.)—*Omitted by s. 6 of the West Bengal* Panchayat (*Amendment*) *Act, 1994 (West Ben. Act XVIII of 1994)*].

Disqualifications of members of *Gram Panchayat.*

8. Subject to the provisions contained in sections 94 and 97, a person shall not be qualified to be a member of a *Gram Panchayat*, if—

(*a*) he is a member of [4]* * * any municipal authority constituted under any of the Acts referred to in sub-section (*2*) of section 1; or

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[1]Section 7 was substituted by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-section (2) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007). Prior to this substitution the proviso to original sub-section (2) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 2006 (West Ben. Act I of 2006).

[3]Section 7A was inserted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]The words "a *Nyaya Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad* or of" were omitted by s. 5(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[1](*b*) he is in the service of the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* [2][or a *Zilla Parishad* or the *Mahakuma Parishad* or the Council;] and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making-authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or

(*c*) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Gram Panchayat*, or the *Panchayat Samiti* of the Block comprising the *Gram* concerned, [3][or the *Zilla Parishad* of the district, or the *Mahakuma Parishad*, or the Council:]

Provided that no person shall be deemed to be disqualified for being elected a member of a *Gram Panchayat* by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956, which contracts with or is employed by the *Gram Panchayat or Panchayat Samiti* of the Block comprising the *Gram* [4][or the *Zilla Parishad* or the *Mahakuma Parishad* or the Council;] or

1 of 1956.

(*d*) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a corporation owned or controlled by the Central or a State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or

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[1]Clause (*b*) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1985 (West Ben. Act VI of 1985).

[2]The words within the square brackets were substituted for the words "or a *Zilla Parishad*;" by s. 3(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[3]The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district:" by s. 3(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[4]The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district;" by s. 3(*b*)(*ii*), *ibid.*

(*e*) he has been adjudged by a competent court to be of unsound mind; or

(*f*) he is an undischarged insolvent; or

(*g*) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

[1](*h*) [2](*i*) he has been convicted by a court—

(*A*) of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence, or

(*B*) of an offence under Chapter IXA of the Indian Penal Code, 1860, or — 45 of 1860.

(*C*) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, — West Ben. Act X of 1952.

and five years have not elapsed from the date of the expiration of the sentence:

Provided that such conviction by a lower court shall remain in operation unless an appellate court has stayed the operation of the order of the court, which has convicted the person; or

(*ii*) he is disqualified for the purpose of election to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or — 43 of 1951.

[3](*i*) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or

[3](*j*) he has been convicted under section 9A at any time during the last ten years; or

[4](*ja*) he has been removed from the office under clause (*h*) of sub-section (*1*) of section 11 at any time during the last six years; or

[3](*k*) he has been convicted under section 189 at any time during the last ten years; or

[3](*l*) he has been surcharged or charged under section 192 at any time during the last ten years; or

[3](*m*) he has been removed under section 213 at any time during the period of last five years.

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[1]Clause (*h*) was substituted for the original clause by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Sub-clause (i) was substituted by s. 4(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]Clauses (*i*) to (*m*) were inserted by s. 7(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]Clause (*ja*) was inserted by s. 4(2) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

Pradhan and *Upa-Pradhan.*

9. *(1)* Every *Gram Panchayat* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Pradhan* and another member to be the *Upa-Pradhan* of the *Gram Panchayat*:

[1]Provided that the members referred to in clause *(ii)* of sub-section *(2A)* of section 4 [2][shall neither participate in, nor be eligible for such election]:

[3]Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible [4][for election of the *Pradhan* unless] he declares in writing that on being elected, he shall be a wholetime functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:

[5][Provided also] that subject to such rules as may be made by the State Government in this behalf, the offices of the *Pradhan* and the *Upa-Pradhan* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

[5]Provided also that the offices of the *Pradhan* and the *Upa-Pradhan* in any *Gram Panchayat* having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the *Gram*, shall not be considered for allocation by rotation:

[5]Provided also that in the event of the number of *Grams* having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of the offices of the *Pradhan* and the *Upa-Pradhan* required for reservation

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[1]First proviso was added by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]The words within the square brackets were substituted for the words "shall not be eligible for such election" by s. 8*(1)*(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Second proviso was added by s. 7(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[4]The words within the square brackets were substituted for the words "for such election unless" by s. 2*(1)* of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

[5]Firstly, third (previous second proviso), fourth, fifth and ninth to thirteenth provisos were added by s. 8*(1)*(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the words within the square brackets in the third proviso were substituted for the words "Provided further" by s. 7(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the *Pradhan* and the *Upa-Pradhan* beginning from the *Gram* having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

[1]Provided also that in a district, determination of the offices of the *Pradhan* reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination of the offices of the *Upa-Pradhan:*

[1]Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Pradhan* in a *Gram Panchayat* is reserved for any category of persons in accordance with the rules in force, the office of the *Upa-Pradhan* in that *Gram Panchayat* shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the *Upa-Pradhan,* such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Upa-Pradhan* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

[1]Provided also that when in any term of election, an office of the *Upa-Pradhan* is not reserved on the ground that the corresponding office of the *pradhan* is reserved in the manner prescribed, such office of the *Upa-Pradhan* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

[2]Provided also that not less than one-third of the total number of the offices of the *Pradhan* and the *Upa-Pradhan* reserved for the Scheduled Castes and the Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[2]Provided also that not less than one-third of the total number of the offices of the *Pradhan* and the *Upa-Pradhan* in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

[2]Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first general elections to be held after the coming into force of section 8 of the West Bengal *Panchayat* (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

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[1]Sixth, seventh and eighth provisos were inserted by s. 5 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[2]*See* foot-note 5 on page 17, *ante.*

[1]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Pradhan* or the *Upa-Pradhan*, be disqualified for election to any office not so reserved:

[1]Provided also that the provisions for reservation of the offices of the *Pradhan* and the *Upa-Pradhan* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

(*2*) The meeting to be held under sub-section (*1*) shall be convened by the prescribed authority in the prescribed manner.

(*3*) The *Pradhan* and the *Upa-Pradhan* shall, subject to the provisions of section 12 and to their continuing as members, hold office for a period of [2][five years].

[3]* * * * * * * *

(*4*) When—

(*a*) the office of the *Pradhan* falls vacant by reason of death, resignation, removal or otherwise, or

(*b*) the *Pradhan* is, by reason of leave, illness or other cause, temporarily unable to act,

the *Upa-Pradhan* shall exercise the powers, perform the functions and discharge the duties of the *Pradhan* until a new *Pradhan* is elected and assumes office or until the *Pradhan* resumes his duties, as the case may be.

(*5*) When—

(*a*) the office of the *Upa-Pradhan* falls vacant by reason of death, resignation, removal or otherwise, or

(*b*) the *Upa-Pradhan* is, by reason of leave, illness or other cause, temporarily unable to act,

the *Pradhan* shall exercise the powers, perform the functions and discharge the duties of the *Upa-Pradhan* until a new *Upa-Pradhan* is elected and assumes office or until the *Upa-Pradhan* resumes his duties, as the case may be.

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[1]*See* foot-note 5 on page 17, *ante.*

[2]The words within the square brackets were substituted for the words "four years" by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

[3]Proviso to sub-section (*3*) was omitted by s. 8(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(6) When the offices of the *Pradhan* and the *Upa-Pradhan* are both vacant, or the *Pradhan* and the *Upa-Pradhan* are temporarily unable to act, the prescribed authority may appoint [1][for a period of thirty days at a time] a *Pradhan* and an *Upa-Pradhan* from among the members of the *Gram Panchayat* to act as such until a *Pradhan* or an *Upa-Pradhan* is elected and assumes office [2][or until the *Pradhan* or the *Upa-Pradhan* resumes duties, as the case may be].

(*7*) The *Pradhan* and the *Upa-Pradhan* of a *Gram Panchayat* shall be entitled to leave of absence for such period or periods as may be prescribed.

[3](*8*) On election of the *Pradhan* following a general election or the office of the *Pradhan* otherwise falling vacant, the *Pradhan* holding office for the time being or the *Upa-Pradhan* or any authority or any other member exercising the powers, performing the functions and discharging the duties of the *Pradhan* shall make over all case, assets, documents, registers and seals which he may have in his possession, custody or control as soon thereafter as possible on such date, place and hour as may be fixed by the Block Development Officer to the newly elected *Pradhan,* or, in the case of a vacancy occurring otherwise, to the *Upa-Pradhan* or to the authority or person, as the case may be referred to in the proviso to sub-section (*2*) of section 7 or sub-section (*6*) of this section or clause (*b*) of sub-section (*1*) of section 215 [4][or section 216] in the presence of the Block Development Officer or any other officer authorised in writing by him in this behalf.

[5](*9*) On the alteration of the area of a *Gram* under sub-section (*3*) of section 3 or sub-section (*2*) of section 6 or inclusion of a *Gram* in a municipality or a notified area or a Municipal Corporation or a Town Committee or a Cantonment under sub-section (*1*) of section 6, and the effect of such alteration or inclusion, as the case may be, coming into force, the *Pradhan* or the *Upa-Pradhan* or any other authority or any other person exercising the powers, performing the functions and discharging the duties of the *Pradhan* immediately before such alteration or inclusion of the area of the *Gram* concerned shall make over the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayat* in compliance with the order of the prescribed authority under sub-section (*5*) of section 5 and sub-sections (*1*) and (*2*) of section 6.

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[1]The words within the square brackets were inserted by s. 8(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words within the square brackets were inserted by s. 6(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Sub-section (*8*) was inserted by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

[4]The words within the square brackets were inserted by s. 6(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]Sub-section (*9*) was inserted by s. 6(*c*), *ibid.*

[1](*10*) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, [2][remove a *Pradhan* from his office] if, in its opinion he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

Penalty for default.

[3]**9A.** If a *Pradhan* or an *Upa-Pradhan* or an authority or a person referred to in sub-section (*8*) [4][and sub-section (*9*)] of section 9 fails to comply with the provisions of that sub-section, he shall be punishable with imprisonment for a term which may extend to three years or liable to pay fine not exceeding two thousand rupees or both and the offence shall be cognizable:

Provided that without prejudice to the foregoing penal provisions such default shall also be construed as a misconduct for which he may be debarred from standing as a candidate in any election in any capacity under this Act for such term as may be determined by the prescribed authority after giving the person concerned an opportunity of being heard and any order debarring him shall be in writing stating the reasons therefor and shall also be published in the *Official Gazette.*

Resignation of *Pradhan* or *Upa-Pradhan* or member.

[5]**10.** (*1*) (*a*) The *Pradhan* of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so to the *Upa-Pradhan.*

(*b*) An *Upa-Pradhan* or a member of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so to the *Pradhan.*

(*2*) The *Gram Panchayat* shall, on receipt of the letter of resignation under sub-section (*1*), forward a copy of it to the prescribed authority for information.

(*3*) On receipt of a letter of resignation under sub-section (*1*),—

(*a*) in case of resignation of the *Pradhan*, the *Upa-Pradhan* shall place it in the next meeting of the *Gram Panchayat* for acceptance;

(*b*) in case of resignation of the *Upa-Pradhan*, the *Pradhan* shall place it in the next meeting of the *Gram Panchayat* for acceptance;

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[1]Sub-section (*10*) was inserted by s. 7(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]The words within the square brackets were substituted for the words "remove a *Pradhan* or an *Upa-Pradhan*" by s. 2(2) of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

[3]Section 9A was inserted by s. 4 of the West Bengal *Panchayat* (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

[4]The words, figure and brackets within the square brackets were inserted by s. 7 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]Section 10 was substituted by s. 5 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*c*) in case of resignation of the member, the *Pradhan* shall place it in the next meeting of the *Artha O Parikalpana Upa-Samiti* for acceptance.

(*4*) On acceptance of a resignation in terms of sub-section (*3*), the *Pradhan*, the *Upa-Pradhan* or the member, as the case may be, shall be deemed to have vacated his office:

Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of the *Gram Panchayat.*

(*5*) When a resignation is accepted under sub-section (*3*), the *Gram Panchayat* shall immediately communicate it to the prescribed authority, who shall take appropriate action to fill up the vacancy,—

(*a*) in case such vacancy is in the office of *Pradhan* or *Upa-Pradhan*, in accordance with the provisions of section 13;

(*b*) in case such vacancy is in the office of a member of the *Gram Panchayat*, in accordance with the provisions of section 14.

Removal of member of *Gram Panchayat.*

11. (*1*) The prescribed authority may, after giving an opportunity to a member of a *Gram Panchayat* to show cause against the action proposed to be taken against him, by order remove him from office—

[1](*a*) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence;

(*b*) if he was disqualified to be a member of the *Gram Panchayat* at the time of his election; or

(*c*) if he incurs any of the disqualifications mentioned in clauses (*b*) to (*g*) of section 8 after his election as a member of the *Gram Panchayat*; or

(*d*) if he is absent from three consecutive meetings of the *Gram Panchayat* without the leave of the *Gram Panchayat*; or

(*e*) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act, or the Bengal Village Self-Government Act, 1919, or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.

Ben. Act V of 1919. West Ben. Act I of 1957. West Ben. Act XXXV of 1963.

[2](*f*) if he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or

[2](*g*) if at the time of his election he was not a citizen of India and his name has since been deleted on that ground from the electoral roll in force pertaining to the area comprised in that *Gram Panchayat*, by the Electoral Registration Officer; or

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[1]Clause (*a*) was substituted by s. 6(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[2]Clauses (*f*), (*g*) and (*h*) were inserted by s. 6(*2*), *ibid.*

[1](*h*) if at the time of his election he was not a member of any of the Scheduled Castes or the Scheduled Tribes and the Scheduled Caste or the Scheduled Tribe certificate produced by him at the time of nomination has since been cancelled by the competent authority:

[2]Provided that without prejudice to the action taken under clause (*g*) or clause (*h*), the person concerned may also be proceeded against in accordance with the provisions of the Indian Penal Code, 1860.

45 of 1860.

(*2*) Any member of a *Gram Panchayat* who is removed from his office by the prescribed authority under sub-section (*1*) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(*3*) The order passed by such authority on such appeal shall be final.

Removal of *Pradhan* and *Upa-Pradhan.*

12. [3](*1*) [4][Subject to the other provisions of this section, a *Pradhan* or an *Upa-Pradhan*] of a *Gram Panchayat* may, at any time, be removed from office [5][by a resolution carried by the majority of the existing members referred to in clause (*i*) of sub-section (2A) of section 4] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of the *Pradhan* from his office is under consideration, the *Pradhan,* or while any resolution for the removal of the *Upa-Pradhan* from his office is under consideration, the *Upa-Pradhan*, shall not, though he is present, preside, and the provisions of sub-section (2) of section 16 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Pradhan* or, as the case may be, the *Upa-Pradhan* is absent:

[6]Provided further that no meeting for the removal of the *Pradhan* or the *Upa-Pradhan* under this section shall be convened within a period of one year from the date of election of the *Pradhan* or the *Upa-Pradhan*:

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[1]*See* foot-note 2 on page 22, *ante.*

[2]Proviso was inserted by s. 6(*3*), *ibid.*

[3]Section 12 was renumbered as sub-section (*1*) of that section and sub-section (2) was inserted by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

[4]The words within the square brackets were substituted for the words "A *Pradhan* or an *Upa-Padhan*" by s. 9(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[5]The words, figures, letters and brackets were substituted for the words "by a resolution of the *Gram Panchayat* carried by the majority of the existing members of the *Gram Panchayat*" by s. 9(*b*), *ibid.*

[6]Second and third provisos to section 12 was first inserted by s. 9(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the third proviso was substituted by s.5 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[1]Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

[2](2) The *Pradhan* or the *Upa-Pradhan*, who is removed from his office in terms of a resolution carried under sub-section (*1*), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.

Filling of casual vacancy in the office of *Pradhan* or *Upa-Pradhan.*

13. In the event of removal of a *Pradhan* or an *Upa-Pradhan* under section 12 or when a vacancy occurs in the office of a *Pradhan* or an *Upa-Pradhan* by resignation, death or otherwise, the *Gram Panchayat* shall elect another *Pradhan* or *Upa-Pradhan* in the prescribed manner.

Filling of casual vacancy in place of a member of *Gram Panchayat.*

14. If the office of a member of a *Gram Panchayat* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner by election of another person under this Act.

Term of office of *Pradhan, Upa-Pradhan* or member filling casual vacancy.

15. Every *Pradhan* or *Upa-Pradhan* elected under section 13 and every member elected under section 14 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Meetings of *Gram Panchayat.*

16. (*1*) Every *Gram Panchayat* shall hold a meeting at least once in a month [3][in the office of the *Gram Panchayat.* Such meeting shall be held on such date and at such hour as the *Gram Panchayat* may fix at the immediately preceding meeting]:

Provided that the first meeting of a newly constituted *Gram Panchayat* shall be held [4][on such date and at such hour and] at such place within the local limits of the *Gram* concerned as the prescribed authority may fix:

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[1]*See* foot-note 6 on page 23, *ante.*

[2]*See* foot-note 3 on page 23, *ante.*

[3]The words within the square brackets were substituted for the words "at such time and at such place within the local limits of the *Gram* concerned as the *Gram Panchayat* may fix at the immediately preceding meeting" by s. 8(*1*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]The words within the square brackets were inserted by s. 8(*1*)(*ii*), *ibid.*

Provided further that the *Pradhan* when required in writing by [1][one-third] or the members of the *Gram Panchayat* subject to a minimum of [2][three members] to call meeting [3][shall do so fixing the date and hour of the meeting [4](to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Gram Panchayat,*] failing which the members aforesaid may call a meeting [5][to be held] [6][within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the *Pradhan* and other members of the *Gram Panchayat.* Such meeting shall be held [7][in the office of the *Gram Panchayat* on such date and at such hour] as the members calling the meeting may decide. [8][The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deemed fit]:

[9]Provided also that for the purpose of convening a meeting under section 12, at least one-third of the members referred to in clause (*i*) of sub-section (2*A*) of section 4, subject to a minimum of three members, shall require the *Pradhan* to convene the meeting:

[10]Provided also that if the *Gram Panchayat* does not fix at any meeting the date and the hour of the next meeting or if any meeting of the *Gram Panchayat* is not held on the date and the hour fixed at the immediately preceding meeting, the *Pradhan* shall call a meeting of the *Gram Panchayat* on such date and at such hour as he thinks fit.

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[1]The words within the square brackets were substituted for the words "one-fifth" by s. 8(*1*)(*iii*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were substituted for the words "four members" by s. 8(*1*)(*iii*)(*b*), *ibid.*

[3]The words within the square brackets were substituted for the words "shall do so within seven days," by s. 8(*1*)(*iii*)(*c*), *ibid.*

[4]The words within the first brackets were inserted by s. 8(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[5]The words within the square brackets were inserted by s. 8(*b*), *ibid.*

[6]The words within the square brackets were inserted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[7]The words within the square brackets were substituted for the words "at such time and at such place within the local limits of the *Gram* concerned" by s. 8(*1*)(*iii*)(*d*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[8]The words within the square brackets were inserted by s. 8(*1*)(*iii*)(*e*), *ibid.*

[9]This proviso was inserted by s. 6(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[10]This proviso was inserted by s. 8(*1*)(*iv*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(*2*) The *Pradhan* or in his absence the *Upa-Pradhan* shall preside at the meeting of the *Gram Panchayat*; and in the absence of both [1][or on the refusal of any or both to preside at a meeting,] the members present shall elect one of them to be the President of the meeting.

(*3*) [2][One-third] of the total number of members subject to a minimum of [3][three] members shall form a quorum for a meeting of a *Gram Panchayat*:

Provided that no quorum shall be necessary for a adjourned meeting.

(*4*) All questions coming before a *Gram Panchayat* shall be decided by a majority of votes:

Provided that in case of equality of votes the person presiding shall have a second or casting vote:

[4]Provided further that in case of a requisitioned meeting for the removal of a *Pradhan* or an *Upa-Pradhan* under section 12, the person presiding shall have no second or casting vote.

[5][Meetings of the *Gram Sansad.*]

[6]**16A.** (*1*) Every constituency of a *Gram Panchayat* under clause (*a*) of sub-section (*3*) of section 4 shall have a [7][*Gram Sansad*] consisting of persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in such constituency of the *Gram Panchayat*.

(*2*) Every *Gram Panchayat* shall hold within the [8][local limits of the *Gram Sansad*] an annual and a half-yearly meeting for each [7][*Gram Sansad*] at such place, on such date and at such hour as may be fixed by the *Gram Panchayat*:

Provided that the annual meeting of the [7][*Gram Sansad*] shall be held ordinarily in the month of May and the half-yearly meeting of the [7][*Gram Sansad*] shall be held ordinarily in the month of November every year:

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[1]The words within the square brackets were inserted by s. 6(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[2]The word within the square brackets was substituted for the word "one-fourth" by s. 8(2)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]This word within the square brackets was substituted for the word "four" by s. 8(2)(*b*), *ibid.*

[4]This proviso was inserted by s. 8(*3*), *ibid.*

[5]Marginal note to section 16A was substituted by s. 9(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1977 (West Ben. Act XV of 1977).

[6]Section 16A was substituted for the previous section 16A, as inserted by s. 9 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), by s. 7 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[7]The words within the square brackets were substituted for the words *"Gram Sabha"* by s. 10(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[8]The words within the square brackets were substituted for the words "local limits of the *Gram"* by s. 4 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[1][Provided further that a *Gram Panchayat* may, in addition to the annual and the half-yearly meeting, hold extraordinary meeting of a *Gram Sansad* at any time if the situation so warrants or if the State Government, by order, so directs and for the purpose of holding such extraordinary meeting, provisions of this section shall apply.

(*3*) The *Gram Panchayat* shall, at least seven days before the date of holding the meetings referred to in sub-section (*2*), give public notice of such meetings by beat of drums as widely as possible, announcing the agenda, place, date and hour of the meeting. A notice of such meeting shall also be hung up in the office of the *Gram Panchayat.*

(*4*) Every meeting of the [2][*Gram Sansad*] shall be presided over by the *Pradhan* and, in his absence, by the *Upa-Pradhan* and in the absence of both, the member or one of the members, as the case may be, elected from the constituency comprising the [2][*Gram Sansad*] or, in the absence of such member or members, any other member of the *Gram Panchayat* shall preside over the meeting:

Provided that when two members are elected from the constituency, the member senior in age shall have priority in presiding over the meeting:

[3]Provided further that every member elected from the constituency shall attend each meeting of the *Gram Sansad.*

[4](*4A*) One-tenth of the total number of members shall form a quorum for a meeting of a *Gram Sansad*:

[5]Provided that if there is no quorum available in such meeting, the meeting shall be adjourned to be held at the same place and hour on the seventh day after the date of such meeting in the manner as may be prescribed.

(*5*) The attendance of the members of the [2][*Gram Sansad*] in the annual and the half-yearly meeting and the proceedings of such meetings shall be recorded by such officer or employee of the *Gram Panchayat*, or, in the absence of the officers and employees of the *Gram Panchayat*, by such member of the *Gram Panchayat* as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the presiding member shall then sign it.

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[1]This proviso was added by s. 9(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]*See* foot-note 7 on page 26, *ante.*

[3]This proviso was inserted by s. 9(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[4]Sub-section (*4A*) was inserted by s. 10(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[5]The proviso was substituted for the original proviso by s. 2(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[1](6) A *Gram Sansad* shall guide and advise the *Gram Panchayat* in regard to the schemes for economic development and social justice undertaken or proposed to be undertaken in its area [2][and for the aforesaid purpose, the outlines of such perspective plan and annual plan as adopted by the *Gram Sansad* for its area shall be the basis of *Gram Panchayat* plan] and may, without prejudice to the generality of such guidance and advice,—

[3](*a*) identify, or lay down principles for identification of the schemes which are required to be taken on priority basis for economic development of the village, when such identification shall be binding under sub-section (3) of section 19 upon the *Gram Panchayat*,

[4](*b*) identify, or lay down principles for identification of the beneficiaries for various poverty alleviation programmes, when such identification shall be binding under sub-section (3) of section 19 upon the *Gram Panchayat*,

[5](*c*) constitute a *Gram Unnayan Samiti* with such number of functional committees as may be required, in such manner as may be prescribed, having jurisdiction over the area of the *Gram Sansad* for ensuring active participation of the people in implementation, maintenance and equitable distribution of benefits with respect to such subjects, as may be prescribed:

Provided that the *Gram Unnayan Samiti* shall be accountable for its functions and decisions, to the *Gram Sansad* and the *Gram Sansad* shall exercise its power and authority in this behalf in such manner, as may be prescribed,

(*d*) mobilise mass participation for community welfare programmes and programmes for adult education, family welfare and child welfare,

(*e*) promote solidarity and harmony among all sections of the people irrespective of religion, faith, caste, creed or race,

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[1]Sub-section (*6*) was inserted by s. 10(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words within the square brackets were inserted by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

[3]Clause (*a*) was substituted for original clause by s. 7(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[4]Clause (*b*) was substituted for original clause by s. 7(*2*), *ibid.*

[5]Clause (*c*) was substituted for the original clause by s. 2(*2*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(*f*) record its objection to any action of the *Pradhan* or any other member of the *Gram Panchayat* for failure to implement any development scheme properly or without active participation of the people of that area.

Public meetings of the *Gram Sabha.*

[1]**16B.** (*1*) Every *Gram* shall have a *Gram Sabha* consisting of persons registered in the electoral roll pertaining to the area of the *Gram.*

(*2*) Every *Gram Panchayat* shall hold within the local limits of the *Gram* an annual meeting, ordinarily in the month of December every year, of the *Gram Sabha* after completion of the half-yearly meeting of the *Gram Sansads.*

(*3*) One-twentieth of the total number of members shall form a quorum for a meeting of a *Gram Sabha*:

Provided that no quorum shall be necessary for an adjourned meeting which shall be held at the same time and place after seven days.

(*4*) The *Gram Panchayat* shall, at least seven days before the date of holding the meeting referred to in sub-section (2), give public notice of such meetings by beat of drums as widely as possible, announcing the agenda, place, date and hour of the meeting. A notice of such meeting shall also be hung up in the office of the *Gram Panchayat.* Similar publicity shall also be given in the case of an adjourned meeting.

(*5*) A meeting of the *Gram Sabha* shall be presided over by the *Pradhan* of the concerned *Gram Panchayat* or, in his absence, by the *Upa-Pradhan.*

(*6*) All questions coming before a *Gram Sabha* shall be discussed and points raised there shall be referred to the *Gram Panchayat* for its consideration.

(*7*) The *Gram Sabha* shall deliberate upon, recommend for, and adopt resolution on, any matter referred to in sub-section (*6*) of section 16A and section 17A.

[2]* * * * * * * *

(*8*) The *Gram Panchayat* shall, on considering and collating the resolutions of the *Gram Sansads*, place before the *Gram Sabha* the resolutions of the *Gram Sansads* and the views of the *Gram Panchayat* together with its report on the actions taken and proposed to be taken on them for deliberation and recommendation by the *Gram Sabha.*

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[1]Section 16B was inserted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Proviso to sub-section (*7*) was first added by s. 10 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997). Thereafter, the same was omitted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

(*9*) The proceedings of the meetings of the *Gram Sabha* shall be recorded by such officer or employee of the *Gram Panchayat* or, in the absence of officers and employees of the *Gram Panchayat*, by such member of the *Gram Panchayat* as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the presiding member shall then sign the proceedings.

List of business to be transacted at a meeting.

17. A list of the business to be transacted at every meeting of a *Gram Panchayat* except at an adjourned meeting shall be sent to each member of the *Gram Panchayat* in the manner prescribed at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business of which notice has been so given, except with the approval of the majority of the members present at such meeting:

Provided that if the *Pradhan* thinks that a situation has arisen for which an emergent meeting of the *Gram Panchayat* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

[1][Transaction of business at *Gram Sansad* meeting.]

[2]**17A.** (*1*) The *Gram Panchayat* shall place for [3][deliberation, recommendation and suggestion]—

(*a*) in the annual [4][meeting of the [5](*Gram Sansad*)]—

(*i*) [6][the supplementary budget of the *Gram Panchayat* for the preceding year,] and

(*ii*) the report prepared under section 18 [7]* * * *;

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[1]Marginal note to section 17A was substituted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Section 17A was inserted by s. 10 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]The words within the square brackets were substituted for the words "general information" by s. 8(*1*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]The words "meeting of the *Gram Sabha*" were substituted for the words "public meeting" by s. 8(*1*)(*ii*)(*a*), *ibid.*

[5]The words within the first brackets were substituted for the words "*Gram Sabha*" by s. 12(*1*)(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[6]The words within the square brackets were substituted for the words "the budget of the *Gram Panchayat*," by s. 7(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[7]The words "and such report shall be deemed to be modified to the extent of the recommendations and suggestions, if any, of the *Gram Sabhas* of the *Gram*" were added by s. 8(*1*)(*ii*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, those words were omitted by s. 12(*1*)(*a*)(*iii*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1](*b*) in the half-yearly meeting of the [2][*Gram Sansad*]—

(*i*) the budget of the *Gram Panchayat* for the following year, and

(*ii*) the latest report on the audit of the accounts of the *Gram Panchayat.*

(2) Such other business relating to the affairs of the *Gram Panchayat* may also be transacted at such annual or half-yearly [3][meeting of the [4](*Gram Sansad*)] as may be agreed upon by the persons present at such meeting.

[5](*3*) Every resolution adopted in a meeting of a [6][*Gram Sansad*] shall be duly considered by the *Gram Panchayat* in its meeting and the decisions and actions taken by the *Gram Panchayat* shall form part of the report under section 18 for the following year.

[5](*4*) Any omission to act under clause (*a*) or clause (*b*) of sub-section (*1*) or under sub-section (*3*), shall be deemed to be an act of inpropriety and irregularity within the scope and meaning of clause (*b*) of sub-section (2) of section 190.

[7](*5*) Any omission to act under section 16A or section 16B or under clause (*a*) or clause (*b*) of sub-section (*1*), or sub-section (*3*), of this section shall be deemed to be a wilful omission or refusal to carry out the provisions of this Act within the scope and meaning of section 213 or incompetence to perform, or persistent default in the performance of, the duties under this Act within the scope and meaning of section 214, as the case may be.

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[1]Clause (*b*) was substituted for the original clause by s. 7(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[2]The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 12(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The words "meeting of the *Gram Sabha*" were substituted for the words "public meeting" by s. 8(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 12(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[5]Sub-sections (*3*) and (*4*) were inserted by s. 8(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[6]The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 12(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[7]This sub-section was added by s. 12(*4*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Report on the work of *Gram Panchayat.*

18. [1](*1*) The *Gram Panchayat* shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the *Panchayat Samiti* concerned within the prescribed time.

[1](*2*) The *Gram Panchayat* shall, in October and April every year, prepare a half-yearly report showing the amount received by the *Gram Panchayat* during the previous half-year from different sources including the opening balance and the amount actually spent on different items of work and a list of beneficiaries.

[1](*3*) The *Gram Panchayat* shall, immediately after the preparation of the report and the list referred to in sub-section (*2*), publish the same in the office of the *Gram Panchayat* for information of the general public.

[2](*4*) The *Gram Panchayat* shall, as soon as may be after the preparation of the report under sub-section (*1*) and the report and the list under sub-section (*2*), place the same in the meetings of the *Gram Sansads* and the *Gram Sabha* for discussion and adoption with modifications, if any, and shall furnish copies of the report under sub-section (*1*) as so modified to the prescribed authority referred to in sub-section (*1*) and the *Panchayat Samiti* ordinarily by the middle of January every year.

CHAPTER III

Powers and duties of *Gram Panchayat*

Obligatory duties of *Gram Panchayat.*

[3]19. (*1*) A *Gram Panchayat* shall function as a unit of self-government for achieving the goal of human development including social and

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[1]Section 18 was renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so renumbered, sub-sections (*2*) and (*3*) were added by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]This sub-section was added by s. 13 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Sections 19, 20 and 21 were substituted for former sections by ss. 8, 9 and 10, respectively, of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006). But these substituted (new) sections did not come into force on the

[*Foot-note 3 continued at page 33.*]

economic development and securing social justice for all, and shall, subject to such conditions as may be prescribed or such directions

[*Foot-note 3 continued from page 32.*]

date of publication of this modified reprinted Act in view of notification No. 2328/PN/O/I/1A-8/05(Pt-I), dated the 29th May, 2007 of the Deptt. of Panchayats and Rural Development, Govt. of West Bengal which runs thus:

"GOVERNMENT OF WEST BENGAL
DEPARTMENT OF PANCHAYATS & RURAL DEVELOPMENT
Jessop Building (1st floor), 63, Netaji Subhas Road,
Kolkata-700 001

No. 2328/PN/O/I/1A-8/05(Pt-I) Kolkata, the 29th May, 2007.

NOTIFICATION

In exercise of the power conferred by sub-section (2) of section 1 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006), the Governor is pleased hereby to appoint the 4th day of June, 2007 as the date on which the provisions of the said Act, except the provisions of sections 8, 9, 10 and 11 shall come into force throughout the State of West Bengal.

By order of the Governor,
M. N. ROY,
Principal Secy. to the Govt. of West Bengal."

Prior to these substitutions, former sections 19, 20 and 21, which were effective on the date of publication of this modified reprinted Act, run as follows:

Obligatory duties of *Gram Panchayat.*

"**19.** (*1*) A *Gram Panchayat* shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, and shall, subject to such conditions as may be prescribed or such directions as may be given by the State Government,—

(*a*) prepare a development plan for the five-year term of the office of the members and revise and update it as and when necessary with regard to the resources available;

(*b*) prepare an annual plan for each year by the month of October of the preceding year for development of human resources, infra-structure and civic amenities in the area;

(*c*) implement schemes for economic development and social justice as may be drawn up by, or entrusted upon it.

(2) Without prejudice to the generality of the provisions of sub-section (*1*) and subject to such conditions as may be prescribed or such directions as may be given by the State Government, the duties of a *Gram Panchayat* shall be to provide within the area under its jurisdiction for—

(*a*) sanitation, conservancy and drainage and the prevention of public nuisances;

(*b*) curative and preventive measures in respect of malaria, small pox, cholera or any other epidemic;

(*c*) supply of drinking water and the cleansing and disinfecting the sources of supply and storage of water;

(*d*) the maintenance, repair and construction of public streets and protection thereof;

(*e*) the removal of encroachments of public streets or public places;

(*f*) the protection and repair of buildings or other property vested in it;

(*g*) the management and care of public tanks, subject to the provisions of the Bengal Tanks Improvement Act, 1939, common grazing grounds, burning ghats and public graveyards;

Ben. Act XV of 1939.

[*Foot-note 3 continued at page 34.*]

as may be given by the State Government—

(*a*) prepare a development plan for the five-year term of the

[*Foot-note 3 continued from page 33.*]

(*h*) the supply of any local information which the District Magistrate, the *Zilla Parishad*, the *Mahakuma Parishad*, the Council or the *Panchayat Samiti* within the local limits of whose jurisdiction the *Gram Panchayat* is situated may require;

(*i*) organising voluntary labour for community works and works for the upliftment of its area;

(*j*) the control and administration of the *Gram Panchayat* Fund established under this Act;

(*k*) the imposition, assessment and collection of the taxes, rates or fees leviable under this Act;

(*l*) * * * * * * *;

(*m*) the constitution and administration of the *Nyaya Panchayat* established under this Act; and

(*n*) the performance of such functions as may be transferred to it under section 31 of the Cattle-trespass Act, 1871. 1 of 1871.

(3) A *Gram Panchayat* shall not omit or refuse to act upon any recommendations of a *Gram Sansad* relating to prioritization of any list of beneficiaries or scheme or programme so far as it relates to the area of the *Gram Sansad* unless it decides in a meeting for reasons to be recorded in writing that such recommendation or recommendations are not acceptable or implementable under the provisions of the Act or any rule, order or direction thereunder; such decision of the *Gram Panchayat* shall be placed in the next meeting of the *Gram Sansad.*

Other duties of *Gram Panchayat.*

20. (1) A *Gram Panchayat* shall also perform such other functions as the State Government may assign to it in respect of—

(*a*) primary, social, technical, vocational, adult or non-formal education;

(*b*) rural dispensaries, health centres and maternity and child welfare centres;

(*c*) management of any public ferry under the Bengal Ferries Act, 1885; Ben. Act I of 1885.

(*d*) irrigation including minor irrigation, water management and watershed development;

(*e*) agriculture including agricultural extension and fuel and fodder;

(*f*) care of the infirm and the destitute;

(*g*) rehabilitation of displaced persons;

(*h*) improved breeding of cattle, medical treatment of cattle and prevention of cattle disease;

(*i*) its acting as a channel through which Government assistance should reach the villages;

(*j*) bringing waste land under cultivation through land improvement and soil conservation;

(*k*) promotion of village plantations, social forestry and farm forestry;

(*l*) arranging for cultivation of land lying fallow;

(*m*) arranging for co-operative management of land and other resources of the village;

(*n*) assisting in the implementation of land reform measure in its area;

(*o*) implementation of such schemes as may be formulated or performance of such acts as may be entrusted to the *Gram Panchayat* by the State Government;

(*p*) field publicity on matters connected with development works and other welfare measures undertaken by the State Government;

[*Foot-note 3 continued at page 35.*]

office of the members and revise and update it as and when necessary with regard to the resources available;

[*Foot-note 3 continued from page 34.*]

(*q*) minor forest produce;

(*r*) rural housing programme;

(*s*) rural electrification including distribution of electricity;

(*t*) non-conventional energy sources; and

(*u*) women and child development.

(2) If the State Government is of opinion that a *Gram Panchayat* has persistently made default in the performance of any of the functions assigned to it under sub-section (1), the State Government may, after recording its reasons, withdraw such function from such *Gram Panchayat.*

Discretionary duties of *Gram Panchayat.*

21. Subject to such conditions as may be prescribed, a *Gram Panchayat* may, and shall if the State Government so directs, make provision for—

(*a*) the maintenance of lighting of public streets;

(*b*) planting and maintaining trees on the sides of public streets or in other public places vested in it;

(*c*) the sinking of wells and excavation of ponds and tanks;

(*d*) the introduction and promotion of co-operative farming, co-operative stores, and other co-operative enterprises, trades and callings;

(*e*) the construction and regulation of markets, the holding and regulation of fairs, *melas* and *hats* and exhibitions of local produce and products of local handicrafts and home industries;

(*f*) the allotment of places for storing manure;

(*g*) assisting and advising agriculturists in the matter of obtaining State loan and its distribution and repayment;

(*h*) filling up of insanitary depressions and reclaiming of unhealthy localities;

(*i*) the promotion and encouragement of cottage, *Khadi*, village and small-scale including food processing industries;

(*i1*) promotion of dairying and poultry;

(*i2*) promotion of fishery;

(*i3*) poverty alleviation programme;

(*j*) the destruction of rabbit or ownerless dogs;

(*k*) regulating the production and disposal of foodstuffs and other commodities in the manner prescribed;

(*l*) the construction and maintenance of *sarais*, *dharmasalas*, rest houses, cattle sheds and cart stands;

(*m*) the disposal of unclaimed cattle;

(*n*) the disposal of unclaimed cropses and carcasses;

(*o*) the establishment and maintenance of libraries and reading rooms;

(*p*) the organisation and maintenance of *akharas*, clubs and other places for recreation or games;

(*p1*) cultural activities including sports and games;

(*p2*) social welfare including welfare of the handicapped and mentally retarded;

(*p3*) welfare of socially and educationally backward classes of citizens and, in particular, of the Scheduled Castes and the Scheduled Tribes;

(*p4*) public distribution system;

(*p5*) maintenance of community assets;

[*Foot-note 3 continued at page 36.*]

(*b*) prepare an annual plan based on *Gram Sansad* plans for each year by the month of October of the preceding year for the words proposed to be done during the following year in furtherance of its objectives;

(*c*) implement schemes as may be drawn up in the annual plan by the *Gram Panchayat*, or as may be entrusted upon or transferred to or devolved upon it.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), a *Gram Panchayat* shall have duties to undertake schemes or adopt measures within the area under its jurisdiction relating to—

(*a*) promotive and preventive health care, reproductive and child health care, improvement of nutritional standard, community health management including maintenance and upgradation of sub-centres and dispensaries;

(*b*) pre-school education and primary education including enrolment of children in schools, containment of dropouts, spread of literacy campaign, continuing education for adults and those out of schools and similar other schemes;

(*c*) development of women and children, empowerment of women, formation and facilitation of self-help groups, schemes for micro-finance and other activities for flow of credit for taking up income generating and other developmental activities;

(*d*) social welfare including welfare of backward classes, weaker sections and persons with disabilities;

(*e*) development of livestock including vaccination of animals against epidemic and implementation of artificial insemination programme;

[*Foot-note 3 continued from page 35.*]

(*q*) the maintenance of records relating to population census, crop census, cattle census and census of unemployed persons and of other statistics as may be prescribed;

(*r*) the performance in the manner prescribed of any of the functions of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, with its previous approval, calculated to benefit the people living within the jurisdiction of the *Gram Panchayat*;

(*s*) rendering assistance in extinguishing fire and protecting life and property when fire occurs;

(*t*) assisting in the prevention of burglary and dacoity; and

(*u*) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public, not otherwise provided for in this Act.".

(*f*) promotion of agriculture including irrigation facilities and motivation of farmers for augmenting crop yield, introduction of new crop including selection of beneficiaries for distribution of seeds, bio-fertilizer, pesticides, farm machinery, plant protection equipments and other agricultural implements;

(*g*) development of fisheries involving improvement of tank, harvesting, netting, excacvation of tank, testing soil and water, supply of minikits and introduction of various improved practices;

(*h*) promotion of cottage-village-mini industries and welfare of artisans;

(*i*) identification and selection of beneficiaries for distribution of ration cards, monitoring distribution of food grains through public distribution system;

(*j*) construction of percolation tanks, field channels, maintaining minor irrigation schemes, collection of water charges through user committee for new projects handed over to *Gram Panchayat*;

(*k*) water management, soil conservation and watershed development;

(*l*) construction and maintenance of tube-wells, wells, tanks and the cleansing and disinfecting the sources of supply and storage of water;

(*m*) construction, maintenance and repair of public streets and protection thereof;

(*n*) extension of social forestry and farm forestry including plantation of trees and distribution of saplings and promotion of fuel and fodder cultivation;

(o) maintenance of environmental sanitation including promotion and management of solid and liquid waste and prevention of public nuisance.

(*3*) A *Gram Panchayat* shall not omit or refuse to act upon any recommendations of a *Gram Sansad* relating to prioritization of any list of beneficiaries or scheme or programme so far as it relates to the area of the *Gram Sansad* unless it decides in a meeting, for reasons to be recorded in writing, that such recommendations are not acceptable or implementable under the provisions of the Act or any rule, order or direction thereunder:

Provided that if the *Gram Panchayat* decides that any recommendations are not acceptable or implementable under the provisions of the Act or any rule, order or direction thereunder, its decision shall be immediately communicated to the *Gram Unnayan Samiti* for placing it in the next meeting of the *Gram Sansad.*

Transferred duties of *Gram Panchayat.*

[1]**20.** (*1*) A *Gram Panchayat* shall—

(*a*) undertake execution of any scheme including schemes relating to employment generation, performance of any act or management of any institution or organization entrusted to it or devolved on it by the State Government or by any other authority with the approval of the State Government;

(*b*) manage or maintain any work of public utility or any institution vested in it or transferred to it for management and control;

(*c*) perform such other functions as the State Government may, by order, transfer to it or entrust upon it or devolve on it from time to time.

(*2*) If the State Government is of the opinion that a *Gram Panchayat* has persistently made default in the performance of any of the functions assigned to it or entrusted or devolved upon it under sub-section (*1*), the State Government may, after recording its reasons, withdraw such function from such *Gram Panchayat* and assign or entrust or devolve such functions upon *Panchayat Samiti* having jurisdiction till a reconstituted *Gram Panchayat* is elected and starts functioning.

Regulatory duties of *Gram Panchayat.*

[1]**21.** Subject to such conditions as may be prescribed, a *Gram Panchayat* shall, within its jurisdiction,—

(*a*) accord permission for erection of new structure or new building or addition to any structure or building to prevent unplanned growth and to protect ambience;

(*b*) assess, impose and collect taxes, rates or fees leviable under this Act;

(*c*) make registration of running trade unless such trade or registration of such trade is prohibited under any other law for the time being in force;

(*d*) make registration of the vehicle other than the vehicle required to be registered under the Motor Vehicles Act, 1988; 59 of 1988.

(*e*) make registration of shallow or deep tube-wells fitted with motor driven pump sets, installed for irrigation and used for commercial purposes;

(*f*) make registration of birth and death occurring in the area;

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[1]*See* foot-note 3 at page 32, *ante.*

(*g*) undertake control, management and administration of the *Gram Panchayat* Fund established under this Act;

(*h*) exercise control over employees of the *Gram Panchayat*;

(*i*) adopt measures for the relief of distress, destitute and infirm;

(*j*) provide for prevention of water logging and drainage of rain water;

(*k*) undertake preventive measures to control spread of epidemic;

(*l*) undertake protection and repair of buildings or other property vested in it;

(*m*) establish ferry *ghat* and manage and control ferries;

(*n*) establish and maintain crematorium and cremation ground;

(*o*) control eating places and enforce hygienic practices;

(*p*) maintain street lighting; and

(*q*) perform such other functions as may be transferred to it or devolved upon it by the State Government.

Complementary duties of *Gram Panchayat.*

[1]**21A.** In pursuance of the objectives laid down in sub-section (1) of section 19, a *Gram Panchayat* shall have powers to take measures for improvement of quality of life and without prejudice to the generality of the aforesaid provision, shall undertake schemes and adopt measures relating to—

(*a*) participation of people in preparing development plan and awareness generation among people on their role in development;

(*b*) participation of people in all stages of implementaton ot development works;

(*c*) enhancement of livelihood opportunities for people;

(*d*) organizing voluntary workers for collective activities;

(*e*) organizing campaign against social evils like drinking, consumption of narcotics, dowry, child marriage, gender discrimination, and abuse of women and children;

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[1]Section 21A was inserted by s. 11 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006). But this section did not come into force on the date of publication of this modified reprinted Act in view of Notification No. 2328/PN/O/I/1A-8/05 (Pt. I), dated the 29th May, 2007 of the Department of Panchayats and Rural Development, Government of West Bengal as enumerated in foot-note 3 at page 32, *ante*.

(*f*) creating legal awareness among disadvantageous sections;

(*g*) maintenance of community assets;

(*h*) awareness building on civic responsibilities;

(*i*) promotion of co-operative movement and support to co-operative institutions;

(*j*) prevention of food adulteration;

(*k*) encouragement for consumption of bio-gas;

(*l*) providing bathing and washing *ghats*; and

(*m*) construction of waiting sheds for travellers.

State Government to place funds necessary for the performance of functions and duties under section 20 or 21 at the disposal of the *Gram Panchayat.*

22. Where the State Government assigns any function to a *Gram Panchayat* under section 20 or where it directs a *Gram Panchayat* to make provision for any of the items enumerated in section 21, it shall place such funds at the disposal of the *Gram Panchayat* as may be required for the due performance of such function or for making such provision, as the case may be.

Control of building operations.

23. (*1*) No person shall [1][erect any new structure or new building or make any addition to any structure or building] in any area within the jurisdiction of a *Gram Panchayat* except with the previous permission in writing of the *Gram Panchayat*:

[2]Provided that such erection of new structure or new building or such addition to any structure or building or such permission of the *Gram Panchayat* shall be subject to such rules as may be made by the State Government in this behalf:

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[1]The words within the square brackets were substituted for the words "erect any structure or building" by s. 12(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]First and second provisos to sub-section (*1*) were first added by s. 15(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the second proviso was substituted by s. 12 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[1]Provided further that a *Gram Panchayat* shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction, as the case may be,—

(*a*) has any provision for erection or construction of any dry latrine, by whatever name called, and

(*b*) does not have any provision for erection or construction of a sanitary latrine of any description.

(*2*) Every person seeking permission under sub-section (*1*) shall make an application in writing to such authority, in such form, containing such particulars and on payment of such fee [2]* * * * as may be prescribed:

[3]Provided that no permission under sub-section (*1*) shall be necessary for erection of any new thatched structure, tin shed or tile shed without brick wall covering an area not exceeding [4][eighteen square metres where such structure or shed does not cover more than three-fourths of the total area of the land (including appurtenant land) and there is a set-back of not less than nine-tenth metre on the road-side:]

[3]Provided further that the State Government may, by order, exempt any structure or building or any class of structures or buildings from the operation of the provisions of sub-section (*1*) and of this sub-section:

[5]Provided also that if the building plan contains proposal for construction of a structure for rain water harvesting on its roof, the *Gram Panchayat* shall allow a rebate in paying fee for permission under sub-section (*1*) to the applicant at such rate as may be determined by the State Government.

(*3*) On receipt of such application the authority, after making such enquiry as it considers necessary and [6][in accordance with such rules as may be made by the State Government in this behalf,] shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.

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[1]*See* foot-note 2 on page 40, *ante*.

[2]The words ", not exceeding twenty-five rupees," were omitted by s. 15(2)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]These provisos were added by s. 12(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]The words and brackets within the square brackets were substituted for the words "two hundred square feet:" by s. 15(*2*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[5]The proviso was inserted by s. 12 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[6]The words within the square brackets were substituted for the words "within such time as may be prescribed," by s. 15(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(*4*) Any person aggrieved by an order of the authority under sub-section (*3*) refusing permission may, within ninety days from the date of communication of such order to him, prefer an appeal to such appellate authority as may be prescribed.

(*5*) No appeal shall lie against the order of the appellate authority referred to in sub-section (*4*).

(*6*) Where [1][any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be,] in contravention of the provisions of sub-section (*1*), the authority may, after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be specified in the order and in default the authority may itself effect the demolition and recover the cost thereof from the owner as a public demand.

(*7*) Any person who [2][contravenes] the provisions of sub-section (*1*) shall be liable on conviction by a Magistrate to a fine which may extend to two hundred and fifty rupees.

Regulation on advertise-ment.

[3]**23A.** (*1*) No person shall erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post, tree, kiosk or structure any advertisement to public view in any manner whatsoever, visible from a public street or public place, in any place within the area of a *Gram Panchayat* without the prior permission in writing of the owner of such land, building, wall, hoarding, frame, post, kiosk or structure:

Provided that for the purpose of obtaining such permission, the person concerned shall apply in writing to the owner concerned stating, *inter alia,* the purpose and period of the advertisement proposed to be erected, exhibited, fixed or retained over such land, building, wall, hoarding, frame, post, kiosk or structure:

Provided further that no person shall, prior to obtaining such permission in writing, put any mark or sign by way of writing or painting on any building or wall proposed to be used for such advertisement:

Provided also that on receipt of the permission of the owner, the person concerned shall intimate the *Pradhan* through the *Gram Panchayat* with a copy of the letter of permission not less than seven working days before putting such advertisement, display or campaign in place:

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[1]The words within the square brackets were substituted for the words "any structure or building is being or has been erected" by s. 12(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The word within the square brackets was substituted for the words "erects any structure or building in contravention of" by s. 12(*d*), *ibid.*

[3]Section 23A was inserted by s. 13 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

Provided also that the person concerned shall remove such advertisement immediately after the expiration of time limit and restore the place to its original position.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the owner of the land, building, wall, hoarding, frame, post, kiosk or structure is of the opinion that any advertisement proposed in terms of sub-section (*1*) shall permanently disfigure, damage or spoil such land, building, wall, hoarding, kiosk or structure or lead to environmental or vision pollution, he shall not accord permission referred to in sub-section (*1*).

(*3*) Notwithstanding anything contained in sub-section (*1*), no person shall be allowed to erect, exhibit, fix or retain any advertisement on any land, building, wall, hoarding, frame, post, tree, kiosk or structure, belonging to, or is occupied or used by, the Central or State Government or any local authority or school or college or hospital or nursing home or health centre or dispensary or religious institution or transformer or water tank or water reservoir.

(*4*) Every person, who proposes to exhibit, fix or retain any advertisement on any land, building, wall, hoarding, frame, post, tree, kiosk or structure any advertisement to public view in any manner whatsoever, visible from a public street or any public place shall, prior to such erection, exhibition, fixation or retention or display to public view, pay such fee as may be prescribed under clause (*xvii*) of sub-section (*1*) of section 47:

Provided that no fee shall be leviable under clause (*xvii*) of sub-section (*1*) of section 47 on any advertisement by the Central or State Government or any local authority or any political party or any mass organization.

(*5*) Whoever contravenes the provisions of sub-sections (*1*), (*2*) or (*3*) shall be guilty of an offence and shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine not exceeding fifty thousand rupees:

Provided that the court may, in its order of conviction, direct that a part of the amount of fine realized under this sub-section shall be paid to the owner of the land, building, wall, hoarding, frame, post, kiosk or structure by way of compensation for taking down or removing the advertisement.

(*6*) Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post,

kiosk or structure or displayed to public view from a public street or public place in contravention of the provisions of sub-sections (*1*), (*2*) or (*3*) for the benefit of some other person or a company, or any political party or a mass organization, then such other persons and every president, chairman, director, partner, manager, secretary, agent or any other person, who was in charge of, and was responsible to, such company, political party or mass organization shall be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly:

Provided that nothing contained in this sub-section shall render such other person, president, chairman, director, partner, manager, secretary, agent or any other person who was in charge of, and was responsible to, such company, political party or mass organization, liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such offence.

Explanation.—In this section, unless the context otherwise requires,—

(*a*) "advertisement" includes any legend, glow sign board, bill board, festoon, poster, cutout, banner or flag for display, as well as the advertisement as may be exhibited by means of cinematograph, and message in writing or by decoration, lettering, ornamentation or painting of picture;

(*b*) "company" means any body corporate, and includes a firm or other association of individuals;

(*c*) "person" includes any political party, mass organization, firm, association or company;

(*d*) "mass organization" means any registered trade union, registered workers' organization or youth organization or women's organization or parents' organization or students' organization or traders' organization or any other organization including registered club working for the collective interest of the people or a specified group of people;

(*e*) "political party" means political party, as defined in clause (*f*) of section 2 of the Representation of the People Act, 1951, and includes an independent candidate contesting an election to the Parliament or the State Legislature or a Municipality or a *Panchayat.* 43 of 1951.

Improvement of sanitation.

24. (*1*) For the improvement of sanitation, a *Gram Panchayat* shall have the power to do all acts necessary for an incidental to the same and in particular and without prejudice to the generality of the foregoing power, a *Gram Panchayat* may, by order, require the owner or occupier of any land or building, within such reasonable period as may be specified in the notice served upon him and after taking into consideration his financial position—

(*a*) to close, remove, alter, repair, cleanse, disinfect, or put in good order any latrine, urinal, water-closet, drain, cesspool, or other receptacle for filth, sullage, rubbish or refuse pertaining to such land or building, or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain or to shut off such latrine, urnial or water-closet by a sufficient roof or wall or fence from the view of persons passing by or dwelling in the neighbourhood;

(*b*) to cleanse, repair, cover, fill up, drain off or remove water from, a private well, tank, reservoir, pool, pit, depression or excavation therein which may be injurious to health or offensive to the neighbourhood;

(*c*) to clear off any vegetation, undergrowth, prickly pear or scrub jungle therefrom;

(*d*) to remove any dirt, dung, nightsoil, manure of any obnoxious or offensive matter therefrom and to cleanse the land or building:

Provided that a person on whom a notice has been served as aforesaid may, within thirty days of receipt of such notice, appeal to the prescribed authority against the order contained therein whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid, has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

Power of *Gram Panchayat* over public streets, waterways and other matters.

25. (*1*) A *Gram Panchayat* shall have control over all public streets and waterways within its jurisdiction other than canals as defined in section 3 of the Bengal Irrigation Act, 1876, not being private property and not being under the control of the Central or State Government or any local authority and may do all things necessary for the maintenance and repair thereof, and may,— Ben. Act III of 1876.

(*a*) construct new bridges and culverts;

(*b*) divert or close any such public street, bridge or culvert;

(*c*) widen, open, enlarge or otherwise improve any such public street, bridge or culvert and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;

(*d*) deepen or otherwise improve such waterways;

(*e*) with the sanction of the *Zilla Parishad* [1][or the *Mahakuma Parishad* or the Council, as the case may be,] and where there is a canal as defined in the Bengal Irrigation Act, 1876, with the sanction also of such officer as the State Government may prescribe, undertake irrigation projects.

(*f*) trim hedges and branches of trees projecting on public streets; and

(*g*) set apart by public notice any public source of water supply for drinking or culinary purposes and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

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[1]The words within the square brackets were inserted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(2) A *Gram Panchayat* may, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any public street or drain or other property under the control and management of the said *Gram Panchayat*, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time to be specified in the notice.

(*3*) If the obstruction or encroachment is not removed or damage is not repaired within the time so specified the *Gram Panchayat* may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as a public demand.

(*4*) For the purpose of removal of obstruction or encroachment under sub-section (*3*), the *Gram Panchayat* may apply to the Sub-divisional Magistrate and the Sub-divisional Magistrate shall, on such application, provide such help as may be necessary for the removal of such obstruction or encroachment.

Power of *Gram Panchayat* in respect of polluted water-supply.

26. (*1*) A *Gram Panchayat* may, by written notice, require the owner of, or the person having control over, a private water-course, spring, tank, well, or other place, the water of which is used for drinking or culinary purpose, after taking into consideration his financial position, to take all or any of the following steps within a reasonable period to be specified in such notice, namely—

(*a*) to keep and maintain the same in good repair;

(*b*) to clean the same, from time to time of silt, refuse or decaying vegetation;

(*c*) to protect it from pollution; and

(*d*) to prevent its use, if it has become so polluted as to be prejudicial to public health:

Provided that a person upon whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(*2*) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

Power of *Gram Panchayat* to prevent growth of water-hyacinth or other weed which may pollute water.

27. (*1*) Notwithstanding anything contained in the Bengal Water Hyacinth Act, 1936, a *Gram Panchayat* may, by written notice, require the owner or occupier of any land or premises, containing a tank or pond or similar deposit of water after taking into consideration his financial position, not to allow water-hyacinth or any other weed which may pollute water to grow thereon and to eradicate the same therefrom within such reasonable period as may be specified in the notice:

Ben. Act XIII of 1936.

Provided that a person on whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(*2*) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the owner or occupier upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

Emergent power on outbreak of epidemic.

28. In the event of an outbreak of cholera or any other water-borne infectious disease in any locality situated within the local limits of the jurisdiction of a *Gram Panchayat*, the *Pradhan,* the *Upa-Pradhan* or any other person authorised by the *Pradhan* may, during the continuance of the ourbreak, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purpose of drinking and may further take such steps as he deems fit to prevent the drawing of water therefrom.

Power of recovery of cost for work carried out by *Gram Panchayat* on failure of any person.

29. If any work required to be done by an order contained in a notice served under sections 24, 26 or 27 is not executed within the period specified in the notice or where an appeal is made to the prescribed authority, within an equal period from the date of the decision on the appeal, the *Gram Panchayat* may, in the absence of satisfactory grounds for non-compliance cause such work to be carried out and the cost of carrying out such work shall be recoverable as an arrear of public demand from the person on whom the notice was served.

Joint Committees.

30. (*1*) Subject to such rules as may be prescribed, two or more *Gram Panchayats* may combine, by a written instrument duly subscribed by them, to appoint a Joint Committee consisting of such representatives as may be chosen by the respective *Gram Panchayats* for the purpose of transacting any business or carrying out any work in which they are jointly interested and may—

(*a*) delegate to such Committee the power, with such conditions as the *Gram Panchayats* may think fit to impose, to frame any scheme binding on each of the constituent *Gram Panchayats* as to the construction and maintenance of any joint work and the power which may be exercised by any such *Panchayat* in relation to such scheme; and

(*b*) frame or modify rules regarding the constitution of such committees and the term of office of the members thereof and the method of conducting business.

(*2*) If any difference of opinion arises between the constituent *Gram Panchayats* under this section, it shall be referred to such officer as the State Government may prescribe, and the decision of the said officer thereon shall be final and binding on each of the constituent *Gram Panchayats.*

(Part II.—Gram Panchayat.—*Chapter III.—Powers and duties of* Gram Panchayat.—*Sections 31, 32, 32A.)*

Delegation of functions by *Zilla Parishad*

31. (*1*) A *Zilla Parishad* [1][or the *Mahakuma Parishad* or the Council] may, with the concurrence of a *Gram Panchayat* and subject to such restriction and conditions as may be mutually agreed upon, delegate to such *Gram Panchayat* any of its functions in the manner prescribed.

(*2*) Where functions are delegated to a *Gram Panchayat*, under this section, the *Gram Panchayat*, in the discharge of such functions, shall act as the agent of [2][the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be.]

Delegation of functions of *Gram Panchayat* to its *Pradhan.*

32. A *Gram Panchayat* may, at a meeting specially convened for the purpose, by a resolution delegate to its *Pradhan* such duties or powers of the *Gram Panchayat* as it thinks fit and may at any time by a resolution, withdraw or modify the same:

Provided that when any financial power is delegated to a *Pradhan* or such power is withdrawn or modified, the *Gram Panchayat* shall forthwith give intimation thereof to the prescribed authority.

Constitution of *Upa-Samitis* and delegation of powers, functions and duties of *Gram Panchayats* to the *Upa-Samitis.*

[3]**32A.** (*1*) Subject to such direction as may be issued by the State Government in this behalf, a *Gram Panchayat* shall as soon as may be within three months following the first meeting referred to in section 9, constitute *Upa-Samitis* as referred to in sub-section (*2*) and delegate its powers, functions and duties to such *Upa-Samitis*, in such manner as may be prescribed.

(*2*) Without prejudice to the generality of any other provisions of this Act, a *Gram Panchayat* shall constitute in such manner as may be prescribed the following *Upa-Samitis*:—

(*i*) *Artha O Parikalpana Upa-Samiti,*

(*ii*) *Krishi O Pranisampad Bikas Upa-Samiti,*

(*iii*) *Siksha O Janasasthya Upa-Samiti,*

(*iv*) *Nari, Sishu Unnayan O Samaj Kalyan Upa-Samiti,*

(*v*) *Shilpa O Parikathama Upa-Samiti,* and

(*vi*) such other *Upa-Samiti* as the *Gram Panchayat* may, subject to the approval of the State Government, constitute.

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[1]The words within the square brackets were inserted by s. 7(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[2]The words within the square brackets were substituted for the words "the *Zilla Parishad.*" by s. 7(*b*), *ibid.*

[3]Section 32A was first inserted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the same was substituted by s. 13 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997). Finally, the same was again substituted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(*3*) The *Upa-Samitis* referred to in sub-section (*2*) shall consist of the following members:—

(*a*) the *Pradhan* and the *Upa-Pradhan, ex-officio*;

(*b*) such number of members as may be prescribed, to be elected by the members from among themselves; and

(*c*) such number of members as may be appointed by the State Government by any general or special order:—

(*i*) from among the officials of the *Panchayat* bodies having jurisdiction, the State Government or any Statutory Board, Corporation or Organisation or any individual official receiving grant, financial assistance or remuneration from the State Exchequer, and

(*ii*) any person having any specialised knowledge about the locality or any area of activity;

(*d*) the *Artha O Parikalpana Upa-Samiti* shall have the *Sanchalaks* elected in the manner as mentioned in sub-section (*4*), as members of the *Upa-Samiti* and shall have no other member referred to in clause (*b*) of sub-section (*3*);

(*e*) the *Nari, Sishu Unnayan O Samaj Kalyan Upa-Samiti* shall have not less than half of the members referred to in clause (*b*), elected from among the women members of the *Gram Panchayat*, in the manner as may be prescribed.

(*4*) Members of each *Upa-Samiti* shall elect one member from among themselves in such manner as may be prescribed to act as *Sanchalak* for such *Upa-Samiti* and such *Sanchalak* shall be responsible for convening the meetings of such *Upa-Samiti,* co-ordinate function of members within such *Upa-Samiti* and prepare and place report of actions taken or proposed to be taken relating to such *Upa-Samiti* within the budgetary provision of the *Gram Panchayat* to the *Pradhan* and the *Gram Panchayat* from time to time:

Provided that the *Pradhan* of the *Gram Panchayat* shall be the *ex-officio Sanchalak* of the *Artha O Parikalpana Upa-Samiti*:

Provided further that the *Sanchalak* for *Nari, Sishu Unnyan O Samaj Kalyan Upa-Samiti* shall be elected from among the women members of the *Upa-Samiti*:

Provided also that the members referred to in clause (*c*) of sub-section (*3*) shall not be eligible for election as *Sanchalak* and they shall not have any right to vote.

(*5*) The *Upa-Samitis* shall devise its own procedure for holding the meetings and for performing other functions subject to the direction of the State Government and the *Gram Panchayat.*

(*6*) The members of the *Upa-Samitis* may,—

(*a*) take, subject to the direction of the *Pradhan,* the assistance of the employees of the *Gram Panchayat,*

(*b*) seek advice and help of the employees of the State Government of any Department at the appropriate level in discharge of their duties,

(*c*) place before the *Pradhan* and the *Gram Panchayat* a proposal for execution of a scheme, programme or project within the budgetary provisions of the *Gram Panchayat* for such purpose when the *Pradhan* or the *Gram Panchayat* shall consider the proposal for execution and for sanction of funds:

Provided that the *Pradhan* shall not sanction any fund for a scheme, programme or project without considering the views of the members of the *Upa-Samiti* to whom powers have been delegated by the *Gram Panchayat* with respect to such scheme, programme or project,

(*d*) call for any information, return, statement, account or report from the office of the *Gram Panchayat* and enter on and inspect any immovable property of the *Gram Panchayat* or inspect any work in progress connected with the functions and duties of the *Upa-Samiti,*

(*e*) exercise such other powers, perform such other functions and discharge such other duties, as the *Gram Panchayat* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

[1](*7*) Each *Upa-Samiti* shall hold at least one meeting in a month in the office of the *Gram Panchayat.*

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[1]Sub-section (*7*) was substituted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

Gram Panchayat may manage estates and interests vested in the State.

33. The State Government may, by general or special order published in the *Official Gazette*, empower a *Gram Panchayat* to manage the estates and all interests therein which are vested in the State and to exercise such powers, perform such functions and discharge such duties in connection therewith as may be conferred, assigned or imposed by or under any other law for the time being in force.

Powers, functions and duties of *Pradhan* and *Upa-Pradhan.*

34. (*1*) The *Pradhan* shall—

(*a*) be responsible for the maintenance of the records of the *Gram Panchayat*;

(*b*) have general responsibility for the financial and executive administration of the *Gram Panchayat*;

(*c*) exercise administrative supervision and control over the work of the staff of the *Gram Panchayat* and the officers and employees whose services may be placed at the disposal of the *Gram Panchayat* by the State Government;

(*d*) for the transaction of business connected with this Act or for the purpose of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the *Gram Panchayat* under this Act or the rules made thereunder:

Provided that the *Pradhan* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Gram Panchayat* at a meeting;

(*e*) exercise such other powers, perform such other functions and discharge such other duties as the *Gram Panchayat* may, by general or special resolution, direct or as the State Government may by rules made in this behalf, prescribe.

(*2*) The *Upa-Pradhan* shall—

(*a*) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Pradhan* as the *Pradhan* may from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Pradhan* may at any time withdraw all or any of the powers, functions and duties so delegated to the *Upa-Pradhan*;

(*b*) during the absence of the *Pradhan,* exercise all the powers, perform all the functions and discharge all the duties of the *Pradhan*;

[1](*c*) exercise such other powers, perform such other functions and discharge such other duties as the *Gram Panchayat* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

CHAPTER IV

Establishment of *Gram Panchayat*

Staff of *Gram Panchayat.*

[2]**35.** (*1*) For every *Gram Panchayat* there shall be such number of *Gram Panchayat Karmees,* as may be determined by general or special order, by the State Government and such *Gram Panchayat Karmees* shall be appointed by the Executive Officer of *Panchayat Samiti* having jurisdiction:

Provided that no post of *Gram Panchayat Karmees* shall be created or abolished and no revision of the scale of pay shall be made by the Executive Officer of *Panchayat Samiti* without the prior approval of the State Government.

(*2*) Subject to such rules as may be made by the State Government in this behalf, and such orders as may be issued by the State Government, a *Gram Panchayat* shall have such other employees in its establishment as may be prescribed and they shall be appointed by the Executive Officer of *Zilla Parishad* having jurisdiction:

Provided that no such post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Executive Officer of *Zilla Parishad* without the prior approval of the State Government.

(*3*) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity, of all *Gram Panchayat Karmees* appointed under sub-section (*1*) and all other employees of the *Gram Panchayat* appointed under sub-section (*2*).

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[1]Clause (*c*) was inserted by s. 13 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]Section 35 was substituted for former section by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution sub-section (2) of former section 35 was substituted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(*4*) The State Government may place at the disposal of the *Gram Panchayat* the services of such officers or employees serving under it on such terms and conditions as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government, if a resolution to that effect is passed by the *Gram Panchayat* at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

Explanation.—The provisions of this Chapter in their application to the areas of the Darjeeling Gorkha Hill Council shall have effect as if references to the Executive Officer of *Zilla Parishad* are references to the Principal Secretary of the Darjeeling Gorkha Hill Council.

Engagement of tax collectors and other contractual workers by *Gram Panchayat.*

[1]**35A.** (*1*) A *Gram Panchayat* may, engage tax collectors in such manner, as may be determined, by order, by the State Government for a specified period or for a specified job on the basis of contract and instrument of such contract shall include that such tax collectors shall receive, for his service, commission and a consolidated allowance at such rate as the State Government may, by order, determine.

(*2*) The State Government may, by order, empower *Gram Panchayat* to engage other contractual workers for a specified period, in such manner, and on such terms and conditions, as may be prescribed for implementation of schemes under the National Rural Employment Guarantee Act, 2005.

42 of 2005.

(*3*) Tax collectors and other contractual workers engaged under sub-section (*1*) and sub-section (*2*) respectively shall act in all matters under the control of *Pradhan* through whom they shall be responsible to the *Gram Panchayat.*

Control and punishment of staff of *Gram Panchayat.*

[2]**36.** (*1*) Subject to such rules as may be made by the State Government in regard to the discipline and control, the *Pradhan* shall exercise general control over all employees of *Gram Panchayat* and *Gram Panchayat* may recommend, in such manner as may be prescribed punishment of an employee, appointed under sub-section (*1*) and sub-section (*2*) of section 35, to the Executive Officer of the *Panchayat Samiti* having jurisdiction.

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[1]Section 35A was inserted by s. 7 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[2]Section 36 was substituted for former section by s. 8, *ibid.* Prior to this substitution there occur following changes in former section 36:—

(i) in sub-section (*2*), the words "and on such terms and conditions" were inserted by s. 14(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

(ii) sub-section (*3*) was inserted by s. 14(*b*), *ibid.*

(*2*) On receipt of recommendation, the Executive Officer of the *Panchayat Samiti* having jurisdiction may—

(*a*) award any punishment to a *Gram Panchayat Karmee* appointed under sub-section (*1*) of section 35 in such manner as may be prescribed;

(*b*) (*i*) award any punishment other than punishment of dismissal, removal or reduction in rank to an employee appointed under sub-section (*2*) of section 35 in such manner as may be prescribed; or

(*ii*) recommend for punishment of dismissal, removal or reduction in rank of an employee appointed under sub-section (*2*) of section 35 to the Executive Officer of *Zilla Parishad* in such manner as may be prescribed.

(*3*) On receipt of recommendation under sub-clause (*ii*) of clause (*b*) of sub-section (*2*), the Executive Officer of *Zilla Parishad* having jurisdiction may award punishment to an employee appointed under sub-section (*2*) of section 35 in such manner as may be prescribed.

Appeal.

[1]**36A.** (*1*) An appeal shall lie to the *Panchayat Samiti* against an order of punishment awarded by the Executive Officer of *Panchayat Samiti* under clause (*a*) of sub-section (*2*) of section 36 within one month from the date of that order.

(*2*) An appeal shall lie to the Executive Officer of *Zilla Parishad* against an order of punishment awarded by the Executive Officer of *Panchayat Samiti* under sub-clause (*i*) of clause (*b*) of sub-section (*2*) of section 36 within one month from the date of that order.

(*3*) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the Executive Officer of *Zilla Parishad* under sub-section (*3*) of section 36 within one month from the date of that order.

Exercise of powers etc. by the officers and employees.

[2]**36B.** Subject to the provisions of this Act, the rules made thereunder and to any general or special directions as the State Government may give in this behalf, the employees of the *Gram Panchayat* appointed under sub-section (*1*) and sub-section (*2*) of section 35 and other employees whose services have been placed at the disposal of the *Gram Panchayat* under sub-section (*4*) of section 35 shall exercise such powers, perform such functions and discharge such duties as the *Gram Panchayat* may determine.

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[1]Section 36A was first inserted by s. 15 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Thereafter, the same was substituted by s. 9 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[2]Section 36B was inserted by s. 10, *ibid.*

[1]* * * * * * * * * * *

[1]Chapter V containing sections 37 to 40 was omitted by s. 5 of the West Bengal *Panchayat* (Second Amendment) Act, 2004 (West Ben. Act XVIII of 2004). Prior to this omission, the same was as under:—

"CHAPTER V

Dafadars, Chowkidars* and *Gram Panchayat Karmees

Dafadars, Chowkidars and *Gram Panchayat Karmees.*

37. (*1*) For general watch and ward, prevention of crime, protection of life and property, running of office of the *Gram Panchayat* and discharging all functions relevant thereto as hereinafter provided within the local limits of the jurisdiction of a *Gram Panchayat* every *Gram Panchayat* shall, unless otherwise directed or other provisions are made by the State Government, maintain under its control such number of *Dafadars, Chowkidars* and *Gram Panchayat Karmees* as the State Government may by general or special order determine.

(*2*) The manner of maintenance of *Dafadars, Chowkidars* and *Gram Panchayat Karmees* by a *Gram Panchayat*, the salary, allowances and gratuity to be paid to them and the nature and the cost of their equipment and all matters relating to their recruitment, conditions of service, superannuation, discipline, punishment and dismissal shall be determined in accordance with such rules as may be made:

Provided that the *Gram Panchayat* shall have disciplinary control over *Dafadars, Chowkidars* and *Gram Panchayat Karmees*.

State Government may contribute cost of maintenance.

38. The State Government may contribute to the *Gram Panchayat* Fund the entire or any part of the cost of maintenance of *Dafadars, Chowkidars* and *Gram Panchayat Karmees* including the amount necessary for the payment of salary, allowances, provident fund and gratuity to *Dafadars, Chowkidars* and *Gram Panchayat Karmees* and the amount necessary for their reward and equipment.

Powers and duties of *Chowkidars, Dafadars* and *Gram Panchayat Karmees.*

39. (*1*) Every *Chowkidar* or *Gram Panchayat Karmee* shall exercise the following powers and perform the following duties, namely:—

(*i*) he shall give immediate information to the officer-in-charge of the police-station having jurisdiction over the area and to the *Pradhan* of the *Gram Panchayat*, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in the First Schedule which may be committed within the jurisdiction of the *Gram Panchayat* and he shall keep the officer-in-charge of the said police-station and the *Pradhan* informed of all disputes which are likely to lead to a riot or serious affray;

(*ii*) he may, without an order from a Magistrate and without a warrant, arrest—

(*a*) any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or reasonable suspicion exists of his having been so concerned,

(*b*) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking,

(*c*) any person who has been proclaimed as an offender under any law for the time being in force,

(*d*) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence, with reference to such things,

(*e*) any person who obstructs a police-officer while in the execution of his duty or who has escaped, or attempts to escape, from lawful custody,

(*f*) any person reasonably suspected of being a deserter from the Indian Army, Navy or Air Force, and

(*Foot-note 1 continued at page 58.*)

CHAPTER VI

Property and Fund

Power to acquire, hold and dispose of property.

41. A *Gram Panchayat* shall have power to acquire, hold and dispose of property and to enter into contract:

(Foot-note 1 continued from page 57.)

(*g*) any released convict committing a breach of any rule made under sub-section (*3*) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898);

(*iii*) he shall to the best of his ability prevent and he may interpose for the purpose of preventing, the commission of any offence specified in the First Schedule;

(*iv*) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer-in-charge of the police-station having jurisdiction over the area;

(*v*) he shall observe and from time to time report to such officer-in-charge, the movements of all bad characters within the jurisdiction of the *Gram Panchayat*;

(*vi*) he shall report to such officer-in-charge the arrival of suspicious characters in the neighbourhood;

(*vii*) he shall report in such manner as may be directed by the District Magistrate, the births and deaths which have occurred within the local limits of the jurisdiction of the *Gram Panchayat*;

(*viii*) he shall give immediate information to the *Pradhan* of the *Gram Panchayat* of the outbreak of any epidemic disease among men or livestock within the local limits of its jurisdiction;

(*ix*) he shall supply any local information which the District or Sub-divisional Magistrate or any police-officer may require;

(*x*) he shall obey the orders of the *Gram Panchayat* in regard to keeping watch within its jurisdiction and in regard to other matters connected with his duties;

(*xi*) he shall give immediate information to the *Gram Panchayat* of the commission of any offence under this Act or any rule made thereunder which has come to his knowledge and of any encroachment on, or obstruction to, any road or waterway within the local limits of the jurisdiction of the *Gram Panchayat*, and of any damage to any property vested in the *Gram Panchayat* or under its control;

(*xii*) he shall assist any person duly authorised by the *Gram Panchayat* to collect any rate, tax or fee;

(*xiii*) he shall serve such processes as may be prescribed upon persons residing within the jurisdiction of the *Gram Panchayat*;

(*xiv*) he shall attend the office of the *Gram Panchayat* on such dates as may be directed by the *Pradhan*, assist in such manner as may be necessary and act as messenger as and when required; and

(*xv*) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rule made thereunder.

(2) Every *Dafadar* shall exercise all the powers conferred on a *Chowkidar* under sub-section (*1*) and shall perform such duties as may be imposed upon him by rules made under this Act.

(Foot-note 1 continued at page 59.)

Provided that in all cases of acquisition or disposal of immovable property the *Gram Panchayat* shall obtain the previous approval of [1][the prescribed authority].

Vesting of public properties in *Gram Panchayat.*

42. (*1*) All property within the local limits of the jurisdiction of *Gram Panchayat* of the nature hereinafter in this section specified, other than property maintained by the Central or the State Government or a local authority or any other *Gram Panchayat*, shall vest in and belong to the *Gram Panchayat*, and shall, with all other property of whatsoever nature or kind which may become vested in the *Gram Panchayat*, be under its direction, management and control, that is to say—

(*a*) all public streets, including the soil, stones and other materials thereof and all drains, bridges, culverts, trees, erection materials, implements and other things provided for such streets;

(*b*) all public channels, water courses, springs, tanks, ghats, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other waterworks whether made, laid or erected at the cost of the *Gram Panchayat* or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land (not being private property) appertaining to any public tank:

Provided that water pipes and waterworks, connected therewith or appertaining thereto which with the consent of the *Gram Panchayat* are laid or set up in any street by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees shall not be deemed to be public waterworks by reason of their use by the public;

(Foot-note 1 continued from page 58.)

Arrested person to be taken to police-station.

40. Whenever *Dafadar, Chowkidar* or *Gram Panchayat Karmee* arrests any person under section 39 he shall forthwith take the person so arrested to the police-station having jurisdiction over the area in which the arrest is made:

Provided that if the arrest is made at night such person shall be so taken, as soon as convenient, by the following morning.".

[1]The words within the square brackets were substituted for the words "the State Government" by s. 14 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*c*) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works:

Provided that for the purpose of enlarging, deepening or otherwise repairing or maintaining any such sewer or drain the sub-soil appertaining thereto shall also be deemed to vest in the *Gram Panchayat*:

Provided further that where any installation or work for the treatment or disposal of sewage is constructed by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees, the laying of sewers and other things appertaining thereto in a street with the consent of the *Gram Panchayat*, shall not by virtue of this clause or by reason of their use by the public cause such installation or sewers or works appertaining thereto to vest in the *Gram Panchayat*;

(*d*) all sewage, rubbish and offensive matter deposited on streets or collected by the *Gram Panchayat* from streets, latrines, urinals, sewers, cesspools and other places;

(*e*) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and

(*f*) all buildings erected by the *Gram Panchayat* and all lands and buildings or other property transferred to the *Gram Panchayat* by the Central or the State Government or acquired by gift, purchase or otherwise for local public purposes.

(2) The State Government may, by notification, exclude any street, bridge or drain from the operation of this Act or of any specified section of this Act:

Provided that, if the cost of the construction of the work shall have been paid from the *Gram Panchayat* Fund, such work shall not be excluded from the operation of this Act or any specified section of this Act except after consideration of the views of the *Gram Panchayat* at a meeting.

Allocation of properties to *Gram Panchayat.*

43. The State Government may allocate to a *Gram Panchayat* any public property situated within its local jurisdiction, and thereupon such property shall vest in and come under the control of the *Gram Panchayat.*

Acquisition of land for *Gram Panchayat.*

44. Where a *Gram Panchayat* requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the [1][Collector] for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land and such land shall, on acquisition, vest in the *Gram Panchayat.*

Gram Panchayat Fund.

45. (*1*) For every *Gram Panchayat* there shall be constituted a *Gram Panchayat* Fund bearing the name of the *Gram Panchayat* and there shall be placed to the credit thereof—

(*a*) contributions and grants, if any, made by the Central or the State Government;

(*b*) contributions and grants, if any, made by the *Zilla Parishad,* [2][*Mahakuma Parishad,* Council,] *Panchayat Samiti* or any other local authority;

(*c*) loans, if any, granted by the Central Government or the State Government;

(*d*) all receipts on account of taxes, rates and fees levied by it;

(*e*) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works vested in, constructed by or placed under the control and management of, the *Gram Panchayat*;

(*f*) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Gram Panchayat*;

(*g*) such fines and penalties imposed and realised under the provisions of this Act as may be prescribed;

(*h*) all other sums received by or on behalf of the *Gram Panchayat.*

[3]*Explanation.*—A *Gram Panchayat* shall not receive to the credit of its Fund—

(*a*) any loan from any individual, severally or jointly or any member or office bearer of the *Gram Panchayat*, or

(*b*) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the *Gram*

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[1]The word within the square brackets was substituted for the words "District Magistrate" by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were inserted by s. 8 of the West Bengal *Panchayat* (Amendmnet) Act, 1988 (West Ben. Act XX of 1988).

[3]This "*Explanation*" was added by s. 15(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Panchayat save and except in pursuance of a resolution in a meeting of the *Gram Panchayat* accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.

(*2*) Every *Gram Panchayat* shall set apart and apply annually such sum as may be required to meet—

(*a*) the cost of administration of the *Nyaya Panchayat,* and

[1]* * * * * * *

(*c*) the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Secretary.

(*3*) Every *Gram Panchayat* shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(*4*) The *Gram Panchayat* Fund shall be vested in the *Gram Panchayat* and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

[2](*5*) In accordance with the powers and functions conferred on the *Pradhan* under the Act and the rules made thereunder and subject to such general control as the *Gram Panchayat* may exercise from time to time, all orders for payment from the *Gram Panchayat* Fund shall be signed by the *Pradhan*, or in his absence, by the *Upa-Pradhan* and in pursuance of such orders of payment, cheque or cheques shall be signed jointly by the *Pradhan,* or in his absence, by the *Upa-Pradhan* and by the Executive Assistant of the *Gram Panchayat*:

Provided that the Executive Assistant shall be responsible for writing the cheques for signature under the direction of the *Pradhan* subject to the resolution of the *Gram Panchayat*:

Provided further that if the post of the Executive Assistant in a *Gram Panchayat* falls temporarily vacant by reason of leave, transfer, resignation or otherwise, the State Government may, by general or special order made in this behalf, empower any employee of the *Gram Panchayat* to perform, subject to such conditions as may be specified in the order, the functions of the Executive Assistant under this section.

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[1]Clause (*b*) was omitted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004). Prior to this omission the words "*Dafadars, Chowkidars* and *Gram Panchayat Karmees*" were substituted for the words "*Dafadars* and *Chowkidars*" by s. 10(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Sub-section (*5*) was substituted for the original by s. 15(2) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[1]*Explanation.*—In this section, absence of the *Pradhan* shall be deemed to occur when the office of the *Pradhan* falls vacant or the *Pradhan* is temporarily unable to act within the concept and meaning of sub-section (*4*) of section 9.

Imposition of tax by *Gram Panchayat.*

46. (*1*) Subject to such rules as may be made in this behalf, a *Gram Panchayat* shall impose yearly—

[2](*a*) on lands and buildings within the local limits of its jurisdiction, a tax—

(*i*) at the rate of [3][one *per centum*] of the annual value of such lands and buildings when the annual value does not exceed rupees one thousand, and

(*ii*) at the rate of [4][two *per centum*] of the annual value of such lands and buildings when the annual value exceeds rupees one thousand,

to be paid by the owners and occupiers thereof;

[5]* * * * * *

(*2*) The following lands and buildings shall be exempted from imposition of tax under sub-section (*1*), namely:—

(*a*) lands and buildings, the annual value of which is not more than [6][two hundred and fifty rupees];

(*b*) lands and buildings belonging to a local authority and used or intended to be used exclusively for a public purpose and not used or intended to be used for purposes of profits;

(*c*) lands and buildings used exclusively for religious, educational or charitable purposes.

(*3*) The State Government may, by notification, exempt either wholly or in part any other class of properties or classes of properties specified in the notification from the taxes or rates leviable under this section.

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[1]This *Explanation* was substituted for the original by s. 11 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[2]Clause (*a*) was substituted by s. 18(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]The words within the square brackets were substituted for the words "half *per centum*" by s. 17(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]The words within the square brackets were substituted for the words "one *per centum*" by s. 17(*2*), *ibid.*

[5]Clause (*b*) was omitted by s. 12(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[6]The words within the square brackets were substituted for the words "Fifty rupees" by s. 18(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[1]* * * * * * * *

(5) Subject to such rules as may be made in this behalf a *Gram Panchayat* shall levy—

(*a*) on all transfers of immovable property situated within the local limits of the *Gram*, a duty in the shape of an additional stamp duty at the rate of two *per centum* or, as the case may be, the amount of the consideration for the sale, the value of the property in the case of a gift, the amount secured by the mortgage, the value of the property of the greater value in the case of exchange, or the value of the rent for the first ten years in the case of a lease, as set forth in the instrument;

(*b*) a duty in the shape of an additional stamp duty at the rate of ten *per centum* on all payments for admission to any entertainment.

(*6*) The State Government may make rules for regulating the collection of the duty on transfers of immovable property and duty on entertainment referred to in sub-section (*5*), the payment thereof to the *Gram Panchayat* and the deduction of any expenses incurred by the State Government in the collection thereof.

Explanation.—In this section,—

(*a*) "annual value", in relation to any land or buildings, means an amount equal to six *per centum* of the market value of such land or buildings at the time of assessment estimated in the prescribed manner;

(*b*) "entertainment" includes any exhibition, cinematograph exhibition, performance, amusement, games or sports to which persons are admitted for payment;

[2](*c*) "land" includes homestead land and land appurtenant to building.

Levy of rates and fees.

47. (*1*) Subject to such maximum rates as the State Government may prescribe, a *Gram Panchayat* may levy the following [3][fees, rates and tolls,] namely:—

(*i*) fees on the registration of vehicles;

(*ii*) fees on plaints and petitions and other processes in suits and cases instituted before the *Nyaya Panchayat* concerned;

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[1]Sub-section (*4*) was omitted by s. 12(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this omission, the words "shall be paid by such person or shall be deducted in the manner prescribed, as the case may be," were substituted for the words "shall, in the manner prescribed, be deducted", in that sub-section, by s. 18(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]Clause (*c*) to the "*Explanation*" was first omitted by s. 12(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the same was again inserted by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

[3]The words within the square brackets were substituted for the words "fees and rates," by s. 13(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(*iii*) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;

(*iv*) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Gram Panchayat* within its jurisdiction;

(*v*) a lighting rate, where arrangement for lighting of public streets and places is made by the *Gram Panchayat* within its jurisdiction;

(*vi*) a conservancy rate, where arrangement for clearing private latrines, urinals and cesspools is made by the *Gram Panchayat* within its jurisdiction;

[1](*vii*) fees on [2][registration] for running trade, wholesale or retail, within the jurisdiction of the *Gram Panchayat* unless such [2][registration] or such trade is prohibited under any law for the time being in force;

[1](*viii*) tolls on persons, vehicles or animals or any class of them at any toll-bar which is established by the *Gram Panchayat* on any road or bridge vested in, or under the management of, the *Gram Panchayat*;

[1](*ix*) tolls in respect of any ferry established by, or under the management of, the *Gram Panchayat*;

[3]* * * * * * *

[3](*xi*) a general sanitary rate where arrangement for the construction and maintenance of public latrines is made by the *Gram Panchayat* within its jurisdiction;

[3](*xii*) a drainage rate where arrangement for regular clearance of common drains is made by the *Gram Panchayat* within its jurisdiction;

[3]* * * * * * *

[3](*xiv*) fees for use of burning *ghat* vested in, or under the management and control of, the *Gram Panchayat*;

[3](*xv*) fees on registration for [4][shallow or deep tube-wells] fitted with motor-driven pump sets and installed for irrigation for commercial purposes, subject to such terms and conditions as may be prescribed.

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[1]Clauses (*vii*) to (*ix*) were inserted by s. 13(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]The word within the square brackets was substituted for the word "licence" by s. 18(*1*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Clauses (*x*) to (*xv*) were first inserted by s. 18(*1*)(*b*), *ibid.* Thereafter, clauses (*x*) and (*xiii*) were omitted by ss. 7(*1*) and 7(*2*), respectively, of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

[4]The words within the square brackets were substituted for the words "shallow tube-wells" by s. 5(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

Explanation.—In this clause, "commercial purpose" includes any purpose for which irrigation water is supplied to the land of any person, other than the owner of the shallow tube-well, on realisation of water rates, by whatever name called, from the owner of such land.

[1](*xvi*) fees on the village produces sold in the village market organized by the *Gram Panchayat* to be determined by means of weight, measurement or by number or any two or more of them;

[1](*xvii*) fees on erection, exhibition, fixing or retaining upon or over any land, building, wall, hoarding, or structure, any advertisement for public display in any manner whatsoever, in any place whether public or private excepting those exhibited by the State Government in the public interest.

(*2*) The *Gram Panchayat* shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* within its jurisdiction or levy fee therefor if such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

[2](*3*) The scales of tolls, and the fees or rates and the terms and conditions of imposition thereof, shall be such as may be provided by bye-laws.

[2](*4*) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

Power to borrow money.

[3]**47A.** A *Gram Panchayat* may borrow money from the State Government or [4]* * * * from banks or other financial institutions for furtherance of its objective on the basis of such specific schemes as may be drawn up by the *Gram Panchayat* for the purpose.

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[1]These clauses were inserted by s. 5(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[2]Sub-Section (*3*) and (*4*) were inserted by s. 18(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Section 47A was inserted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]The words ", with the previous sanction of the State Government," were omitted by s. 19 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Budget of the *Gram Panchayat.*

48. (*1*) Every *Gram Panchayat* shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year [1]* * *

[2](*2*) (*a*) The budget prepared under sub-section (*1*) shall be written in vernacular of the district or the locality concerned and copies of the budget shall be pasted in such prominent places within the *Gram Panchayat* as may be prescribed, inviting objections and suggestions by the members of the *Gram Sabha.*

(*b*) Copies of the budget shall be forwarded to the *Panchayat Samiti* having jurisdiction over the *Gram* for its views, if any.

(*c*) The budget with objections, suggestions and views, if any, received from various quarters shall, within such period as may be prescribed, be placed in the meeting of the *Gram Sabha* for discussions proposing modification, if any, of the budget.

(*d*) The *Gram Panchayat* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions, and views, if any, and the discussions in the meeting of the *Gram Sabha,* and approve the budget with modifications, if any.

(*e*) A copy of the budget approved under clause (*d*) shall be forwarded to the *Panchayat Samiti* having jurisdiction.

(*3*) No expenditure shall be incurred unless the budget is approved [3][under clause (*d*) of sub-section (*2*).]

Supplementary Budget.

49. [4](*1*) A *Gram Panchayat* may prepare in each year a supplementary estimate providing for any modification of its budget and [4][approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

[5](*2*) A copy of the supplementary estimate as approved under sub-section (*1*) shall be forwarded to the *Panchayat Samiti* having jurisdiction.

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[1]The words "and shall submit the budget to the *Panchayat Samiti* having jurisdiction over the area of the *Gram*" were omitted by s. 20(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-section (*2*) was substituted for the original sub-section by s. 20(*2*), *ibid.*

[3]Words, figure, letter and first brackets within the square brackets were substituted for the words "by the *Panchayat Samiti*" by s. 20(*3*), *ibid.*

[4]Section 49 was renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so renumbered, the words within the square brackets were substituted for the words "submit it to the *Panchayat Samiti* for approval" by s. 21(*1*), *ibid.*

[5]Sub-section (*2*) was added by s. 21(*2*), *ibid.*

Accounts.

50. A *Gram Panchayat* shall keep such accounts and in such form as may be prescribed.

CHAPTER VII

Nyaya Panchayats

Constitution of *Nyaya Panchayat.*

51. (*1*) Every *Gram Panchayat* shall, if authorised by the State Government by notification to do so, constitute a *Nyaya Panchayat*, consisting of five members, to be called *Vicharaks,* elected by it at such time and in such manner as may be prescribed from amongst persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in the *Gram*, other than a person who is a member of any *Gram Panchayat, Panchayat Samiti* [1][, *Zilla Parishad, Mahakuma Parishad* or Council] or of any municipal authority constituted under any of the Acts referred to in sub-section (*2*) of section 1, for the trial of—

(*a*) the offences specified in the Second Schedule or a case transferred to the *Nyaya Panchayat* under sub-section (*2*) of section 52;

(*b*) all or any of the classes of civil suits specified in section 61:

Provided that no person shall be elected to be a member of *Nyaya Panchayat* if he has any of the disqualifications mentioned in section 8.

(*2*) Every *Nyaya Panchayat* constituted under sub-section (*1*) shall be notified in the *Official Gazette*, or in such other manner as may be prescribed, and shall come into office with effect from the date specified in the said notification.

(*3*) Every *Nyaya Panchayat* shall elect at such time and in such manner as may be prescribed one of its members to be called *Pradhan Vicharak* to preside over its sittings and in the absence of the *Pradhan Vicharak,* the *Vicharaks* present at the sitting of the *Nyaya Panchayat* shall elect one of them to be the *Pradhan Vicharak* for the purpose of that sitting.

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[1]The words within the square brackets were substituted for the words "or *Zilla Parishad*" by s. 9 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(*4*) The term of office of a member of a *Nyaya Panchayat* shall be [1][five years] from the date of the notification mentioned in sub-section (*2*):

Provided that the members of a *Nyaya Panchayat* shall continue in office until the election of the members of the *Nyaya Panchayat* by the newly constituted *Gram Panchayat* after a general election and assumption of office by such members.

(*5*) No *Nyaya Panchayat* shall try any suit, case or other proceeding pending before it unless at least three members of the *Nyaya Panchayat* are present during such trial.

(*6*) The Secretary to the *Gram Panchayat* shall act as the Secretary to the *Nyaya Panchayat* for the purpose of keeping the records of its proceedings and decisions, and doing such other duties as may be prescribed.

5 of 1898.

52. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a *Nyaya Panchayat* constituted under section 51 shall have jurisdiction, within the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat,* to try all offences specified in the Second Schedule, Part A; and, with effect from the date specified in the notification referred to in sub-section (2) of section 51, no other court shall, except as otherwise provided in this Act, take congnizance of any case triable by a *Nyaya Panchayat*:

Criminal jurisdiction.

Provided that nothing in this Act shall take away the jurisdiction of any court to try a case which a *Nyaya Panchayat* is prohibited by section 78 from trying or which should be, in the opinion of the *Nyaya Panchayat* or of the Sessions Judge or the Sub-divisional Judicial Magistrate exercising the power conferred by sub-section (*1*) of section 79, tried in an ordinary court.

(*2*) A *Nyaya Panchayat* may try any offence specified in the Second Schedule, Part B, if the case is transferred to it by a Sessions Judge, a Sub-divisional Judicial Magistrate or any other Judicial Magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898:

Provided that—

(*a*) a Judicial Magistrate before whom a complaint of an offence mentioned in the Second Schedule, Part A cognizable by a *Nyaya Panchayat* is made, shall transfer the complaint to the *Nyaya Panchayat* which is competent to try the offence;

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[1]The words within the square brackets were substituted for the words "four years" by s. 4 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

(*b*) the Sessions Judge or Sub-divisional Judicial Magistrate may transfer any case from one *Nyaya Panchayat* to another or to any other court subordinate to him if in the interest of justice he considers it necessary to do so;

(*c*) the Sessions Judge or Sub-divisional Judicial Magistrate may, with the consent of the parties, transfer any case cognizable by a *Nyaya Panchayat*, if the place of residence of the complainant is situated within the limits of a *Gram Panchayat* for which there is no *Nyaya Panchayat,* to any *Nyaya Panchayat* situated at a distance from such place of residence convenient, in the opinion of the Sessions Judge or the Sub-divisional Judicial Magistrate, as the case may be, for the parties and witnesses.

(*3*) Every offence triable by a *Nyaya Panchayat* shall ordinarily be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction it was committed.

(*4*) The offence of theft triable by a *Nyaya Panchayat* or any offence which includes theft or the possession of stolen property, triable by a *Nyaya Panchayat,* may be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

(*5*) An offence triable by a *Nyaya Panchayat*, committed whilst the offender is in the course of performing a journey, may be tried by the *Nyaya Panchayat* through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey.

(*6*) When it is uncertain in which of several areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas, it may be tried by a *Nyaya Panchayat* having jurisdiction over any such local areas.

(*7*) Whenever a question arises as to which of two or more *Nyaya Panchayats* subordinate to the same Sub-divisional Judicial Magistrate ought to try any offence, it shall be decided by the Sub-divisional Judicial Magistrate.

(*8*) Whenever a question arises as to which of two or more *Nyaya Panchayats* not subordinate to the same Sub-divisional Judicial Magistrate, but subordinate to the same Sessions Judge, ought to try any offence, it shall be decided by the Sessions Judge.

(*9*) Where two or more *Nyaya Panchayats* not subordinate to the same Sessions Judge have taken congnizance of the same offence, the Sessions Judge within the local limits of whose jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any *Nyaya Panchayat* subordinate to him and if he so decides all other proceedings against such person in respect of such offence shall be discontinued.

How case may be instituted.

53. A case before *Nyaya Panchayat* may be instituted by petition more orally or in writing to the Secretary of the *Gram Panchayat* or in his absence to a member of the *Nyaya Panchayat*. If the petition is made orally, the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the offence and such other particulars, if any, as may be prescribed, and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall, thereafter, direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

Power to dismiss or refuse to entertain petition.

54. (*1*) If upon the face of the petition, or on examining the petitioner, the *Nyaya Panchayat* is of opinion that the petition is frivolous, vexatious or untrue, it shall dismiss the case by an order in writing.

(*2*) If at any time it appears to the *Nyaya Panchayat*—

(*a*) that it has no jurisdiction to try the case; or

(*b*) that the offence is one for which the sentence which it is competent to pass would be inadequate; or

(*c*) that the case is one which should not be tried by it, it shall direct the petitioner by an order in writing to the court which would have had jurisdiction to try the offence but for the provisions of this Act.

Dismissal for default.

55. If in any case before a *Nyaya Panchayat* the petitioner fails, to appear on the day fixed, or if in the opinion of the *Nyaya Panchayat,* he shows negligence in prosecuting his case, the *Nyaya Panchayat* may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Proceeding preliminary to trial.

56. (*1*) If the petition be not dismissed, the *Nyaya Panchayat* shall, subject to the provisions of section 83, by summons require the accused to appear and answer the petition.

(*2*) If the accused fails to appear or cannot be found, the *Nyaya Panchayat* shall report the fact to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the offence but for the provisions of this Act, who may issue a warrant for the arrest of the accused and when arrested may forward him for trial to the *Nyaya Panchayat* or release him on bail to appear before it.

(*3*) The *Nyaya Panchayat* shall, if possible, try the case on the day on which the accused appears or is brought before it, but if that is not possible, the *Nyaya Panchayat* shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before it on any subsequent day or days to which the trial may be adjourned:

Provided that if the accused fails or refuses to execute a bond, the *Nyaya Panchayat* shall, instead of releasing him, send him back under custody to the Sub-divisional Judicial Magistrate by whom such accused was arrested and thereupon such Sub-divisional Judicial Magistrate shall, notwithstanding anything contained in sub-section (*1*) of section 52, take cognizance of the complaint made before the *Nyaya Panchayat* and shall try such accused person in the same manner and under the same procedure as if the complaint were made before him.

Compounding of offences.

57. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the *Nyaya Panchayat* may allow the parties to compound any offence triable by it. 5 of 1898.

Bar to appeal.

58. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, there shall be no appeal by a convicted person in any case tried by a *Nyaya Panchayat*:

Provided that the Sessions Judge or Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, if satisfied that failure of justice has occurred, may, of his own motion, or on the application of any of the parties, concerned, made within thirty days from the date of the order of the *Nyaya Panchayat*, cancel or modify any order of conviction or of compensation made by a *Nyaya Panchayat* or direct the retrial of any case by a court of competent jurisdiction subordinate to him, notwithstanding anything contained in sub-section (*1*) of section 52.

Power to impose fine or to award compensation.

59. (*1*) A *Nyaya Panchayat* shall, after hearing the parties and after considering the evidence adduced by the parties, record its decision in writing, and may sentence any offender convicted by it to pay a fine not exceeding fifty rupees:

Provided that if the members of the *Nyaya Panchayat* present during the trial of a case fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the *Nyaya Panchayat*:

Provided further that in the case of equality of votes of the members of a *Nyaya Panchayat* present during the trial of a case, the *Pradhan Vicharak*, or the person who is elected as *Pradhan Vicharak* for that sitting, shall have a second or casting vote and the decision of the *Nyaya Panchayat* shall be in accordance with such second or casting vote.

(*2*) No sentence of imprisonment, simple or rigorous, whether substantive or in default of payment of fine shall be awarded by any *Nyaya Panchayat.*

(*3*) When a *Nyaya Panchayat* imposes a fine under sub-section (*1*), it may, when passing the order, direct that the whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence.

(*4*) If a *Nyaya Panchayat* is satisfied that a complaint made before it or transferred to it for trial is false, vexatious or frivolous, it may order the complainant to pay to the accused, such compensation not exceeding twenty-five rupees, as it thinks fit.

(*5*) If such fine or compensation is not paid or realised within thirty days of the passing of the sentence or order or within such further time as the *Nyaya Panchayat* may allow, the *Nyaya Panchayat* shall record an order declaring the amount of fine imposed or compensation awarded and that it has not been paid, and shall forward the same to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the case but for the provisions of this Act, and the Sub-divisional Judicial Magistrate shall—

(*a*) proceed to execute the order as if it were an order passed by himself, or

(*b*) in default of payment, sentence the accused to imprisonment in accordance with Chapter III of the Indian Penal Code, notwithstanding anything contained in sub-section (*2*) of this section:

45 of 1860.

Provided that, notwithstanding anything contained in the Indian Penal Code—

(*a*) the fine imposed or compensation awarded by a *Nyaya Panchayat* shall not be realised from any person who has served his term of imprisonment;

(*b*) the person serving his term of imprisonment shall be forthwith released, if the fine or compensation is paid before the expiry of the term of imprisonment.

Release after admonition or on probation of good conduct.

60. When any person is convicted by a *Nyaya Panchayat* and no previous conviction is proved against him, if it appears to the said *Nyaya Panchayat* that regard being had to the age, character and antecedents of the offender and to the circumstances in which the offence was committed, it is expedient—

(*a*) that the offender should be released after due admonition the *Nyaya Panchayat* may, instead of sentencing him to any punishment, release him after due admonition; or

(*b*) that the offender should be released on probation of good conduct, the *Nyaya Panchayat* may, notwithstanding anything contained in the Code of Criminal Procedure, 1898, instead of sentencing him at once to any punishment, direct that he be released on his executing a bond for a sum not exceeding fifty rupees to appear and receive sentence when called upon during such period (not exceeding one year) as it may direct, and in the meantime to keep the peace and be of good behaviour. 5 of 1898.

Civil jurisdiction.

61. (*1*) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887 and the Code of Civil Procedure, 1908, and subject to the provisions of sections 62 and 63, a *Nyaya Panchayat* shall have, within the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat,* jurisdiction to try the following classes of suits when the value of the suit does not exceed two hundred and fifty rupees, namely:— 12 of 1887. 9 of 1887. 5 of 1908.

(*a*) suits for money due on contracts;

(*b*) suits for the recovery of movable property or the value of such property;

(*c*) suits for compensation for wrongfully taking or damaging movable property; and

(*d*) suits for damages by cattle-trespass.

(*2*) No other court shall have jurisdiction to try any suit of the classes mentioned in sub-section (*1*):

Provided that nothing in this Act shall take away the jurisdiction of any court to try a suit which a *Nyaya Panchayat* is prohibited by section 78 from trying or which should be, in the opinion of the *Nyaya Panchayat* or of the District Judge exercising the power conferred by sub-section (2) of section 79, tried by an ordinary court.

Suits not to be tried.

62. No suit shall lie in any *Nyaya Panchayat*—

(*a*) on a balance of partnership account;

(*b*) for a share or part of a share under an intestacy, or for a legacy or part of legacy under a Will;

(*c*) by or against the Union of India or a State Government or a local authority or public officers for acts done in their official capacity;

(*d*) by or against minors or persons of unsound mind or when any such person is in the opinion of the *Nyaya Panchayat* a necessary party;

(*e*) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property; or

(*f*) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

Suits to include whole claim.

63. (*1*) Every suit instituted before a *Nyaya Panchayat* shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the *Nyaya Panchayat.*

(*2*) If the plaintiff omits to sue in respect of or relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Local limit of jurisdiction.

64. No suit shall lie in a *Nyaya Panchayat* unless at least one of the defendants resides within the limits of its jurisdiction at the time of the institution of the suit, or the cause of action has arisen wholly or in part within those limits.

How suit may be instituted.

65. (*1*) A suit before a *Nyaya Panchayat* may be instituted by petition made orally or in writing to the Secretary of the *Gram Panchayat* or in his absence to a member of the *Nyaya Panchayat.* If the petition is made orally the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the claim and such other particulars, if any, as may be prescribed and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall thereafter direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

(*2*) The plaintiff on instituting his suit shall state the value of the claim.

Dismissal of suits barred by limitation, etc.

66. (*1*) If at any time the *Nyaya Panchayat* is of opinion that the suit is barred by limitation it shall dismiss the suit by an order in writing.

(*2*) If at any time it appears to the *Nyaya Panchayat* that it has no jurisdiction to entertain the suit, it shall direct the petitioner to the Court having jurisdiction to try such suit.

(*3*) Where it is proved to the satisfaction of the *Nyaya Panchayat* that a suit has been adjusted wholly or in part by any lawful agreement or compromise or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the *Nyaya Panchayat* shall pass a decree in accordance therewith so far as it relates to the suit:

Provided that where the *Nyaya Panchayat* refuses to pass a decree in accordance with the agreement or compromise, it shall record its reasons in writing for so doing.

Dismissal of suits for default.

67. If in any suit before a *Nyaya Panchayat* the plaintiff fails to appear on the day fixed, or if in the opinion of the *Nyaya Panchayat*, he shows negligence in prosecuting his suit, it may dismiss the suit for default:

Provided that a *Nyaya Panchayat* may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the *Nyaya Panchayat* that he was prevented by sufficient cause from appearing at the time when the suit was called on for hearing.

Summons to defendant to appear.

68. If on receiving the plaint the *Nyaya Panchayat* is satisfied that the trial of the suit may be proceeded with it shall, by summons, require the defendant to appear and answer the suit either orally or in writing.

Ex parte decision.

69. If the defendant fails to appear and the *Nyaya Panchayat* is satisfied that the summons was duly served it may decide the suit *ex parte*:

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision, apply, orally or in writing, to the *Nyaya Panchayat* to set aside the order; and the *Nyaya Panchayat*, if satisfied that the summons was not duly served on the defendant, or that the defendant was prevented from appearing at the time when the suit was called on for hearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit.

No order to be set aside without notice to opposite party.

70. No decision or order of a *Nyaya Panchayat* shall be set aside under the proviso to section 67 or under the proviso to section 69 unless notice in writing has been served by the *Nyaya Panchayat* on the opposite party.

Power to determine parties.

71. (*1*) Subject to the provisions of clauses (*c*) and (*d*) of section 62, the *Nyaya Panchayat* shall add as parties to a suit any person whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register:

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity to appear before the trial of the suit is proceeded with.

(*2*) In all cases where a new party appears under the proviso to sub-section (*1*) during the trial of a suit, he may require that the trial shall begin *de novo.*

Decision of suits.

72. (*1*) When the parties or their agents have been heard and the evidence on both sides considered, the *Nyaya Panchayat* shall, by written order, pass such decree as may seem just, equitable and according to good conscience, stating in the decree the amounts of prescribed fees and the amount, if any, paid to witnesses under sub-section (*3*) of section 82 and the persons by whom such amounts are payable:

Provided that if the members of the *Nyaya Panchayat* present during the trial of a suit fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the *Nyaya Panchayat*:

Provided further that in the case of equality of votes of the members of a *Nyaya Panchayat* present during the trial of a suit, the *Pradhan Vicharak*, or the person who is elected as *Pradhan Vicharak* for that sitting, shall have a second or casting vote and the decision of the *Nyaya Panchayat* shall be in accordance with such second or casting vote.

(*2*) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of an incidental to all suits shall be in the discretion of the *Nyaya Panchayat* and the *Nyaya Panchayat* shall have full power to determine by whom and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid:

Provided that where the *Nyaya Panchayat* directs that the successful party shall not get the costs of the suit, it shall state its reasons in writing.

(*3*) If a *Nyaya Panchayat* is satisfied that a suit instituted before it is false, vexatious or frivolous, it may direct the plaintiff, by an order in writing, to pay to the defendant such compensation, not exceeding twenty-five rupees, as it may think fit.

Instalments.

73. A *Nyaya Panchayat* in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid, or the movable property be delivered, by instalments.

Decision to be final but power to Munsif to order retrial.

74. The decision of a *Nyaya Panchayat* in every suit shall be final as between the parties to the suit:

Provided that the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act, may, on the application of any party to the suit made within thirty days of the decree or order of the *Nyaya Panchayat,* cancel or modify the decree or order of the *Nyaya Panchayat* or direct a retrial of the suit by the same or any other *Nyaya Panchayat* if he is satisfied that there has been a failure of justice.

Death of parties.

75. If the plaintiff or defendant in any suit dies before the suit has been decide, the suit may, subject to the provisions of clause (*d*) of section 62, be proceeded with at the instance of, or against the legal representatives of, the deceased plaintiff or defendant, as the case may be.

Effect of decision on questions of title, etc.

76. The decision of a *Nyaya Panchayat* on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

Procedure for *Nyaya Panchayat.*

77. (*1*) The provisions of—

(*a*) the West Bengal Court-fees Act, 1970, — West Ben. Act X of 1970.

(*b*) the Code of Criminal Procedure, 1898, — 5 of 1898.

(*c*) the Code of Civil Procedure, 1908, and — 5 of 1908.

(*d*) the Indian Evidence Act, 1872, — 1 of 1872.

shall not apply to any trial before a *Nyaya Panchayat.*

(2) The procedure to be followed by a *Nyaya Panchayat* in any trial, in the enforcement of its decisions and orders, and in the method of forming a quorum shall, subject to the provisions of this Act, be in accordance with prescribed rules.

Bar to trial of case or suit in which a *Panchayat* or its member is interested.

78. No *Nyaya Panchayat* shall try any case or suit or other proceeding in which the *Gram Panchayat* concerned or any member of such *Nyaya Panchayat* is a party or is interested.

Withdrawal or transfer of case or suit.

79. (*1*) The Sessions Judge or the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, may, of his own motion or on the application of any of the parties to a case or on the motion of the *Nyaya Panchayat* concerned, withdraw the case pending before a *Nyaya Panchayat* if, for reasons to be recorded by him in writing, he is of opinion that the case is one which should not be tried or heard by the *Nyaya Panchayat*, and may try or hear the case himself or transfer it for disposal to another Judicial Magistrate who would have had jurisdiction to try the case but for the provisions of this Act.

(*2*) The District Judge, within the local limits of whose jurisdiction a *Nyaya Panchayat* is situate, may, of his own motion or on the application of any of the parties to a suit or on the motion of the *Nyaya Panchayat* concerned, withdraw the suit pending before a *Nyaya Panchayat* if, for reasons to be recorded by him in writing, he is of opinion that the suit is one which should not be tried or heard by the *Nyaya Panchayat*, and may try or hear the suit himself or transfer it for disposal to the court of the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act.

(*3*) If at any stage of a case or a suit any party to such case or suit informs the *Nyaya Panchayat* that he has applied or that he intends to apply for the withdrawal or transfer of the case or suit under sub-section (*1*) or sub-section (*2*), as the case may be, the *Nyaya Panchayat* shall stay further proceedings in the case or suit until such time as it thinks fit.

Certain suits and cases not to be tried.

80. (*1*) No *Nyaya Panchayat* shall try any suit in which the matter directly and substantially in dispute has been heard and finally decided by a court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim.

(*2*) No *Nyaya Panchayat* shall proceed with the trial of any suit in which the matter directly and substantially in dispute is pending for decision in the same *Nyaya Panchayat* or in any other court in a previously instituted suit between the same parties or between parties under whom they or any of them claim.

(*3*) No *Nyaya Panchayat* shall try a person who has once been tried by a court or a *Nyaya Panchayat* of competent jurisdiction for an offence and convicted or acquitted of such offence, while such conviction or acquittal remains in force.

Inspection.

81. (*1*) The Sessions Judge and the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, shall have the power at all times to inspect the proceedings of any criminal case and the records of criminal cases maintained by a *Nyaya Panchayat.*

(*2*) The District Judge and the Munsif within the local limits of whose jurisdicition the *Nyaya Panchayat* is situate, shall have the power at all times to inspect the proceedings of any suit and the records of suits maintained by a *Nyaya Panchayat.*

Attendance of witnesses.

82. (*1*) Subject to the provisions of section 85, a *Nyaya Panchayat* may, by summons, send for any person to appear and give evidence or to produce or cause the production of any document:

Provided that no person who is exempt from personal appearance in court under sub-section (*1*) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person before a *Nyaya Panchayat.* 5 of 1908.

(*2*) A *Nyaya Panchayat* shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the *Nyaya Panchayat*, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(*3*) A *Nyaya Panchayat* shall not require any person living outside the limits of the *Gram Panchayat* concerned to give evidence, unless such sum of money as may appear to the *Nyaya Panchayat* to be sufficient to defray the travelling and other expenses of such person and for one day's attendance is deposited in the *Nyaya Panchayat* by the party who cites such person as his witness.

(*4*) If any person whom a *Nyaya Panchayat* summons by written order to appear or give evidence, or to produce any document before it fails, without lawful excuse, to obey such summons and thereby commits an offence, the *Nyaya Panchayat* may take cognizance of such offence and may sentence the person convicted of such offence to a fine not exceeding twenty-five rupees.

Appearance of parties.

83. (*1*) The parties to cases triable by a *Nyaya Panchayat* shall appear personally before the *Nyaya Panchayat:*

Provided that the *Nyaya Panchayat*, if it thinks fit so to do, may dispense with the personal attendance of an accused and permit him to appear by agent.

(*2*) The parties to suits triable by a *Nyaya Panchayat* may appear by agent.

Explanation.—"agent" in sub-sections (*1*) and (*2*), means a person who is authorised in writing to appear and plead for either party.

(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), no person whose name is included in a list of touts framed and published by Sub-divisional Magistrate under section 80A of the 16 of 1908. Registration Act, 1908, shall be permitted to appear as an agent of a party before a *Nyaya Panchayat.*

18 of 1879. **84.** Notwithstanding anything contained in the Legal Practitioners Act, 1879, legal practitioners shall not be permitted to practise before a *Nyaya Panchayat.*

Legal practitioners not to practise.

85. No woman shall be compelled to appear in person before a *Nyaya Panchayat* as an accused or as a witness.

Appearance of women.

86. Subject to such rules as may be prescribed, a *Nyaya Panchayat* may issue a Commission to examine any person in accordance with such procedure as may be prescribed.

Power to issue Commission.

87. Where a suit is maintainable in more than one *Nyaya Panchayat*, the plaintiff may bring the suit in any one of such *Nyaya Panchayats* and any dispute regarding the jurisdiction of a *Nyaya Panchayat* to entertain any suit shall be decided by the Munsif who would have had jurisdiction to try the same but for the provisions of this Act, and the decision of the Munsif thereon shall be final.

Trial of suit triable by more than one *Nyaya Panchayat.*

88. (*1*) All fees imposed and all sums decreed under this Act by a *Nyaya Panchayat* may be realised under the orders of the *Nyaya Panchayat* in the same manner as an arrear of rate or tax imposed under this Act and any amount realised in pursuance of such an order shall be paid to the persons entitled to get the same.

Realisation of fees and execution of decrees.

(*2*) If the *Nyaya Panchayat* granting a decree is unable to effect satisfaction thereof, it shall grant the decree-holder a certificate to that effect stating the amount due to him and the amount due as costs of the suit.

(*3*) The decree-holder to whom the certificate referred to in sub-section (*2*) is granted, may make an application, on production of such certificate, to the court of the Munsif within the local limits of whose

jurisdiction the defendant actually and voluntarily resides or carries on business or personally works for gain, for execution of the decree granted by the *Nyaya Panchayat.*

(*4*) The court of the Munsif, to which the application referred to in sub-section (*3*) is made, shall execute the decree granted by the *Nyaya Panchayat* and in executing such decree it shall have the same powers and it shall follow the same procedure as if it were executing a decree passed by itself.

(*5*) An application for execution of a decree of a *Nyaya Panchayat* made after the expiry of three years from the date of the decree or of any order under the proviso the section 74 modifying any such decree, shall be dismissed, although limitation has not been pleaded:

Provided that where the decree is for payment of a sum of money or delivery of any movable property which the decree directs to be made at a certain date, the application for execution of the decree may be made within three years from that date.

Registers and records.

89. Every *Nyaya Panchayat* shall maintain such registers and records and submit such returns as may be prescribed.

Resignation by member of *Nyaya Panchayat* and filling of casual vacancy.

90. (*1*) A member of a *Nyaya Panchayat* may resign during his term of office by notifying in writing his intention to do so to the prescribed authority and, on such resignation being accepted by the prescribed authority, shall be deemed to have vacated his office.

(*2*) When the office of a member of a *Nyaya Panchayat* becomes vacant by resignation or otherwise a new member shall, in the same manner as laid down in section 51, be elected by the *Gram Panchayat,* who shall hold office so long as the member whose office he fills would have been entitled to hold office if such vacancy had not occurred:

Provided that no act of the *Nyaya Panchayat* shall be deemed to be invalid by reason only that the number of members of the *Nyaya Panchayat* at the time of the performance of such act was less than the prescribed number.

Removal of members of *Nyaya Panchayat.*

91. (*1*) The State Government may, by an order in writing, at any time, for good and sufficient reason to be stated in such order, remove a member of a *Nyaya Panchayat.*

(*2*) Before removing a member under sub-section (*1*), the State Government shall allow the member concerned an opportunity of being heard in accordance with such rules as may be prescribed.

Reference to Sessions Judge, etc.

92. Any reference in this Chapter to the Sessions Judge, the Sub-divisional Judicial Magistrate and the Judicial Magistrate shall, in the district where the West Bengal Separation of Judicial and Executive Functions Act, 1970, is not in force, be construed as a reference to the District Magistrate, Sub-divisional Magistrate and Magistrate, respectively.

West Ben. Act VIII of 1970.

PART III

PANCHAYAT SAMITI

CHAPTER VIII

Constitution of *Panchayat Samiti*

Block.

93. (*1*) The State Government may, by notification, divide a district into Blocks each comprising such contiguous *Gram* as may be specified in the notification:

[1]Provided that a Block may comprise such *Grams* as are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (*3*) of section 1 have not come into force.

(*2*) The notification under sub-section (*1*) shall specify the name of the Block by which it shall be known and shall specify the local limits of such block.

(*3*) The State Government may after making such enquiry as it may think fit and after consulting the views of the *Panchayat Samiti* or *Samities* concerned, by notification—

(*a*) exclude from any Block any *Gram* comprised threrein; or

[2](*b*) include in any Block any *Gram* contiguous to such Block or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (*3*) of section 1 have not come into force; or

(*c*) divide the area of a Block so as to constitute two or more Blocks; or

(*d*) unite the areas of two or more Blocks so as to constitute a single Block.

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[1]This proviso was inserted by s. 6(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[2]Clause (*b*) was substituted by s. 6(*b*), *ibid.*

Panchayat Samiti and its constitution.

94. (*1*) For every Block the State Government shall constitute a *Panchayat Samiti* bearing the name of the Block.

(2) The *Panchayat Samiti* shall consist of the following members, namely:—

(*i*) *Pradhans* of the *Gram Panchayats* within the Block, *ex-officio*;

(*ii*) such number of persons not exceeding three as may be prescribed [1][on the basis of the number of voters in hill areas and other areas] to be elected from each *Gram* within the Block, the *Gram* being divided [2][by the prescribed authority] for the purpose into as many constituencies as the number of the persons to be elected, and the election being held by secret ballot at such time and in such manner as may be prescribed, [3][from amongst the persons, whose names are included in the electoral roll [4](pertaining to the area comprised in the Block, prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such *Gram*:]

[5]Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Panchayat Samiti* and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Panchayat Samiti* to be filled up by election as the population of the

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[1]The words within the square brackets were inserted by s. 4(*a*) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978).

[2]The words within the square brackets were inserted by s. 7 of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[3]The words within the square brackets were substituted for the words "from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nomination for *Panchayat* election pertaining to the constituency comprised in such *Gram*;" by s. 15(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this substitution, the words "in force on the last date of nomination for *Panchayat* election" were substituted for the words "for the time being in force" by s. 19 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]The words within the first brackets were substituted for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for *Panchayat* election pertaining to the area comprised in the Block," by s. 22(*1*)(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[5]These provisos were added by s. 15(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

Scheduled Castes in that *Panchayat Samiti* area or of the Scheduled Tribes in that *Panchayat Samiti* area, as the case may be, bears to the total population of that *Panchayat Samiti* area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Panchayat Samiti* area, as the case may be, bears with the total population in that *Panchayat Samiti* area:

[1]Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[1]Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a *Panchayat Samiti* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

[1]Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section [2]* * * * when the number of members to be elected to a *Panchayat Samiti* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a *Panchayat Samiti*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

[1]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Panchayat Samiti*, be disqualified for election to any seat not so reserved:

[3]Provided also that such division into constituencies shall be made in such manner that the ratio between the population of a Block and the number of constituencies in the *Panchayat Samiti* shall, so far as practicable, be the same in any *Panchayat Samiti*:

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[1]*See* foot-note 5 on page 84, *ante.*

[2]The words "or elsewhere in this Act" were omitted by s. 16(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]These provisos were added by s. 22(*1*)(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1]Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing [2][, by order, direct the prescribed authority to make fresh determination], of the number of members in a *Panchayat Samiti* or fresh reservation on rotation of the number of seats in that *Panchayat Samiti* and, on such order being issued by the State Election Commissioner, the determination of the number of members [3][or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for [4][the next] three successive general elections:

[1]Provided also that provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India;

[5](*iii*) (*a*) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the Block or any part thereof, not being [6][Ministers;]

(*b*) members of the Council of States, not being Ministers, [7][(registered as electors within the area of the Block;) and]

[8](*c*) members of the *Zilla Parishad*, not being *Sabhadhipati* or *Sahakari Sabhadhipati*, elected thereto from the constituency comprising any part of the Block.

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[1]*See* foot-note 3 on page 85, *ante.*

[2]The words within the square brackets were substituted for the words "and by notification, order fresh determination" by s. 16(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]These words within the square brackets were substituted for the words "and the reservation of the number of seats" by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[4]The words within the square brackets were inserted by s. 16(*b*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[5]Clause (*iii*) was substituted for the original clause, with retrospective effect, by s. 2 of the West Bengal *Panchayat* (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979).

[6]The words within the square brackets were substituted for the words "Minister; and" by s. 15(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[7]Firstly, the words "Block; and" were substituted for the word "Block." by s. 15(*b*)(*ii*), *ibid.* Later, the words within the round brackets were substituted for the words "having a place of residence in the Block;" by s. 22(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[8]Sub-clause (*c*) was inserted by s. 15(*b*)(*iii*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(*3*) Every *Panchayat Samiti* constituted under this section shall [1]* * * * be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

(*4*) Every *Panchayat Samiti* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

Effect of the alteration of the area of a Block.

95. (*1*) When any *Gram* is excluded from a Block under clause (*a*) of sub-section (*3*) of section 93, such *Gram* shall, as from the date of the notification referred to in that sub-section, cease to be subject to the jurisdiction of the *Panchayat Samiti* of that Block and, unless the State Government otherwise directs, to the rules, orders, directions and notifications in force therein.

(*2*) When a *Gram* is included in a Block under clause (*b*) of sub-section (*3*) of section 93, the *Panchayat Samiti* for that Block shall, as from the date of the notification referred to in that sub-section, have jurisdiction over such *Gram* and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Block shall apply to the *Gram* so included.

[2](*3*) When the area of any Block is divided under clause (*c*) of sub-section (*3*) of section 93 so as to constitute two or more Blocks, there shall be reconstitution of the *Panchayat Samities* for the newly constituted Blocks in accordance with the provisions of this Act, and the *Panchayat Samiti* of the Block so divided shall, as from the date of coming into office of the newly constituted *Panchayat Samities*, cease to exist.

[3](*4*) When the areas of two or more Blocks are united under clause (*d*) of sub-section (*3*) of section 93 so as to constitute a single Block, there shall be reconstitution of the *Panchayat Samiti* for the newly constituted Block in accordance with the provisions of this Act, and the *Panchayat Samities* of the Blocks so united shall, as from the date of coming into office of the newly constituted *Panchayat Samiti*, cease to exist.

(*5*) When under sub-section (*3*) of section 93 any *Gram* is excluded from or included in, a Block, or a Block is divided so as to constitute two or more Blocks, or two or more Blocks are united to constitute a single Block, the properties, funds and liabilities of the *Panchayat Samiti*

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[1]The words and figures ", notwithstanding anything contained in section 210," were first inserted by s. 4(*b*) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 22(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-section (*3*) was substituted for the original sub-section by s. 8(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

[3]Sub-section (*4*) was substituted for the original sub-section by s. 8(*b*), *ibid.*

or *Samities* affected by such reorganisation shall vest in such *Panchayat Samiti* or *Samities*, and in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(*6*) An order made under sub-section (*5*) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

[1]*Explanation.*—For the purpose of reconstitution of the *Panchayat Samiti* after division referred to in sub-section (*3*) or after unification referred to in sub-section (*4*),—

(*a*) it shall not be necessary to hold general elections to the newly constituted *Panchayat Samiti* or *Panchayat Samities* when the terms of office of the members of the former *Panchayat Samities* within the scope and meanings of sub-section (*1*) of section 96, do not expire, and

(*b*) such members having unexpired terms of office shall be declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, by notification in the *Official Gazette* as members to the newly constituted *Panchayat Samiti* that comprises the constituencies, wholly or in part, from which such members were elected to the former *Panchayat Samities* and any such member shall hold office in the newly constituted *Panchayat Samiti* for the unexpired portion of the term of his office.

Effect of inclusion of any area of Block in any area of Municipality.

[2]**95A.** If, at any time, the whole of the area of a Block is included in the area of a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the *Panchayat Samiti* for such area shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such *Panchayat Samiti* shall vest in and devolve on the Municipality or the Town Committee or the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The persons employed under such *Panchayat Samiti* shall, with effect from the date on which the *Panchayat Samiti* ceases to exist, be deemed to be employed by the Municipality or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.

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[1]This '*Explanation*' was added by s. 17 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Section 95A was inserted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[2][Term of office of members of *Panchayat Samiti.*]

[1]**96.** (*1*) The members of a *Panchayat Samiti,* other than *ex officio* members, shall, subject to the provisions of sections 100 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

[3](*2*) There shall be held a general election for the constitution of a *Panchayat Samiti* on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that *Panchayat Samiti* following the preceding general election.

[4]**96A.** [(*General election to* Panchayat Samitis.)—*Omitted by s. 24 of the West Bengal* Panchayat *(Amendment) Act, 1994 (West Ben. Act XVIII of 1994).*]

Disqualifications of members of *Panchayat Samiti.*

97. Subject to the provisions contained in sections 140 and 142, a person shall not be qualified to be a member of a *Panchayat Samiti,* if—

(*a*) he is a member [5]* * * * of any municipal authority constituted under any of the Acts referred to in sub-section (*2*) of section 1; or

[6](*b*) he is in the service of the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* or [7][*a Zilla Parishad* or the *Mahakuma Parishad* or the Council] and for the purposes of this clause, it is hereby declared that a

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[1]Section 96 was substituted for the original section by s. 23 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution there occurred some changes in the original section 96, namely:—

(*i*) sub-section (*1*) was substituted by s. 5 of the West Bengal *Panchayat* (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983),

(*ii*) the words "five years" were substituted for the words "four years" by s. 5(*b*)(*i*) of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), and

(*iii*) the words "five years" were substituted for the words "four years" by s. 5(*b*)(*ii*), *ibid.*

[2]The marginal note was substituted for the original "Office of the members of *Panchayat Samiti*" by s. 3(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

[3]Sub-section (*2*) was substituted for the original by s. 3(*2*), *ibid.*

[4]Section 96A was inserted by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[5]The words "of a *Gram Panchayat* other than the *Pradhan* or a *Nyaya Panchayat* or a *Zilla Parishad* or" were omitted by s. 20(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[6]Clause (*b*) was substituted by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 1985 (West Ben. Act VI of 1985).

[7]The words within the square brackets were substituted for the words "a *Zilla Parishad,*" by s. 10(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or

(*c*) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Panchayat Samiti,* or a *Gram Panchayat* within the Block concerned [1][, or the *Zilla Parishad* of the district, or the *Mahakuma Parishad* or the Council:]

Provided that no person shall be deemed to be disqualified for being elected a member of a *Panchayat Samiti* by reasons only of his having a share or interest in any public company as defined in the Companies Act, 1956, which contracts with or is employed by the *Panchayat Samiti* or any such *Gram Panchayat* [2][or such *Zilla Parishad* or the *Mahakuma Parishad* or the Council;] or 1 of 1956.

(*d*) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or

(*e*) he has been adjudged by a competent court to be of unsound mind; or

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[1]The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district:" by s. 10(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[2]The words within the square brackets were substituted for the words "or such *Zilla Parishad*;" by s. 10(*b*)(*ii*), *ibid.*

(*f*) he is an undischarged insolvent; or

(*g*) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

[1](*h*) [2](*i*) he has been convicted by a court—

(*A*) of an offence punishable with imprisonment for a period of more than six months invloving moral turpitude or involving any other cognizable offence, or

45 of 1860. (*B*) of an offence under Chapter IXA of the Indian Penal Code, 1860, or

West Ben. Act X of 1952. (*C*) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, and five years have not elapsed from the date of the expiration of the sentence:

Provided that such conviction by a lower court shall remain in operation unless an appeallate court has stayed the operation of the order of the court, which has convicted the person; or

(*ii*) he is disqualified for the purpose of elections to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or

43 of 1951.

[3](*i*) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any elections; or

[4](*ia*) he has been removed from office under clause (*h*) of sub-section (*1*) of section 100 at any time during the last six years; or

[3](*j*) he has been convicted under section 189 at any time during the last ten years; or

[3](*k*) he has been surcharged or charged under section 192 at any time during the last ten years; or

[3](*l*) he has been removed under section 213 at any time during the last five years.

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[1]Clause (*h*) was substituted for the original clause by s. 18 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution the words "expiration of the sentence; or" were substituted for the words "expiration of the sentence." by s. 25(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-clause (*i*) was substituted for original by s. 15(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]Clauses (*i*) to (*l*) were inserted by s. 25(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]Clause (*ia*) was inserted by s. 15(*2*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

Sabhapati and *Sahakari Sabhapati.*

98. (*1*) Every *Panchayat Samiti* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Sabhapati* and another member to be the *Sahakari Sabhapati* of the *Panchayat Samiti*:

Provided that members referred to in [1][clauses (*i*) and (*iii*)] of sub-section (2) of section 94 [2][shall neither participate in, nor be eligible for, such election:]

[3]Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a wholetime functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:

[4]Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Sabhapati* and the *Sahakari Sabhapati* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

[4]Provided also that the offices of the *Sabhapati* and the *Sahakari Sabhapati* in any *Panchayat Samiti* having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Block, shall not be considered for allocation by rotation:

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[1]The words, brackets and figures "clause (*iii*)" were substituted with retrospective effect for the words, brackets, figure and letter "sub-clause (*iii*) of clause (*a*)" by s. 2 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). Thereafter the words, brackets and figures within the square brackets were substituted for the word, brackets and figures "clause (*iii*)" by s. 21(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were substituted for the words "shall not be eligible for such election." by s. 26(*1*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Second proviso was added by s. 17(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]Third to seventh and eleventh to thirteenth provisos were added by s. 26(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1]Provided also that in the event of the number of Blocks having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the *Sabhapati* and the *Sahakari Sabhapati* beginning from the Block having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

[1]Provided also that not less than one-third of the total number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* reserved for the Scheduled Castes and Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[1]Provided also that not less than one-third of the total number of offices of the *Sabhapati* and the *Sahakari Sabhapati* in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

[2]Provided also that in a district, determination of the offices of the *Sabhapati* reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the *Sahakari Sabhapati*:

[2]Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Sabhapati* in a *Panchayat Samiti* is reserved for any category of persons in terms of the rules in force, the office of the *Sahakari Sabhapati* in that *Panchayat Samiti* shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the *Sahakari Sabhapati*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Sahakari Sabhapati* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

[2]Provided also that when in any term of election, an office of the *Sahakari Sabhapati* is not reserved on the ground that the corresponding office of the *Sabhapati* is reserved in the manner prescribed, such office of the *Sahakari Sabhapati* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

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[1]*See* foot-note 4 on page 92, *ante.*

[2]Eighth to tenth provisos were inserted by s. 7 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[1]Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 26 of the West Bengal *Panchayat* (Amendment) Act, 1994, and the roaster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

[1]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Sabhapati* or *Sahakari Sabhapati*, be disqualified for election to any office not so reserved:

[1]Provided also that the provisions for reservation of the offices of the *Sabhapati* and the *Sahakari Sabhapati* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

(*2*) The meeting to be held under sub-section (*1*) shall be convened by the prescribed authority in the prescribed manner.

(*3*) The *Sabhapati* and the *Sahakari Sabhapati* shall, subject to the provisions of section 101 and to their continuing as members, hold office for a period of [2][five years];

[3]* * * * * * *

(*4*) When—

(*a*) the office of the *Sabhapati* falls vacant by reason of death, resignation, removal or otherwise, or

(*b*) the *Sabhapati* is, by reason of leave, illness or other cause, temporarily unable to act, the *Sahakari Sabhapati* shall exercise the powers, perform the functions and discharge the duties of the *Sabhapati* until a new *Sabhapati* is elected and assumes office or until the *Sabhapati* resumes his duties, as the case may be.

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[1]*See* foot-note 4 on page 92, *ante.*

[2]The words within the square brackets were substituted for the words "four years" by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

[3]Proviso was omitted by s. 26(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(*5*) When—

(*a*) the office of the *Sahakari Sabhapati* falls vacant by reason of death, resignation, removal or otherwise, or

(*b*) the *Sahakari Sabhapati* is, by reason of leave, illness or other cause, temporarily unable to act, the *Sabhapati* shall exercise the powers, perform the functions and discharge the duties of the *Sahakari Sabhapati* until a new *Sahakari Sabhapati* is elected and assumes office or until the *Sahakari Sabhapati* resumes his duties, as the case may be.

(*6*) When the offices of the *Sabhapati* and the *Sahakari Sabhapati* are both vacant or the *Sabhapati* and the *Sahakari Sabhapati* are temporarily unable to act, the prescribed authority may appoint [1][for a period of thirty days at a time] a *Sabhapati* and a *Sahakari Sabhapati* from among the members of the *Panchayat Samiti* to act as such until a *Sabhapati* or a *Sahakari Sabhapati* is elected [2][and assumes office or until the *Sabhapati* or the *Sahakari Sabhapati* resumes duties, as the case may be.]

[3]* * * * * * *

(*8*) The *Sabhapati* and the *Sahakari Sabhapati* of a *Panchayat Samiti* shall be paid out of the *Panchayat Samiti* Fund such [4][remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

[5](*9*) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Sabhapati* or a *Sahakari Sabhapati* from his office if, in its opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to interfere with due exercise of his powers, performance of his functions or discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

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[1]The words within the square brackets were inserted by s. 26(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words within the square brackets were substituted for the words "and assumes office" by s. 21(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Sub-section (*7*) was omitted by s. 21(*c*), *ibid.*

[4]The word within the square brackets was substituted for the word "honoraria" by s. 17(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[5]Clause (*9*) was added by s. 17(*3*), *ibid.*

Resignation of *Sabhapati* or *Sahakari Sabhapati* or a member.

[1]**99.** (*1*) (*a*) The *Sabhapati* of a *Panchayat Samiti* may resign his office by notifying in writing his intention to do so to the *Sahakari Sabhapati.*

(*b*) The *Sahakari Sabhapati* or a member of a *Panchayat Samiti* may resign his office by notifying in writing his intention to do so to the *Sabhapati.*

(*2*) The *Panchayat Samiti* shall, on receipt of the letter of resignation under sub-section (*1*), forward a copy of it to the prescribed authority for information.

(*3*) On receipt of a letter of resignation under sub-section (*1*),—

(*a*) in case of resignation of the *Sabhapati,* the *Sahakari Sabhapati* shall place it in the next meeting of the *Panchayat Samiti* for acceptance;

(*b*) in case of resignation of the *Sahakari Sabhapati,* the *Sabhapati* shall place it in the next meeting of the *Panchayat Samiti* for acceptance;

(*c*) in case of resignation of the member, the *Sabhapati* shall place it in the next meeting of the *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti* for acceptance.

(*4*) On acceptance of a resignation in terms of sub-section (*3*), the *Sabhapati,* the *Sahakari Sabhapati* or the member, as the case may be, shall be deemed to have vacated his office:

Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of the *Panchayat Samiti.*

(*5*) When a resignation is accepted under sub-section (*3*), the *Panchayat Samiti* shall immediately communicate it to the prescribed authority, who shall take appropriate action to fill up the vacancy,—

(*a*) in case such vacancy is in the office of *Sabhapati* or *Sahakari Sabhapati,* in accordance with the provisions of section 102;

(*b*) in case such vacancy is in the office of a member of the *Panchayat Samiti,* in accordance with the provisions of section 103.

Removal of member of *Panchayat Samiti.*

100. (*1*) The prescribed authority may, after giving opportunity to a member of a *Panchayat Samiti* [2][other than an *ex officio* member] to show cause against the action proposed to be taken against him, by order remove him from office—

[3](*a*) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence; or

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[1]Section 99 was substituted for the original by s. 16 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[2]The words within the square brackets were inserted by s. 22(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Clause (*a*) was substituted for original clause by s. 17(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*b*) if he was disqualified to be a member of the *Panchayat Samiti* at the time of his becoming a member; or

(*c*) if he incurs any of the disqualifications mentioned in clauses (*b*) to (*g*) of section 97 after his becoming a member of the *Panchayat Samiti*; or

(*d*) if he is absent from three consecutive meetings of the *Panchayat Samiti* without the leave of the *Panchayat Samiti* [1]* * * *; or

(*e*) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act or the Bengal Village Self-Government Act, 1919 or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963;

Ben. Act V of 1919. West Ben. Act I of 1957. West Ben. Act XXXV of 1963.

[2](*f*) if he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or

[2](*g*) if at the time of his election he was not a citizen of India and his name has since been deleted on the ground from the electoral roll in force pertaining to the area comprised in that *Panchayat Samiti*, by the Electoral Registration Officer; or

[2](*h*) if at the time of his election he was not a member of any of the Scheduled Castes or the Scheduled Tribes and the Scheduled Caste or the Scheduled Tribe certificate produced by him at the time of nomination has since been cancelled by the competent authority:

[3]Provided that without prejudice to the action taken under clause (*f*) or clause (*g*), the person concerned may also be proceeded against in terms of the provisions of the Indian Penal Code, 1860.

45 of 1860.

(*2*) Any member of a *Panchayat Samiti* who is removed from his office by the prescribed authority under sub-section (*1*) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(*3*) The order passed by such authority on such appeal shall be final

[4]* * * * * * *

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[1]The words "provided he is not an *ex officio* member of the *Panchayat Samiti*" were omitted by s. 22(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]Clauses (*f*) to (*h*) were inserted by s. 17(*2*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]The proviso was added by s. 17(*3*), *ibid.*

[4]Sub-section (*4*) was omitted by s. 22(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Removal of *Sabhapati* or *Sahakari Sabhapati.*

101. [1](1) [2][Subject to the other provisions of this section, a *Sabhapati* or a *Sahakari Sabhapati*] of a *Panchayat Samiti* may, at any time, be removed from office [3][by a resolution carried by the majority of the existing members referred to in clause (*ii*) of sub-section (*2*) of section 94] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of the *Sabhapati* from his office is under consideration, the *Sabhapati* or while any resolution for the removal of the *Sahakari Sabhapati* from his office is under consideration, the *Sahakari Sabhapati* shall not, though he is present, preside, and the provisions of sub-section (*2*) of section 105 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Sabhapati* or, as the case may be, the *Sahakari Sabhapati* is absent:

[4]Provided further that no meeting for the removal of the *Sabhapati* or the *Sahakari Sabhapati* under this section shall be convened within a period of one year from the date of election of the *Sabhapati* or the *Sahakari Sabhapati*:

[4]Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

[1](2) The *Sabhapati* or the *Sahakari Sabhapati*, who is removed from his office in terms of a resolution carried under sub-section (*1*), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.

Filling of casual vacancy in the office of *Sabhapati* or *Sahakari Sabhapati.*

102. In the event of removal of a *Sabhapati* or a *Sahakari Sabhapati* under section 101 or when a vacancy occurs in the office of a *Sabhapati* or a *Sahakari Sabhapati* by resignation, death or otherwise, the *Panchayat Samiti* shall elect another *Sabhapati* or *Sahakari Sabhapati* in the prescribed manner.

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[1]Section 101 was renumbered as sub-section (*1*) of that section and sub-section (2) was inserted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

[2]The words within the square brackets were substituted for the words "A *Sabhapati* or a *Sahakari Sabhapati*" by s. 27(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The words, figures and brackets within the square brackets were substituted for the words "by a resolution of the *Panchayat Samiti* carried by the majority of the existing members of the *Panchayat Samiti*" by s. 27(*b*), *ibid.*

[4]The second and the third provisos were first inserted by s. 27(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Later, the third proviso was substituted by s. 12 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Filling of casual vacancy in the office of a member of *Panchayat Samiti.*

103. If the office of a member of a *Panchayat Samiti* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner.

Term of office of *Sabhapati*, *Sahakari Sabhapati* or member filling casual vacancy.

104. Every *Sabhapati* or *Sahakari Sabhapati* elected under section 102 and a person who becomes a member under section 103 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Meetings of *Panchayat Samiti.*

105. (*1*) Every *Panchayat Samiti* shall hold a meeting [1][in its office at least once in every three months on such date and at such hour as the *Panchayat Samiti* may fix at the immediately preceding meeting:]

Provided that the first meeting of a newly-constituted *Panchayat Samiti* shall be held [2][on such date and at such hour and at such place within the local limits of the Block concerned] as the prescribed authority may fix:

Provided further that the *Sabhapati* when required in writing by one-fifth of the members of the *Panchayat Samiti* to call a meeting, [3][shall do so fixing the date and hour of meeting [4](to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Panchayat Samiti*], failing which [5][the members aforesaid may call a meeting [6](to be held) within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhapati* and the other members of the *Panchayat*

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[1]The words "in the office of the Block Development Officer concerned at least once in a month at such time" were substituted for the words "at least once in a month at such time and at such place within the local limits of the Block concerned" by s. 3(*a*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). Thereafter, the words "in every three months" were substituted for the words "in a month" by s. 2 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978). Finally, the words within the square brackets were substituted for the words beginning with "in the office of the Block Development Officer" and ending with "immediately preceding meeting" by s. 23(*1*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words "in the office of the Block Development Office concerned at such time" were first substituted for the words "at such time and at such place within the local limits of the Block concerned" by s. 3(*b*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). Thereafter the words within the square brackets were substituted for the words "in the office of the Block Development Officer concerned at such time" by s. 23(*1*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]The words within the square brackets were substituted for the words "shall do so within seven days" by s. 23(*1*)(*iii*)(*a*), *ibid.*

[4]The words within the round brackets were inserted by s. 19(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[5]The words within the square brackets were substituted for the words "the members aforesaid call a meeting" by s. 18 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[6]The words within the round brackets were inserted by s. 19(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Samiti. Such meeting shall be held [1][in the office of the *Panchayat Samiti* on such date and at such hour] as the members calling the meeting may decide. [2][The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

[3]Provided also that for the purpose of convening a meeting under section 101, at least one-fifth of the members referred to in clause (*ii*) of sub-section (*2*) of section 94 shall require the *Sabhapati* to convene the meeting:

[4]Provided also that if the *Panchayat Samiti* does not fix at any meeting the date and hour of the next meeting or if any meeting of the *Panchayat Samiti* is not held on the date and hour fixed at the immediately preceding meeting, the *Sabhapati* shall call a meeting of the *Panchayat Samiti* on such date and at such hour as he thinks fit.

(*2*) The *Sabhapati* or in his absence the *Sahakari Sabhapati* shall preside at the meeting of the *Panchayat Samiti* and in the absence of both [5][or on the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.

(*3*) One-fourth of the total number of members shall form a quorum for a meeeting of a *Panchayat Samiti*:

Provided that no quorum shall be necessary for an adjourned meeting.

(*4*) All questions coming before a *Panchayat Samiti* shall be decided by a majority of votes:

Provided that in case of equality of votes the person presiding shall have a second or casting vote:

[6]Provided further that in case of a requisitioned meeting for the removal of a *Sabhapati* or a *Sahakari Sabhapati* under section 101, the person presiding shall have no second or casting vote.

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[1]The words within the square brackets were substituted for the words "at such place within the local limits of the Block concerned" by s. 23(*1*)(*iii*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were inserted by s. 23(*1*)(*iii*)(*c*), *ibid.*

[3]This proviso was inserted by s. 13(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[4]This proviso was inserted by s. 23(*1*)(*iv*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]The words within the square brackets were inserted by s. 13(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[6]This proviso was inserted by s. 23(2) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

List of business to be transacted at a meeting.

106. A list of the business to be transacted at every meeting of a *Panchayat Samiti*, except at an adjourned meeting, shall be sent to each member of the *Panchayat Samiti* in the manner prescribed, at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting:

Provided that if the *Sabhapati* thinks that a situation has arisen for which an emergent meeting of the *Panchayat Samiti* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

Report on the work of *Panchayat Samiti.*

107. The *Panchayat Samiti* shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the *Zilla Parishad* concerned within the prescribed time.

Block Development Officer to attend meeting.

108. The Block Development Officer shall attend meetings of the *Panchayat Samiti* and shall participate in the deliberations thereof.

CHAPTER IX

Powers and duties of *Panchayat Samiti*

Power of *Panchayat Samiti.*

109. *(1)* [1][A *Panchayat Samiti* shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall prepare—

(*i*) a development plan for the five-year term of the office of the members, and

(*ii*) an annual plan for each year by the month of January of the preceding year,

[2](*iii*) implement schemes as may be drawn up in the annual plan by the *Panchayat Samiti*, or as may be entrusted upon or transferred to or devolved upon it,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to—]

(*a*) [3](*i*) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live stock, *khadi,* cottage and small-scale industries, co-operative movement,

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[1]The words, figures and the round brackets within the square brackets were substituted for the words "A *Panchayat Samiti* shall have power to—" by s. 28(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Clause (*iii*) was inserted by s. 18(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]Sub-clause (*i*) was substituted for the original by s. 28(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, welfare of students, social forestry and farm forestry including fuel and fodder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of geneal public utility;

(*ii*) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority;

[1](*iii*) manage or maintain any institution for promotion of environment, livelihood, education, health, communication, tourism or work of public utility including *hat,* market, auditorium, bus-stand, eco-park, guest house, constructed by it or vested in it for control and management:

Provided that the *Panchayat Samiti* may also construct and maintain such institutions or works of public utility within the area of an urban local body for the benefit of the people of the Block and may spend fund and levy charges for maintenance thereof;

(*iv*) make grants in aid of any school, public institution or public welfare organisation within the Block;

(*b*) make grants to the *Zilla Parishad* [2][or *Mahakuma Parishad* or Council] or *Gram Panchayat;*

(*c*) contribute with the approval of the State Government such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by a municipality within the Block;

(*d*) adopt measures for the relief of distress;

(*e*) co-ordinate and integrate the development plans and schemes prepared by *Gram Panchayats* in the Blocks if and when necessary;

[3](*f*) perform such other functions as the State Government may, by order, transfer to it, or entrust upon it or devolved on it from time to time;

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[1]Sub-clause (*iii*) was substituted for original by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

[2]Words within the square brackets were inserted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[3]Clause (*f*) was first omitted by s. 28(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the same was again inserted by s. 18(*2*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*2*) Notwithstanding anything in sub-section (*1*), a *Panchayat Samiti* shall not undertake or execute any scheme confined to an area over which a *Gram Panchayat* has jurisdiction unless the *Gram Panchayat* is of opinion that the implementation of such a scheme is beyond its competence financially or otherwise and passes a resolution to that effect. In the latter case the *Panchayat Samiti* may execute the scheme itself or entrust its execution to the *Gram Panchayat* and give such assistance as may be required:

[1]Provided that a *Panchayat Samiti* may undertake or execute any scheme referred to in sub-clause (*ii*) of clause (*a*) of sub-section (*1*) confined to an area over which a *Gram Panchayat* has jurisdiction.

(*3*) A *Panchayat Samiti* may undertake or execute any scheme if it extends to more than one *Gram*.

State Government may place other property under *Panchayat Samiti.*

110. The State Government may, from time to time, with the consent of a *Panchayat Samiti*, place any road, bridge, ferry, channel, building or other property vested in the State Government and situated within the Block under the control and management of the *Panchayat Samiti* subject to such conditions as it may specify:

Provided that the State Government may, after considering the views of the *Panchayat Samiti*, withdraw such control and management to itself subject to such conditions as it may specify.

Power of *Panchayat Samiti* to transfer roads or properties to the State Government or the *Zilla Parishad* [2][or a *Gram Panchayat.*]

111. A *Panchayat Samiti* may transfer to the State Government or to the *Zilla Parishad* [3][or *Mahakuma Parishad* or Council] [4][or to a *Gram Panchayat*] any road or part of a road or any other property, which is under its control or management, or which is vested in it, on such terms and conditions as may be agreed upon.

Panchayat Samiti may take over works.

112. A *Panchayat Samiti* may take over the maintenance and control of any road, bridge, tank, *ghat*, well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.

Power of *Panchayat Samiti* to divert, discontinue or close road.

113. A *Panchayat Samiti* may direct, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

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[1]The proviso was added by s. 24 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were inserted by s. 25(*i*), *ibid.*

[3]The words within the square brackets were inserted by s. 12 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[4]The words within the square brackets were inserted by s. 25(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Vesting *Panchayat Samiti* with certain powers.

114. (*1*) A *Panchayat Samiti* may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(*2*) A *Panchayat Samiti* shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871. 1 of 1871.

(*3*) A *Panchayat Samiti* shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

Development Plan in respect of any area of *Panchayat Samiti.*

[1]**114A.** [2](*1*) Without prejudice to the generality of the power under section 114 and notwithstanding anything contained in sections 23, 24 and 25, the State Government may, in the public interest, declare, by notification, its intention to prepare and publish a Development Plan in respect of an area within the jurisdiction of a *Panchayat Samiti* in accordance with such procedure as may be prescribed or in accordance with the provisions of any other law for the time being in force and, upon the issue of such notification, no new structure or new building shall be erected or constructed or no addition to any structure or building shall be made in such area except with the permission granted by the *Panchayat Samiti* or any authority, person or persons as may be empowered by the *Panchayat Samiti* in this behalf and except in accordance with such specifications and conditions as may be prepared and published by the *Panchayat Samiti* or such authority, person or persons, as the case may be.

(*2*) Upon the publication of a Development Plan under sub-section (*1*), [3][the provisions of sections 23, 24 and 25] shall cease to be in force in the area referred to in sub-section (*1*).

(*3*) The State Government may, by order, direct the *Panchayat Samiti* to make such contribution and grant to one or more *Gram Panchayats* out of the tools, rates and fees levied by it under section 133 as may be specified in the order.

(*4*) The State Government may, by order, authorise any officer to render advice, technical or otherwise, to the *Panchayat Samiti* on the performance of its functions and discharge of its duties under this section and, on receipt of such advice, the *Panchayat Samiti* shall give due consideration to such advice in a meeting specially convened for the purpose within a period of two months from the date of receipt of such advice.

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[1]Section 114A was inserted by s. 19 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]Sub-section (*1*) was substituted by s. 29(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The words and figures within the square brackets were substituted for the words and figures "the provisions of section 23" by s. 29(*2*), *ibid.*

(*5*) Where any new structure or new building is erected or constructed or any addition to any structure or building is made in contravention of the provisions of sub-section (*1*), the *Panchayat Samiti* may, after giving the owner of such structure or building, as the case may be, an opportunity of being heard, make an order directing the demolition of the structure or the building, as the case may be, by the owner within such period as may be specified in the order and, in default, the *Panchayat Samiti* may itself effect the demolition and recover the cost thereof from the owner as a public demand.

(*6*) Without prejudice to the provisions of sub-section (*5*), whoever erects any new structure or constructs any new building or makes any addition to any structure or building in contravention of the provisions of sub-section (*1*), shall, on conviction by a Court, be punishable with fine not exceeding, in each case, one hundred rupees per square metre per month for the area comprising the unauthorised erection or construction or addition, as the case may be, for the period during which such contravention continues, subject to a maximum of two thousand rupees in each such case.

[1]* * * * * * *

(*8*) If it appears to the *Panchayat Samiti* [2][or the authority, person or persons empowered under sub-section (*1*)] that it is expedient in the interest of the proper planning of its areas (including the interest or amenities), having regard to the Development Plan prepared, or under preparation, or to be prepared, and to any other material consideration,—

(*a*) that any use of land should be discontinued, or

(*b*) that any conditions should be imposed on the continuance thereto, or

(*c*) that any building or works should be altered or removed, [3][the *Panchayat Samiti* or the authority, person or persons as aforesaid may] by notice served on the owner—

(*i*) require discontinuance of that use, or

(*ii*) impose such conditions as may be specified in the notice on the continuance thereof, or

(*iii*) require such steps, as may be specified in the notice, to be taken for the alteration or removal of any buildings or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.

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[1]Sub-section (*7*) was omitted by s. 29(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words, figure and the round brackets within the square brackets were inserted by s. 29(*4*)(*a*), *ibid.*

[3]The words within the square brackets were substituted for the words "the *Panchayat Samiti* may" by s. 29(*4*)(*b*), *ibid.*

(*9*) Any person aggrieved by any such notice may, within the period specified in the notice, apply to the authority for the cancellation or modification of the notice.

(*10*) If an application is filed under sub-section (*9*), the authority or any officer of the authority, appointed in this behalf, may dismiss the application or accept it by quashing or varying the notice as he may think fit.

(*11*) If any person—

(*a*) who has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, or

(*b*) who has carried out any work in compliance of the notice,

claims from the *Panchayat Samiti* [1][or the authority, person or persons empowered under sub-section (*1*)] within the time and in the manner prescribed, for an amount in respect of that damage or of any expenses reasonably incurred by him for complying with the notice, the claim shall be disposed of by the *Panchayat Samiti* [1][or the authority, person or persons empowered under sub-section (*1*)] in the manner as prescribed.

(*12*) After publication of Development Plan under sub-section (*1*) and subject to the provisions relating to the development charge and other provisions under this section, no development, institution or change of use of any land shall be undertaken or carried out in that area without obtaining a certificate from the *Panchayat Samiti* or its authorised officer certifying that the development charge as leviable under this section has been paid or that no such development charge is leviable:

Provided that the State Government may, by notification, exempt any development, institution or change of use of any land from the operation of the provisions of this sub-section.

(*13*) Any person or body (excluding a department of the Central or the State Government or any local authority) intending to carry any development on any land shall make an application in writing to the *Panchayat Samiti* or an officer authorised by it for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

(*14*) On such application having been duly made and on payment of the development charge as may be assessed, the *Panchayat Samiti* or the authorised officer may pass an order,—

(*i*) granting permission unconditionally; or

(*ii*) granting permission, subject to such conditions as it may think fit; or

(*iii*) refusing permission:

[1]The words, figure and brackets within the square brackets were inserted by s. 29(*5*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Provided that without prejudice to the generality of clauses (*i*) to (*iii*) of this sub-section, the concerned authority may impose conditions—

(*i*) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous condition or the use of the land permitted shall be discontinued;

(*ii*) for regulating the development or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the authority expedient for the purpose of the permitted development:

Provided further that the concerned authority in dealing with the applications for permission shall have regard to the provisions of the Development Plan prepared, under preparation or to be prepared and any other material consideration:

Provided also that when permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant:

Provided also that in the case of a department of the Central or the State Government or any local authority intending to carry out any development, other than operational construction (which shall always be outside the purview of the *Panchayat Samiti*), or any land, the concerned department or authority, as the case may be, shall notify in writing to the *Panchayat Samiti* of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be directed by the State Government from time to time, at least, one month prior to the undertaking of such development.

(*15*) In accordance with the provisions of this section and the rules made thereunder and subject to such conditions [1][as may be laid down by the *Panchayat Samiti* or the authority, person or persons empowered under sub-section (*1*), a *Panchayat Samiti* shall levy a charge (hereinafter called the development charge) on the carrying out of any development or change of use of land, for which permission is required under this section, in the whole or any part of the area covered by the notification under sub-section (*1*) at a rate not exceeding those specified in the rules in this behalf by the State Govenment:

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[1]The words, figure and brackets within the square brackets were substituted for the words, figure and brackets "as may be laid down in the notification under sub-section (*1*)" by s. 29(*6*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Provided that the rates may be different for different parts of the area under notification under sub-section (*1*):

Provided further that the change shall be leviable on any person who undertakes or carries out such development or changes any such use:

Provided also that no development charge shall be levied on development, or change of use, of any land vested in or under the control or possession of the Central Government, the State Government or any local authority:

Provided also that the State Government may, by rule, provide for the exemption from the levy of development charge of any development or change of any use of any land specified in the rules.

(*16*) Where the erection of any building or the execution of any work has been commenced, or is being carried on, or has been completed without or contrary to the permission under sub-section (*1*) or in contravention of any other provisions of this section or the rules made thereunder, the *Panchayat Samiti*, or any officer authorised in this behalf by the *Panchayat Samiti*, may, in addition to any other action that may be taken under this section, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or the work has been commenced or is being carried on or has been completed within such period, not being less than five days and more than fifteen days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to such person, as may be specified in the order:

Provided that no order of demolition shall be made unless such person has been given, by means of a notice served in such manner as may be prescribed, a reasonable opportunity of showing cause why such order shall not be made:

Provided further that where the erection or the execution has not been completed, the *Panchayat Samiti* or the authorised officer may by the same order or by a separate order, whether made at the time of issue of the notice under the first proviso or at any other time, direct such person to stop the erection or the execution until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred:

Provided also that any person aggrieved by such order of the *Panchayat Samiti* or its authorised officer may, within thirty days from the date of the order, prefer and appeal against the order to the Sub-divisional Officer having jurisdiction and when an appeal is preferred, the said Sub-divisional Officer may stay the enforcement of the order on such term as he may think fit:

Provided also that every order made by the Sub-divisional Officer on an appeal and, subject to such order, the order made by the *Panchayat Samiti* or its authorised officer shall be final and conclusive:

Provided also that where no appeal has been preferred against an order made by the *Panchayat Samiti* or its authorised officer or where an order has been confirmed on appeal, whether with or without modification, the person against whom the order has been made shall comply with the order within the period specified therein or, as the case may be, within the period, if any, fixed by the Sub-divisional Officer on appeal, and on the failure of such person to comply with the order within such period, the *Panchayat Samiti* or its authorised officer may ifselt or himself cause the building or the work to which the order relates to be demolished and the expenses for such demolition shall be recoverable from such person as a public demand.

(*17*) The *Panchayat Samiti* or its authorised officer may, at any time before the issue of the order under sub-section (*16*), by order, require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.

(*18*) The *Panchayat Samiti* or its authorised officer may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, by a written notice, specify any matter in respect of which such erection or execution is without or contrary to this section or is contravention of any of the provisions of this section or the rules made thereunder and require the person at whose instance the building or the work has been commenced or is being carried on or the owner of such building or work either—

(*a*) to make such alterations as may be specified by the *Panchayat Samiti* or its authorised officer in the notice with the object of bringing the building or the work in conformity with such sanction or such provisions of this section or the rules made thereunder, or

(*b*) to show cause, within such period as may be stated in the notice, why such alterations should not be made:

Provided that if such person or such owner does not show any cause as aforesaid, he shall be bound to make the alteration specified in the notice:

Provided further that if such person or such owner shows the cause as aforesaid, the *Panchayat Samiti* or its authorised officer shall, by an order, either cancel the notice issued or confirm the same subject to such modifications as he thinks fit.

Powers of supervision by *Panchayat Samiti* over the *Gram Panchayats*, etc.

115. [1](*1*) A *Panchayat Samiti* shall exercise general powers of supervision over *Gram Panchayats* in the Block and it shall be the duty of these authorities to give effect to the directions of the *Panchayat Samiti* [2]* * * *.

[3](2) A *Panchayat Samiti* may—

(*a*) inspect, or cause to be inspected, any immovable property used or occupied by *Gram Panchayat* within the Block or any work in progress under the direction of a *Gram Panchayat*,

(*b*) inspect, or examine, or depute an officer to inspect or examine, any department of a *Gram Panchayat,* or any service, work or thing under the control of the *Gram Panchayat,*

(*c*) inspect or cause to be inspected utilisation of funds in respect of schemes or programmes assigned to the *Gram Panchayats* by the State Government for execution either directly or through the *Zilla Parishad* [4][or the *Mahakuma Parishad* or Council] or the *Panchayat Samiti*,

(*d*) require a *Gram Panchayat*, for the purpose of inspection or examination,—

(*i*) to produce any book, record, correspondence or other documents, or

(*ii*) to furnish any return, plan, estimate, statement of accounts or statistics, or

(*iii*) to furnish or obtain any report or information.

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[1]Section 115 was re-numbered as sub-section (*1*) of that section by s. 26 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words "on matter of policy or planning for development" were omitted by s. 26(*1*), *ibid.*

[3]Sub-section (*2*) was inserted by s. 26(*1*), *ibid.*

[4]The words within the square brackets were inserted by s. 13 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

Block *Sansad* and its constitution.

[1]**115A.** (*1*) Every *Panchayat Samiti* shall have a Block *Sansad* consisting of all members of the *Gram Panchayats* pertaining to the Block and all members of that *Panchayat Samiti.*

(*2*) Every *Panchayat Samiti* shall hold an annual and a half-yearly meeting of such Block *Sansad* at such time and place and in such manner, as may be prescribed.

(*3*) One-tenth of the total number of members shall form a quorum for a meeting of Block *Sansad*:

Provided that if no quorum is available for such meeting, the meeting shall be adjourned to be held at the same time and place on the seventh day from the date of such meeting in the manner as may be prescribed.

(*4*) A meeting of the Block *Sansad* shall be presided over by the *Sabhapati* and in his absence by the *Sahakari Sabhapati* of the *Panchayat Samiti.*

(*5*) The Block *Sansad* shall guide and advisce the *Panchayat Samiti* for all matters relating to development including preparation of annual plan and budget, implementation of development programmes, schemes, or projects and for undertaking such activities for economic development and for ensuring social justice as are undertaken or proposed to be undertaken by the *Panchayat Samiti*:

Provided that for such guidance and advice, any member of the Block *Sansad* on receipt of the notice for any such meeting, may demand in writing to the Executive Officer for placement of any document such as last report on inspection of accounts of the funds of the *Panchayat Samiti* by the Audit team, budget, Annual Action Plan and on receipt of such demand the Executive Officer with the consent of the *Sabhapati*, shall place such documents in the meeting for deliberation:

Provided further that the deliberations, recommendation and observations passed in the meeting of the Block *Sansad,* shall be considered in the meeting of the *Panchayat Samiti* as soon as possible within one month from the date of the meeting of the Block *Sansad* and the decision of the *Panchayat Samiti* along with the action taken report shall be placed in the next meeting of the Block *Sansad.*

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[1]This section was inserted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

Powers to prohibit certain offensive and dangerous trades without licence and to levy fee.

116. (*1*) No place within a Block shall [1][on conviction by a Magistrate,] be used for any trade or business declared by the State Government, by notification, to be offensive or dangerous, without a licence, which shall be renewable annually, granted by the *Panchayat Samiti*, subject to such terms and conditions as the *Panchayat Samiti* may think fit to impose.

(*2*) The *Panchayat Samiti* may levy in respect of any licence granted by it under sub-section (*1*) a fee subject to the maximum rate prescribed by the State Government under sub-section (*1*) of section 133.

(*3*) Whoever uses without a licence any place for the purpose of any trade or business declared under sub-section (*1*) to be offensive or dangerous, or fails to comply with any condition in respect of such licence, shall be punished with a fine, which may extend to one hundred rupees, and to a further fine, which may extend to twenty-five rupees for each day after conviction during which he continues to do so.

(*4*) The *Panchayat Samiti* may, upon the conviction of any person for failure to comply with any condition of a licence granted under sub-section (*1*), suspend or cancel the licence granted in favour of such person.

Power of *Panchayat Samiti* to grant licence for *hat* or market.

117. A *Panchayat Samiti* may require the owner or the lessee of a *hat* or market or an owner or a lessee of land intending to establish a *hat* or market thereon, to obtain a licence in this behalf from the *Panchayat Samiti* on such terms and conditions as may be prescribed and subject to the provisions of section 133, on payment of a fee for such licence.

Powers, functions and duties of *Sabhapati* and *Sahakari Sabhapati.*

118. (*1*) The *Sabhapati* shall—

(*a*) be responsible for maintenance of the records of the *Panchayat Samiti*;

(*b*) have general responsibility for the financial and executive administration of the *Panchayat Samiti*;

(*c*) exercise administrative supervision and control over the work of the staff of the *Panchayat Samiti* and the officers and employees whose services may be placed at the disposal of the *Panchayat Samiti* by the State Government;

[1]The words within the square brackets were inserted by s. 27 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(*d*) for the transaction of business connected with this Act or for the purpose of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the *Panchayat Samiti* under this Act or the rules made thereunder:

Provided that the *Sabhapati* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Panchayat Samiti* at a meeting;

(*e*) exercise such other powers, perform such other functions and discharge such other duties as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may by rules made in this behalf, prescribe.

[1]*Explanation.*—For the purpose of discharge of responsibility and exercise of administrative supervision and control, the *Sabhapati* shall rely on the Executive Officer referred to in section 119 and shall generally act through him.

(*2*) the *Sahakari Sabhapati* shall—

(*a*) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhapati* as the *Sabhapati* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Sabhapati*, may at any time withdraw the powers and functions delegated to the *Sahakari Sabhapati*;

(*b*) during the absence of the *Sabhapati*, exercise all the powers, perform all the functions and discharge all the duties of the *Sabhapati*;

[2](*c*) exercise such other powers, perform such other functions and discharge such other duties as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribed.

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[1]This '*Explanation*' was added by s. 20 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Clause (*c*) was inserted by s. 28 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

CHAPTER X

Establishment of the *Panchayat Samiti*

Staff of the *Panchayat Samiti.*

119. (*1*) There shall be an Executive Officer for every *Panchayat Samiti* and the Block Development Officer shall be the *ex officio* Executive Officer:

Provided that such Block Development Officer shall be recalled by the State Government if a resolution to that effect is passed by the *Panchayat Samiti*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

[1](*1A*) There shall be one or more Joint Executive Officer for every *Panchayat Samiti* and the Joint Block Development Officer or officers of the Block shall be the *ex officio* Joint Executive Officer or officers of the *Panchayat Samiti.*

[1](*1B*) There shall be a Secretary for every *Panchayat Samiti* and the [2][Panchayats Development Officer] shall be the *ex officio* Secretary.

[3](*2*) Subject to such rules as may be made by the State Government in this behalf and such orders as may be issued by the State Government a *Panchayat Samiti* shall have such other employees in its establishment as may be prescribed and they shall be appointed by the Executive Officer of *Zilla Parishad* having jurisdiction:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Executive Officer of *Zilla Parishad* without the prior approval of the State Government.

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[1]Sub-section (*1A*) was first inserted with retrospective effect by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979). Thereafter the same was renumbered as sub-section (*1B*), and before sub-section (*1B*) as so renumbered, sub-section (*1A*) was inserted by s. 7(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003). Then again sub-section (*1A*) was substituted by s. 19 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[2]The words within the square brackets were substituted for the words "Extension Officer, *Panchayats*" by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[3]Sub-section (*2*) was substituted for the former sub-section by s. 12 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution there occur following changes in the original sub-section:—

(*i*) the words "subject to such rules as may be made by the State Government, a *Panchayat Samiti*" were substituted for the words "A *Panchayat Samiti*" by s. 29(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

(*ii*) a proviso was added by s. 21 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997), and

(*iii*) the words "shall be signed by, and be issued by or on behalf of, the Executive Officer.", in the second proviso, were substituted for the words "shall be issued by or on behalf of the Executive Officer" by s. 7(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

Explanation.—The provisions of this Chapter in their application to the areas of the Darjeeling Gorkha Hill Council shall have effect as if references to the Executive Officer of *Zilla Parishad* are references to the Principal Secretary of the Darjeeling Gorkha Hill Council.

[1](*3*) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the *Panchayat Samiti.*

Placing the services of State Government officers at the disposal of the *Panchayat Samiti.*

120. The State Government may place at the disposal of the *Panchayat Samiti* the services of such officers or other employees serving under it [2][and on such terms and conditions] as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the *Panchayat Samiti*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

Control and punishment of the staff of *Panchayat Samiti.*

[3]**121.** (*1*) Subject to such rules as may be made by the State Government, the Executive Officer of *Panchayat Samiti* shall exercise general control over all employees of the *Panchayat Samiti* and may recommend punishment of an employee, appointed under sub-section (*2*) of section 119, to the *Panchayat Samiti* in such manner as may be prescribed.

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[1]Sub-section (*3*) was inserted by s. 29(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were inserted by s. 30 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Section 121 was substituted for the original by s. 13 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution, there occur following changes in original section:—

(*i*) in sub-section (2), the words "of a *Panchayat Samiti*" were substituted for the words "holding a post carrying a monthly salary of less than rupees two hundred" by s. 31(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

(*ii*) in sub-section (*3*),—

(*a*) the words "of a *Panchayat Samiti*" were substituted for the words "holding a post carrying a monthly salary of less than rupees two hundred" by s. 31(*b*)(*i*), *ibid.*,

(*b*) the words "*Artha, Sanstha, Unnayan O Parikalpana*" were substituted for the words "*Artha O Sanstha*" by s. 31(*b*)(*ii*), *ibid.*, and

(*c*) the words "of a *Panchayat Samiti*" were substituted for the words "holding a post carrying a monthly salary of two hundred rupees or more" by s. 31(*c*) *ibid.*

(*2*) On receipt of such recommendation, the *Panchayat Samiti* may,—

(*a*) award any punishment other than punishment of dismissal, removal or reduction in rank of an officer or employee appointed under sub-section (*2*) of section 119 in such manner as may be prescribed; or

(*b*) recommend for punishment of dismissal, removal or reduction in rank of an employee appointed under sub-section (*2*) of section 119 to the Executive Officer of *Zilla Parishad* in such manner as may be prescribed.

(*3*) On receipt of such recommendation under clause (b) of sub-section (*2*), the Executive Officer of *Zilla Parishad* having jurisdiction may award punishment to an employee appointed under sub-section (*2*) of section 119 in such manner as may be prescribed.

Appeal.

[1]**122.** (*1*) An appeal shall be to the Executive Officer of *Zilla Parishad* against an order of punishment awarded by the *Panchayat Samiti* under clause (*a*) of sub-section (*2*) of section 121 within one month from the date of that order.

(*2*) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the Executive Officer of *Zilla Parishad* under sub-section (*3*) of section 121 within one month from the date of that order.

Exercise of powers, etc. by officers and employees.

[2]**123.** Subject to the provisions of this Act, the rules made thereunder and to any general or special directions as the State Government may give in this behalf, the employees of the *Panchayat Samiti* appointed under sub-section (*2*) of section 119 and other officers and employees whose services have been placed at the disposal of the *Panchayat Samiti* under section 120 shall exercise such powers, perform such functions and discharge such duties as the *Panchayat Samiti* may determine.

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[1]Section 122 was substituted for the original by s. 14 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[2]Section 123 was substituted for the original by s. 15, *ibid.*

CHAPTER XI

Sthayee Samitis of the *Panchayat Samitis*

Sthayee Samiti.

124. (*1*) A *Panchayat Samiti* shall have the following *Sthayee Samitis*, namely:—

(*i*) [1][*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti,*

(*ii*) *Janasasthya* [2][*O Paribesh*] *Sthayee Samiti,*

(*iii*) *Purta Karya* [3][*O Paribahan*] *Sthayee Samiti,*

(*iv*) *Krishi Sech O Samabaya Sthayee Samiti,*

(*v*) [4][*Shiksa, Sanskriti, Tathya O Krira*] *Sthayee Samiti,*

(*vi*) [5][*Sishu O Nari Unnayan, Janakalyan O Tran*] *Sthayee Samiti,*

[6](*via*) *Bon O Bhumi Sanskar Sthayee Samiti,*

[6](*vib*) *Matsya O Prani Sampad Bikash Sthayee Samiti,*

[6](*vic*) *Khadya O Sarbaraha Sthayee Samiti,*

[6](*vid*) [7][*Khudra Shilpa, Bidyut O Achiracharit Shakti*] *Sthayee Samiti,*

(*vii*) Such other *Sthayee Samiti* or *Samitis* as the *Panchayat Samiti* may, subject to the approval of the State Government constitute.

(*2*) A *Sthayee Samiti* shall consist of the following members, namely:—

(*a*) the *Sabhapati* [8][and *Sahakari Sabhapati*] of the *Panchayat Samiti, ex officio;*

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[1]The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 32(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were inserted by s. 20(*a*)(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[3]The words within the square brackets were inserted by s. 20(*a*)(2), *ibid.*

[4]The words within the square brackets were substituted for the word "*Shiksha*" by s. 20(*a*)(*3*), *ibid.*

[5]The words within the square brackets were substituted for the words "*Khudra Silpa, Tran O Janakalyan*" by s. 22(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[6]Clauses (*via*) to (*vid*) were inserted by s. 20(*a*)(*4*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[7]The words within the square brackets were substituted for the words "*Bidyut O Achiracharit Shakti*" by s. 22(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[8]The words within the square brackets were inserted by s. 20(*b*)(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(b) [1][Without prejudice to the provisions in clause (*ba*)] not less than three and not more than five persons to be elected in the prescribed manner by the members of the *Panchayat Samiti* from among themselves;

[2]*(ba)* The *Karmadhyakshas* elected in other *Sthayee Samitis* as referred to in section 125 shall be *ex officio* members of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti* referred to in sub-section (*1*) and no member shall be elected in the manner referred to in clause (*b*);

[2]*(bb)* leader of the recognized political party in opposition having largest number of members in the *Panchayat Samiti* in comparison with other recognized political parties in opposition shall be a member of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*;

[2]*(bc)* one member from each recognized political party in opposition shall be selected to be a member of each of the *Sthayee Samitis* other than [3][the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*, if no member in opposition is elected in a *Sthayee Samiti* referred to in clause (*b*):]

Provided that the members selected from the recognized political party having larger number of members in the *Panchayat Samiti* shall be the member of *Sthayee Samiti* placed higher in the consecutive order in sub-section (*1*):

Provided further that if the number of recognized [4][political] parties in opposition is less than the number of *Sthayee Samitis,* the independent candidates in opposition in *Panchayat Samiti* shall be members of the *Sthayee Samitis* for which no member of the recognized political parties are available and the member senior in age shall be placed as member in the *Sthayee Samiti* placed higher in the order of sub-section *(1)*:

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[1]The words within the square brackets were added by s. 8(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[2]Clauses (*ba*), (*bb*) and (*bc*) were inserted by s. 8(*2*), *ibid.*

[3]The words, letter and brackets within the square brackets were substituted for the words "The *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti:*" by s. 2(*1*)(*i*) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

[4]The word within the square brackets was inserted by s. 2(*1*)(*ii*), *ibid.*

Provided also that if the number of recognized political parties added with number of independent members falls short of the number of *Sthayee Samitis*, one additional member from each such political party in opposition in *Panchayat Samiti*, shall be chosen for membership in the *Sthayee Samitis* where no member in terms of this clause has been provided and the same sequential order shall be followed for placement of a member in a *Sthayee Samiti* and such process shall be repeated until all *Sthayee Samitis* have one member under this clause:

Provided also that a member in opposition may be a member of more than three *Sthayee Samitis* if in a term of general election, not more than three members in opposition are elected in the *Panchayat Samiti*:

Provided also that the members of the recognized political party shall jointly decide and intimate the Executive Officer of the *Panchayat Samiti* by a letter under signature of all such members, the name of the member or members, as the case may be, who shall represent the party as member or members of the *Sthayee Samiti* and in case of an independent member the Executive Officer shall determine the membership in each *Sthayee Samiti*:

Provided also that the Executive Officer shall place the entire matter of membership under this clause in a meeting of the *Panchayat Samiti* as early as possible in the next meeting.

[1]*Explanation.*—For the purpose of this clause, a member of the *Panchayat Samiti* shall be considered a member in opposition if in the election of the *Sabhapati* under section 98, he did not cast his vote in favour of the winning candidate or has abstained himself from casting his vote in the said election.

[2](*c*) such number of persons being officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge as the State Government may think fit, appointed by the State Government:

Provided that such officers shall not be eligible for election as *Karmadhyaksha* of the *Sthayee Samiti* and shall not have any right to vote.

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[1]The *Explanation* was inserted by s. 2(*1*)(*iii*) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

[2]Clause (*c*) was substituted for the original clause by s. 20(*b*)(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this substitution, the word "five" was substituted for the word "three", in the original clause, by s. 32(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[1](*3*) No person, other than the *Sabhapati* or the *Sahakari Sabhapati*, shall be a member of more than three *Sthayee Samitis* other than the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti.*

(*4*) An elected member of a *Sthayee Samiti* shall hold office for a period of [2][five years] or for so long as he continues to be a member of the *Panchayat Samiti*, whichever is earlier.

(*5*) The meeting of the *Sthayee Samiti* shall be held [3][in the office of the *Panchayat Samiti*] at such time and in such manner as may be prescribed.

(*6*) A *Sthayee Samiti* shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the *Panchayat Samiti.*

(*7*) The State Government may make rules providing for the removal of members of a *Sthayee Samiti* including the *Karmadhyaksha* and for filling up of a casual vacancy.

Karma-dhyaksha and Secretary.

125. (*1*) The members of a *Sthayee Samiti* shall elect, in such manner as may be prescribed, a Chairman, to be called *Karmadhyaksha*, from among themselves:

Provided that the *Sabhapati* of the *Panchayat Samiti* shall be the *ex officio Karmadhyaksha* of the [4][*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*:

Provided further that the members referred to in [5][clauses (*i*) and (*iii*)] of sub-section (*2*) of section 94 shall not be eligible for such election.

[6]* * * * * * *

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[1]Sub-section (*3*) was substituted for the original sub-section by s. 2(*2*) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003). Prior to this substitution the words "more than three *Sthayee Samiti*" were substituted, in original sub-section, with retrospective effect for the words "more than two *Sthayee Samitis*" by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1979 (West Ben. Act X of 1979).

[2]The words "five years" within the square brackets were substituted for the words "four years" by s. 7 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

[3]The words within the square brackets were inserted by s. 32(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 33(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]The word, brackets and figures "clause (*iii*)" were substituted with retrospective effect for the words, brackets, figure and letter "sub-clause (*iii*) of clause (*a*)" by s. 4 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures were substituted for the word, brackets and figure "clause (*iii*)" by s. 33(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[6]Sub-section (*2*) was omitted by s. 33(*b*), *ibid.*

[1](*3*) (*a*) [2][Panchayats Development Officer] shall act as the Secretary to the [3][*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti.*

[4](*b*) The members referred to in clauses [5][(*a*), (*b*), (*ba*), (*bb*), and (*bc*)] of sub-section (2) of section 124 of a *Sthayee Samiti*, other than the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*, shall select, in such manner [6][as may be determined by the *Sthayee Samiti* in conformity with such direction as may be issued by one or more orders, general or special, of the State Government], one of the members referred to in clause (*c*) of that sub-section to act as the Secretary to such *Sthayee Samiti*:

[7]Provided that pending the selection of Secretary to a *Sthayee Samiti* under this clause or during the casual vacancy, if any, in the post of Secretary to a *Sthayee Samiti*, the Secretary of the *Panchayat Samiti* shall act as the Secretary to such *Sthayee Samiti.*

[4](*c*) The Secretary to each *Sthayee Samiti* shall, in consultation with the *Karmadhyaksha*, convene the meetings of that *Sthayee Samiti.*

[8](*4*) Notwithstanding anything contained in section 118 or elsewhere in this Act, the *Karmadhyaksha* shall—

(*a*) be responsible for the financial and executive administration in respect of the schemes and programmes [9][under the purview and control of the *Sthayee Samiti* within the budgetary provisions of the *Panchayat Samiti*;]

(*b*) be entitled, in respect of the work of the *Sthayee Samiti*, to call for any information, return, statement, account or report from the office of the *Panchayat Samiti* and to enter on and inspect any immovable property of the *Panchayat Samiti* or to inspect any work in progress and connected with the functions and duties of the *Sthayee Samiti*;

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[1]Sub-section (*3*) was substituted with retrospective effect for the original sub-section by s. 4 of the West Bengal *Panchayat* (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979).

[2]*See* foot-note 2 on page 114, *ante.*

[3]The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 33(*c*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]Sub-clauses (*b*) and (*c*) were substituted for sub-clause (*b*) by s. 33(*c*)(*ii*), *ibid.*

[5]The word, letters and brackets within the square brackets were substituted for the letters and brackets "(*a*) and (*b*)" by s. 9(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[6]The words within the square brackets were substituted for the words "as may be determined by the *Karmadhyaksha*" by s. 9(2), *ibid.*

[7]This proviso was added by s. 30 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[8]Sub-section (*4*) was inserted by s. 21 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[9]The words within the square brackets were substituted for the words "under the purview and control of the *Sthayee Samiti*" by s. 9(*3*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(*c*) be entitled, when authorised by the *Sthayee Samiti*, to require the attendance at its meeting of any officer of the *Panchayat Samiti*;

(*d*) exercise such other powers, perform such other functions and discharge such other duties, as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

Resignation.

126. The *Karmadhyaksha* or any other member of a *Sthayee Samiti* may resign his office by giving notice in writing to the *Sabhapati* and on such resignation being accepted by the *Panchayat Samiti* the *Karmadhyaksha* or such member shall be deemed to have vacated his office.

Casual vacancy.

127. When a vacancy occurs in the office of a *Karmadhyaksha* or a member of a *Sthayee Samiti* by resignation, death or otherwise, the members of the *Sthayee Samiti* shall elect another *Karmadhyaksha* or [1][the members of the *Panchayat Samiti* shall elect another] member, as the case may be, in the prescribed manner. The *Karmadhyaksha* or the member so elected shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

[2]CHAPTER XIA

Samanway Samiti* of office bearers and *Karmadhyakshas

[2]**127A.** [(Samanway Samiti.)—*Omitted by s. 10 of the West Bengal* Panchayat *(Amendment) Act, 2003 (West Ben. Act VIII of 2003.)*]

CHAPTER XII

Property and Fund

Power to acquire, hold and dispose of property.

128. A *Panchayat Samiti* shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the *Panchayat Samiti* shall obtain the previous approval of [3][the prescribed authority].

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[1]The words within the square brackets were inserted by s. 34 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]Chapter XIA was inserted by s. 35, *ibid.*

[3]The words within the square brackets were substituted for the words "the State Government" by s. 20 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

Works constructed by a *Panchayat Samiti* to vest in it.

129. All roads, buildings or other works constructed by a *Panchayat Samiti* with its own funds shall vest in it.

Allocation of properties to *Panchayat Samiti.*

130. The State Government may allocate to a *Panchayat Samiti* any public property situated within its jurisdiction, and thereupon such property shall vest in and come under the control of the *Panchayat Samiti.*

Acquisition of land for *Panchayat Samiti.*

131. Where a *Panchayat Samiti* requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 and such land shall, on acquisition, vest in the *Panchayat Samiti.*

1 of 1894.

Panchayat Samiti Fund.

132. (*1*) For every *Panchayat Samiti* there shall be constituted a *Panchayat Samiti* Fund bearing the name of the *Panchayat Samiti* and there shall be placed to the credit thereof—

(*a*) contribution and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the State Government;

(*b*) contributions and grants, if any, made by the *Zilla Parishad* [1][or the *Mahakuma Parishad* or the Council] or any other local authority;

(*c*) loans, if any, granted by the Central or the State Government or raised by the *Panchayat Samiti* on Security of its assets;

(*d*) all receipts on account of tolls, rates and fees levied by it;

(*e*) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of the *Panchayat Samiti*;

(*f*) all sums received as gift or contributions and all income from any trust or endowment make in favour of the *Panchayat Samiti*;

[1]The words within the square brackets were inserted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(*g*) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed; and

(*h*) all other sums received by or on behalf of the *Panchayat Samiti.*

[1]*Explanation.*—A *Panchayat Samiti* shall not receive to the credit of its fund—

(*a*) any loan from any individual, severally or jointly, or any member or office bearer of the *Panchayat Samiti*, or

(*b*) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the *Panchayat Samiti* save and except in pursuance of a resolution adopted in a meeting of the *Panchayat Samiti* accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.

(*2*) Every *Panchayat Samiti* shall set apart and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.

(*3*) Every *Panchayat Samiti* shall have power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(*4*) The *Panchayat Samiti* Fund shall be vested in the *Panchayat Samiti* and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

(*5*) Subject to such general control as the *Panchayat Samiti* may exercise from time to time, all orders and cheques for payments from the *Panchayat Samiti* Fund [2][shall be signed by the Executive Officer, or if authorized by the Executive Officer, by the Joint Executive Officer, subject to such order as may be issued by the State Government in this behalf.]

Levy of tolls, rates and fees.

133. (*1*) Subject to such maximum rates as the State Government may prescribe, a *Panchayat Samiti* may—

(*a*) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *Kutcha* road or any bridge vested in it or under its management,

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[1]This '*Explanation*' was added by s. 23 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]The words within the square brackets were substituted for the words "shall be signed by the Executive Officer", by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(*b*) levy tolls in respect of any *ferry* established by it or under its management,

(*c*) levy the following fees and rates, namely:—

(*i*) fees on the registration of vehicles;

(*ii*) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;

(*iii*) a fees for licence referred to in sub-section (*2*) of section 116;

(*iv*) a fees for licence for a *hat* or market referred to in section 117;

(*v*) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Panchayat Samiti* within its jurisdiction;

(*vi*) a lighting rate, where arrangement for lighting of public streets and places is made by the *Panchayat Samiti* within its jurisdiction;

[1](*vii*) a rate for management or maintenance of institutions referred to in sub-clause (*iii*) of clause (*a*) of sub-section (*1*) of section 109.

(*2*) The *Panchayat Samiti* shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* within its jurisdiction or levy fee therefor if any such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

Scales of tolls, etc., to be provided by bye-laws.

134. (*1*) The scales of tolls, fees or rates and the terms and conditions for the impositing thereof shall be such as may be provided by bye-laws.

(*2*) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

Panchayat Samiti may raise loans and create sinking fund.

135. A *Panchayat Samiti* may subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

[1]Sub-clause (*vii*) was inserted by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

Panchayat Samiti may borrow money.

[1]**135A.** Notwithstanding anything contained in section 135, a *Panchayat Samiti* may borrow money from the State Government or [2]* * * * from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the *Panchayat Samiti* for the purpose.

Budget of the *Panchayat Samiti.*

136. (*1*) Every *Panchayat Samiti* shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year [3]* * * *

[4](*2*) (*a*) The budget prepared under sub-section (*1*) shall be written in English and in vernacular of the district or the locality concerned and copies of the budget in both the languages shall be pasted in such prominent places within the block as may be prescribed, inviting objections and suggestions from the electors of the *Panchayat Samiti.*

(*b*) Copies of the budget shall be forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the Councils, as the case may be, having jurisdiction over the area of the Block for views, if any.

(*c*) The *Panchayat Samiti* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any.

(*d*) A copy of the budget approved under clause (*c*) shall be forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction.

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[1]Section 135A was inserted with retrospective effect by s. 3 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

[2]The words ", with the previous sanction of the State Government," were omitted by s. 31 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Firstly, the words "or the *Mahakuma Parishad* or the Council as the case may be," were inserted by s. 15(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Later, the words "and submit the budget to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction over the area of the Block" were omitted by s. 32(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]Sub-section (*2*) was substituted for the original sub-section by s. 32(*2*), *ibid.* Prior to this substitution there occurred some changes in the original sub-section (*2*), namely:—

(*i*) the words "The *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, may," were substituted for the words "The *Zilla Parishad* may," by s. 15(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988);

(*ii*) the words "for the approval of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be." were substituted for the words "for the approval of the *Zilla Parishad*" by s. 15(*b*)(*ii*), *ibid.;*

(*iii*) the words "or the *Mahakuma Parishad* or the Council, as the case may be," were inserted by s. 15(*b*)(*iii*), *ibid.;* and

(*iv*) the words "approved by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be." were substituted for the words "approved by the *Zilla Parishad.*" by s. 15(*b*)(*iv*), *ibid.*

Expenditure.

137. No expenditure shall be incurred unless the budget is approved [1][under clause (*c*) of sub-section (*2*) of section 136.]

Supplementary budget.

138. [2](*1*) The *Panchayat Samiti* may prepare in each year a supplementary estimate providing for any modification of its budget and [2][may approve if in a meeting specially convened for the purpose and in the presence of at least half of the existing members] for approval within such time and in such manner as may be prescribed.

[3](*2*) A copy of the supplementary estimate as approved under sub-section (*1*) shall be forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction.

Accounts.

139. A *Panchayat Samiti* shall keep such accounts and in such form as may be prescribed.

PART IV

ZILLA PARISHAD

CHAPTER XIII

Constitution of *Zilla Parishad*

Zilla Parishad and its constitutions.

140. (*1*) For every district [4][, except the district of Darjeeling,] the State Government shall constitute a *Zilla Parishad* bearing the name of the district.

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[1]Firstly, the words "the *Zilla Parishad* or the *Mahakuma Parishad* or the Council." were substituted for the words "the *Zilla Parishad.*" by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Thereafter, the words, figures, letter and brackets within the square brackets were substituted for the words "by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council." by s. 33 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Firstly, the words "or the *Mahakuma Parishad* or the Council, as the case may be," were inserted by s. 17 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Thereafter, section 138 was renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so renumbered, the words within the square brackets were substituted for the words "may submit it to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be," by s. 34(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Sub-section (*2*) was inserted by s. 34(2), *ibid.*

[4]The words within the square brackets were inserted by s. 18 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(2) The *Zilla Parishad* shall consist of the following members, namely:—

(*i*) *Sabhapatis* of the *Panchayat Samitis* within the district, *ex officio*;

(*ii*) [1][(such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided [2]{by the prescribed authority} for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll, pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government and in force on such date as the State Election Commissioner may declare for the purpose of an election,) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:]

[3]Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Zilla Parishad* and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportions to the total number of seats in that *Zilla Parishad* to be filled up by election as the population of the scheduled Castes in that *Zilla Parishad* area, or of the Scheduled Tribes in that *Zilla Parishad* area, as the case may be, bears to the total population of that *Zilla parishad* are and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Schedule Castes population or the Scheduled Tribes population in that *Zilla Parishad* area, as the case may be, bears with the total population in that *Zilla Parishad* area:

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[1]Firstly, the words "from amongst the persons, whose names are included in the electoral roll of the West Bengal Legislative assembly in force on the last date of nomination for *Panchayat* election pertaining to any Block within the district, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block;" were substituted for the words "from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for *Panchayat* election pertaining to the constituency comprised in such Blcok;" by s. 22(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the words within the first brackets were substituted for the words beginning with "two persons," and ending with "pertaining to any Block within the district," by s. 35(*1*)(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to these substitutions, in original clause (*ii*), the words "in force on the last date of nominations for *Panchayat* election" were substituted for the words "for the time being in force" by s. 36 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the second brackets were inserted by s. 24(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]The first, second, third, fourth and fifth provisos to clause (*ii*) were inserted by s. 22(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[1]Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[1]Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a *Zilla Parishad* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

[1]Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section [2]* * * * * when the number of members to be elected to a *Zilla Parishad* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a *Zilla Parishad*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

[1]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Zilla Parishad*, be disqualified for election to any seat not so reserved.

[3]Provided also that such division into constituencies shall be made in such manner that the ratio between the total population of all the Blocks in a district and the number of constituencies in the *Zilla Parishad* shall, so far as practicable, be the same in any *Zilla Parishad*:

[3]Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing [4][, issue an order making fresh determination] of the number of members in a *Zilla Parishad* or fresh reservation on rotation of the number of constituencies in that *Zilla Parishad* and, on such order being issued by the State Election Commissioner, the

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[1]*See* foot-note 3 at page 128, *ante*.

[2]The words "or elsewhere in this Act" were omitted by s. 24(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]The provisos were added by s. 35(*1*)(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]The words within the square brackets were substituted for the words "and by notification, order fresh determination" by s. 24(*c*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

determination of the number of members [1][or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for [2][the next] three successive general elections:

[3]Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India;

(*iii*) members of the [4][House of the People and] the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;

(*iv*) members of the Council of States not being Ministers, [5][registered as electors within the area of any Block within the district.]

(*3*) Every *Zilla Parishad* constituted under this section [6]* * * * * shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

(*4*) Every *Zilla Parishad* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

[7](*5*) (*a*) Notwithstanding anything contained in the foregoing provisions of this section, when the area of a district (hereinafter referred to as the former district) is divided so as to constitute two or more districts, for each of the newly constituted districts the State Government shall by notification constitute a *Zilla Parishad* bearing the name of the district with the following members, namely:—

(*i*) *Sabhapatis* of the *Panchayat Samitis* within the newly constituted district, *ex officio*;

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[1]These words within the square brackets were substituted for the words "and the reservation of the number of constituencies" by s. 8 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

[2]The words within the square brackets were inserted by s. 24(*c*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]*See* foot-note 3 at page 129, *ante.*

[4]The words within the square brackets were substituted with retrospective effect for the words "House of the People or" by the West Bengal *Panchayat* (Third) Amending Act, 1998 (West Ben. Act LVIII of 1978).

[5]The words within the square brackets were substituted for the words "having a place of residence in the district." by s. 35(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[6]Firstly, the words and figures ", notwithstanding anything contained in section 210," were inserted by s. 5 of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 35(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[7]Sub-section (*5*) was substituted for the original by s. 2(*1*) of the West Bengal *Panchayat* (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985).

(*ii*) The members elected to the *Zilla Parishad* of the former district under clause (*ii*) of sub-section (*2*) from the constituencies referred to therein comprised in the Blocks within the newly constituted district;

(*iii*) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the newly constituted district or any part thereof, not being Ministers;

(*iv*) members of the Council of States, not being Ministers, having a place of residence in the newly constituted district.

(*b*) Notwithstanding anything in this Act, every *Zilla Parishad* constituted under this sub-section hall be deemed to have been duly constituted in accordance with the provisions of this Act and shall come into office with effect from the date of its first meeting at which a quorum is present, and the *Zilla Parishad* of the former district shall, with effect from the date of coming into office of the newly constituted *Zilla Parishads*, cease to exist.

(*c*) The members of the newly constituted *Zilla Parishad*, other than the *ex officio* members, shall, subject to the provisions of section 145, hold office with effect from the date of its first meeting at which a quorum is present for the unexpired portion of the term of office of the members of the *Zilla Parishad* of the former district.

(*d*) All rules, orders, bye-laws and notifications made or issued from time to time under any law for the time being in force, applicable to the *Zilla Parishad* of the former district and continuing in force immediately before the coming into office of the newly constituted *Zilla Parishads* under this sub-section, shall, after the coming into office of the newly constituted *Zilla Parishads*, continue in force in so far as they are not inconsistent with the provisions of this Act and shall be applicable to the newly constituted *Zilla Parishads* until they are repealed or amended.

(*e*) The properties, funds and liabilities of the *Zilla Parishad* of the former district shall vest in the newly constituted *Zilla Parishads* in accordance with such allocation as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(*6*) An order made [1][under clause (*e*) of sub-section (*5*)] may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

Term of office of members of *Zilla Parishad.*

[2]**141.** (*1*) The members of a *Zilla Parishad*, other than *ex officio* members, shall, subject to the provisions of sections 145 and 213A, hold office for a period of five years from the date of its first meeing and no longer.

[3](2) There shall be held a general election for the constitution of a *Zilla Parishad* on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that *Zilla Parishad* following the preceding general elections.

[4]**141A.** [(*General election to* Zilla Parishads.)*—Omitted by s. 37 of the West Bengal* Panchayat *(Amendment) Act, 1994 (West Ben. Act XVIII of 1994).*]

Disqualifications of members of *Zilla Parishad.*

142. A person shall not be qualified to be a member of a *Zilla Parishad*, if—

(*a*) he is a member [5]* * * * of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1 or

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[1]The words within the square brackets were substituted for the words "under sub-section (*5*)" by s. 2(2) of the West Bengal *Panchayat* (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985).

[2]Section 141 was substituted for the original section by s. 36 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution there were following changes in the original section, namely:—

(*i*) sub-section (*1*) was substituted by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

(*ii*) the words "five years" were substituted for the words "four years" by s. 8(*b*)(*i*) of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), and

(*iii*) the words "five years" were substituted for the words "four years" by s. 8(*b*)(*ii*), *ibid.*

[3]Sub-section (2) was substituted for the original by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

[4]Section 141A was inserted by s. 23 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[5]The words "of a *Gram Panchayat* or a *Nyaya Panchayat* or a *Panchayat Samiti* other than the *Sabhapati*, or" were omitted by s. 37(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[1](*b*) he is in the service of the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*; and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or

(*c*) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of the *Zilla Parishad* or a *Gram Panchayat* or a *Panchayat Samiti* within the district:

Provided that no person shall be deemed to be disqualified for being elected a member of a *Zilla Parishad* by reason only of his having a share or interest in any public company as defined in the Compaines Act, 1956, which contracts with or is employed by a *Gram Panchayat*, or a *Panchayat Samiti* within the district or the *Zilla Parishad* of the district; or

1 of 1956.

(*d*) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a Corporation owned or controlled by the Central or the State Government or misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or

(*e*) he has been adjudged by a competent court to be of unsound mind; or

(*f*) he is an undischarged insolvent; or

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[1]Clause (*b*) was substituted for the original by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1985 (West Ben. Act VI of 1985).

(*g*) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

[1](*h*) [2](*i*) he has been convicted by a court—

(*A*) of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other congnizable offence, or

(*B*) of an offence under Chapter IXA of the Indian Penal Code, 1860, or 45 of 1860.

(*C*) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, West Ben. Act X of 1952.

and five years have not elapsed from the date of expiration of the sentence:

Provided that such conviction by a lower court shall remain in operation unless an appeallate court has stayed the operation of the order of the court, which has convicted the person; or

(*ii*) he is disqualified for the purpose of election to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or 43 of 1951.

[3](*i*) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or

[4](*ia*) he has been removed from office under clause (*h*) of sub-section (*1*) of section 145 at any time during the last six years; or

[3](*j*) he has been convicted under section 189 at any time during the last ten years; or

[3](*k*) he has been surcharged or charged under section 192 at any time during the last ten years; or

[3](*l*) he has been removed under section 213 at any time during the last five years.

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[1]Clause (*h*) was substituted for the original by s. 25 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution, the words "expiration of the sentence; or" were substituted for the words "expiration of the sentence.", in the original clause, by s. 38 (*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-clause (*i*) was substituted for the original by s. 21(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]Clauses (*i*) and (*j*) to (*l*) were inserted by s. 38(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]Clause (*ia*) was inserted by s. 21(*2*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

Sabhadhipati and *Sahakari Sabhadhipati.*

143. (*1*) Every *Zilla Parishad* shall, at its first meeting at which a quorum is present, elect, in the precribed manner, one of its members to be the *Sabhadhipati* and another member to be the *Sahakari Sabhadhipati* of the *Zilla Parishad*:

Provided that the members referred to in [1][clauses (*i*), (*iii*) and (*iv*)] of sub-section (*2*) of section 140 [2][shall neither participate in, nor be eligible for, such election:]

[3]Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a wholetime functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or the discharge of his duties:

[4]Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices in West Bengal as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within West Bengal taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

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[1]The words, brackets and figures "clauses (*iii*) and (*iv*)" were first substituted with restrospective effect for the words, brackets, figures and letter "sub-clauses (*iii*) and (*iv*) of clause (*a*)" by s. 6 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures within the square brackets were substituted for the words, brackets and figures "clauses (*iii*) and (*iv*)" by s. 38(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words were substituted for the words "shall not be eligible for such election." by s. 39(*1*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]Second proviso was added by s. 24(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1]Provided also that the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in any *Zilla Parishad* having the Scheduled Castes and the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Blocks within the district, shall not be considered for allocation by rotation:

[1]Provided also that in the event of the number of *Zilla Parishad* areas having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* required for reservation in West Bengal the State Election Commissioner, may, by order, include, for the purpose of reservation, other such offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* beginning from the district having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

[1]Provided also that not less than one-third of the total number of offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* reserved for the Scheduled Castes and the Scheduled Tribes in West Bengal, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[1]Provided also that not less than one-third of the total number of offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in West Bengal including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

[2]Povided also that determination of the offices of the *Sabhadhipati* within the State reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the *Sahakari Sabhadhipati*:

[2]Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Sabhadhipati* in a *Zilla Parishad* is reserved for any category of persons in accordance

[1]*See* foot-note 4 on page 135, *ante.*

[2]Eighth to tenth provisos were inserted by s. 9 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

with the rules in force, the office of the *Sahakari Sabhadhipati* in that *Zilla Parishad* shall not be reserved of the said term of election for any category and if, in accordance with the rules applicable to the office of the *Sahakari Sabhadhipati*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Sahakari Sabhadhipati* within the State in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

[1]Provided also that when in any term of election, an office of the *Sahakari Sabhadhipati* is not reserved on the ground that the corresponding office of the *Sabhadhipati* is reserved in the manner prescribed, such office of the *Sahakari Sabhadhipati* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

[2]Provided also that notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 39 of the West Bengal *Panchayat* (Amendment) Act, 1994, and the roaster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

[2]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Sabhadhipati* or the *Sahakari Sabhadhipati*, be disqualified for election to any office not so reserved:

[2]Provided also that the provisions for reservation of the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

(*2*) The meeting to be held under sub-section (*1*) shall be convened by the prescribed authority in the prescribed manner

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[1]*See* foot-note 2 on page 136, *ante.*

[2]*See* foot-note 4 on page 135, *ante.*

(*3*) The *Sabhadhipati* and the *Sahakari Sabhadhipati* shall, subject to the provisions of section 146 and to their continuing as members, hold office for a period of [1][five years]:

[2]* * * * * * *

(*4*) When—

(*a*) the office of the *Sabhadhipati* falls vacant by reason of death, resignation, removal or otherwise, or

(*b*) the *Sabhadhipati* is, by reason of leave, illness or other cause, temporarily unable to act,

the *Sahakari Sabhadhipati* shall exercise the powers, perform the functions and discharge the duties of the *Sabhadhipati* until a new *Sabhadhipati* is elected and assumes office or until the *Sabhadhipati* resumes his duties, as the case may be.

(*5*) When—

(*a*) the office of the *Sahakari Sabhadhipati* falls vacant by reason of death, resignation, removal or otherwise, or

(*b*) the *Sahakari Sabhadhipati* is, by reason of leave, illness or other cause, temporarily unable to act,

the *Sabhadhipati* shall exercise the powers, perform the functions and discharge the duties of the *Sahakari Sabhadhipati* until a new *Sahakari Sabhadhipati* is elected and assumes office or until the *Sahakari Sabhadhipati* resumes his duties, as the case may be.

(*6*) When the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* are both vacant or the *Sabhadhipati* and the *Sahakari Sabhadhipati* are temporarily unable to act, the prescribed authority may appoint [3][for a period of thirty days at a time] a *Sabhadhipati* and a *Sahakari Sabhadhipati* from among the members of the *Zilla Parishad*

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[1]The words within the square brackets were substituted for the words "four years" by s. 9 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

[2]Proviso was omitted by s. 39(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The words within the square brackets were inserted by s. 39(*3*), *ibid.*

to act as such until a *Sabhadhipati* and or a *Sahakari Sabhadhipati* is elected and asumes office [1][or until the *Sabhadhipati* or the *Sahakari Sabhadhipati* resumes his duties, as the case may be.]

[2]* * * * * *

(*8*) The *Sabhadhipati* and the *Sahakari Sabhadhipati* of a *Zilla Parishad* shall be paid out the *Zilla Parishad* Fund such [3][remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

[4](*9*) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Sabhadhipati* or a *Sahakari Sabhadhipati* from his office if, in its opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or its likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

Resignation of *Sabhadhipati* or *Sahakari Sabhadhipati or member.*

[5]**144** (*1*) (*a*) The *Sabhadhipati* may resign his office by notifying in writing his intention to do so to the *Sahakari Sabhadhipati.*

(b) *Sahakari Sabhadhipati* or a member of a *Zilla Parishad* may resign his office by notifying in writing his intention to do so to the *Sabhadhipati.*

(*2*) The *Zilla Parishad* shall, on receipt of the letter of resignation under sub-section (*1*), forward a copy of it to the prescribed authority for information.

(*3*) On receipt of a letter of resignation under sub-section (*1*),—

(*a*) in case of resignation of the *Sabhadhipati,* the *Sahakari sabhadhipati,* the *Sabhadhipati* shall place it in the next meeting of the *Zilla Parishad* for acceptance;

(*b*) in case of resignation of the *Sahakari Sabhadhipati,* the *Sabhadhipati* shall place it in the next meeting of the *Zilla Parishad* for acceptance;

(*c*) in case of resignation of the member, the *Sabhadhipati* shall place it in the next meeting of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti* for acceptance;

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[1]The words within the square brackets were inserted by s. 38(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]Sub-section (*7*) was omitted by s. 38(*c*), *ibid.*

[3]The words within the square brackets was substituted for the words "honoraria" by s. 24(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]This Sub-section was added by s. 24(*3*), *ibid.*

[5]Section144 was substituted for the original by s. 22 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006). *ibid.*

(*4*) On acceptance of a resignation in terms of sub-section (*3*), the *Sabhadhipati*, the *Sahakari Sabhadhipati* or the member, as the case may be, shall be deemed to have vacated his office:

Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of the *Zilla Parishad.*

(*5*) When a resignation is accepted under sub-section (*3*), the *Zilla Parishad* shall immediately communicate it to the prescribed authrority, who shall take appropriate action to fill up the vacancy,—

(*a*) in case such vacancy is in the office of *Sabhadhipati* or *Sahakari Sabhadhipati*, in accordance with the provisions of section 147;

(*b*) in case such vacancy is in the office of a member of the *Zilla Parishad* in accordance with the provisions of section 148;

Removal of member of *Zilla Parishad.*

145. (*1*) The prescribed authority may, after giving an opportunity to a member of a *Zilla Parishad* other than an *Ex officio* member to show cause against the action proposed to be taken against him, by order remove him from office—

(*a*) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence; or

(*b*) if he was disqualified to be a member of the *Zilla parishad* at the time of his election; or

(*c*) if he incurs any of the disqualifications, mentioned in clauses (*b*) to (*g*) of section 142 after his election as a member of the *Zilla parishad*; or

(*d*) if he is absent from three consecutive meetings of the *Zilla Parishad* without the leave of the *Zilla Parishad* [2]* * *; or

(*e*) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act, or the Bengal Villages Self-Government Act, 1919, or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.

Ben. Act V of 1919. West Ben. Act I of 1957. West Ben. Act XXXV of 1963.

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[1]Clause (*a*) was substituted for the original by s. 23(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[2]The words ", provided he is not an *ex officio* member of the *Zilla parishad* " were omitted by s. 39(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[1](*f*) if he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or

[1](*g*) if at the time of his election he was not a citizen of India and his name has since been deleted on that ground from the electoral roll in force pertaining to the area comprised in that *Zilla parishad*, by the Electoral Registration Officer; or

[1](*h*) if at the time of his election he was not a member of any of the Schedule Castes or the Schedule Tribes and the Scheduled Castes or the Scheduled Tribes certificate produced by him at the time of nomination has since been cancelled by the competent authority:

[2]Provided that without prejudice to the action taken under clause (*f*) or clause (*g*), the person concerned may also be proceeded against in terms of the provisions under the Indian Penal Code, 1860.

45 of 1860.

(*2*) Any member of a *Zilla parishad* who is removed from his office by the prescribed authority under sub-section (*1*) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(*3*) The order passed by such authority on such appeal shall be final.

[3]* * * * * *

Removal of *Sabhadhipati* and *Sahakari Sabhadhipati.*

146. [4](*1*) [5][Subject to the other provisions of this section, a *sabhadhipati* or a *Sahakari Sabhadhipati*] of a *Zilla Parishad* may, at any time, be removed from office [6][by a resolution carried by the majority of the existing members referred to in clause (*ii*) of sub-section (2) of section 140] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

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[1]Clauses (*f*) to (*h*) were inserted by s. 23(*2*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006*)*.

[2]The proviso was added by s. 23(*3*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006*)*.

[3]Sub-section (*4*) was omitted by s. 39(2) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984*)*.

[4]Section 146 was renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so renumbered, sub-section (2) was inserted by s. 7 of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

[5]The words within the square brackets were substituted for the words "A *Sabhadhipati* or a *Sahakari Sabhadhipati*" by s. 40(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[6]The words, figures and brackets within the square brackets were substituted by the words "by a resolution of the *Zilla Parishad* carried by the majority of the existing members of the *Zilla Parishad*" by s. 40(*b*). *ibid.*

Provided that at any such meeting while any resolution for the removal of the *Sabhadhipati* from his office is under consideration, the *Sabhadhipati* or while any resolution for the removal of the *Sahakari Sabhadhipati* from his office is under consideration, the *Sahakari Sabhadhipati* shall not, though he is present, preside, and the provisions of sub-section (2) of section 150 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Sabhadhipati* or, as the case may be, the *Sahakari Sabhadhipati* is absent:

[1]Provided further that no meeting for the removal of the *Sabhadhipati* or the under this section shall be convened within a period of one year from the date of election of the *Sabhadhipati* or the *Sahakari Sabhadhipati*:

[1]Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

[2](*2*) The *Sabhadhipati* or the *Sahakari Sabhadhipati*, who is removed from his office in terms of a resolution carried under sub-section (*1*), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.

Filling of casual vacancies in the office of *Sabhadhipati* or *Sahakari Sabhadhipati.*

147. In the event of removal of a *Sabhadhipati* or a *Sahakari Sabhadhipati* under section 146 or when a vacancy occurs in the office of a *Sabhadhipati* or a *Sahakari Sabhadhipati* by resignation, death or otherwise, the *Zilla Parishad* shall elect another *Sabhadhipati,* or *Sahakari Sabhadhipati* in the prescribed manner.

Filling of casual vacancy in the place of an elected member.

148. If the office of a member of a *Zilla Parishad* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in the prescribed manner.

Term of office of *Sabhadhipati, Sahakari Sabhadhipati* or member filling casual vacancy.

149. Every *Sabhadhipati* or *Sahakari Sabhadhipati* elected under section 147 and every member elected under section 148 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

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[1]The second and third provisos were added by s. 40(*c*) of the West Bengal *Panchayat* (Amendment) Act 1994 (West Ben. Act XVIII of 1994). Thereafter the third proviso was substituted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[2]*See* foot-note 4 at page 141, *ante*.

Meetings of *Zilla Parishad.*

150. (*1*) Every *Zilla Parishad* shall hold a meeting [1][in its office at least once in every three months on such date and at such hour as the *Zilla Parishad* may fix at the immediately preceding meeting]:

Provided that the first meeting of a newly-constituted *Zilla Parishad* shall be held at such time and at such place within the local limits of the district concerned, as the prescribed authority may fix:

Provided further that the *Sabhadhipati* when required in writing by one-fifth of the members of the *Zilla Parishad* to call a meeting [2][shall do so fixing the date and hour of the meeting [3](to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Zilla Parishad,*] failing which the members aforesaid may call a meeting [4][to be held] [5][within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhadhipati* and the other members of the *Zilla Parishad.* Such meeting shall be held at such palce [6][in the office of the *Zilla Parishad* on such date and at such hour] as the members calling the meeting may decide. [7][The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

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[1]The words, "in every three months" were first substituted with retrospective effect for the words "in a month" by s. 4 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978) and thereafter these words within the square brackets were substituted for the words beginning with "at least once" and ending with "at the immediately preceding meeting" by s. 40(*1*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were substituted for the words "shall do so within ten days" by s. 40(*1*)(*ii*)(*a*), *ibid.*

[3]The words within the first brackets were inserted by s. 26(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[4]The words within the square brackets were inserted by s. 26(*b*), *ibid.*

[5]The words within the square brackets were inserted by s. 25 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[6]The words within the square brackets were substituted for the words "within the local limits of the district concerned" by s. 40(*1*)(*ii*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were inserted by s. 40(*1*)(*ii*)(*c*), *ibid.*

[1]Provided also that for the purpose of convening a meeting under section 146, at least one-fifth of the members referred to in clause (*ii*) of sub-section (2) of section 140 shall require the *Sabhadhipati* to convene the meeting:

[2]Provided also that if the *Zilla Parishad* does not fix at any meeting the date and hour of its next meeting or if any meeting is not held on the date and hour fixed at the immediately preceding meeting, the *Sabhadhipati* shall call a meeting of *Zilla Parishad* on such date and at such hour as he thinks fit.

(2) The *Sabhadhipati* or in his absence the *Sahakari Sabhadhipati* shall preside at the meeting of the *Zilla Parishad* and in the absence of both [3][or in the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members of the *Zilla Parishad* shall form a quorum for a meeting of a *Zilla Parishad*:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) All questions coming before a *Zilla Parishad* shall be dicided by a majority of votes:

Provided that in case of equality of votes the person presiding shall have a second or casting vote:

[4]Provided further that in case of a requisitioned meeting for the removal of the *Sabhadhipati* or the *Sahakari Sabhadhipati* under section 146, the person presiding shall have no second or casting vote.

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[1]This proviso was added by s. 15(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[2]This proviso was inserted by s. 40(*1*)(*iii*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]The words within the square brackets were inserted by s. 15(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[4]This proviso was inserted by s. 40(2) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(*5*) [1][The Executive Officer and the Additional Executive Officer] of a *Zilla Parishad* shall attend meetings of the *Zilla Parishad* and shall participate in the deliberations thereof:

[2]Provided that if for any reason the Executive Officer [3][and the Additional Executive Officer] cannot attend any meeting of the *Zilla Parishad* [4][the Executive Officer shall] depute the Secretary of the *Zilla Parishad* to attend such meeting.

List of business to be transacted at a meeting.

151. A list of the business to be transacted at every meeting of a *Zilla Parishad* except at an adjourned meeting, shall be sent to each member of the *Zilla Parishad* in the manner prescribed, at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting:

Provided that if the *Sabhadhipati* thinks that a situation has arisen for which an emergent meeting of the *Zilla Parishad* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

Report on the work of *Zilla Parishad.*

152. The *Zilla Parishad* shall prepare and submit annually in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year to the prescribed authority within the prescribed time.

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[1]These words were substituted for the words "The Executive Officer" by s. 40(*3*)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The proviso was added with retrospective effect by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 1979 (West Ben. Act X of 1979).

[3]The words within the square brackets were inserted by s. 40(*3*)(*b*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]The words within the square brackets were substituted for the words "he shall" by s. 40(3)(*b*)(*ii*), *ibid.*

CHAPTER XIV

Powers, functions and duties of *Zilla Parishad*

Powers of *Zilla Parishad.*

153. (*1*) [1][A *Zilla Parishad* shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall prepare—

(*i*) a development plan for the five-year term of the office of the members, and

(*ii*) an annual plan for each year by the month of January of the preceding year,

[2](*iii*) implement schemes as may be drawn up in the annual plan by the *Zilla Parishad*, or as may be entrusted upon or transferred to or devolved upon it;

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to—]

(*a*) [3](*i*) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live-stock, *khadi,* cottage and small-scale industries, co-operative movement, rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, physical education and games and sports, welfare of students, social forestry and farm forestry including fuel and fodder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of general public utility,

(*ii*) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority,

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[1]The words, figures and brackets within the square brackets were substituted for the words "subject to any general or special directions of the State Government, a *Zilla Parishad* shall have the power to—" by s. 41(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Clause (*iii*) was inserted by s. 24(*1*) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[3]Sub-clause (*i*) was substituted by s. 41 (2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1](*iii*) manage or maintain any institution for promotion of environment, livelihood, education, health, communication, tourism or work of public utility including auditorium, dispensary, diagnostic clinic, bus-stand, guest house, eco park, constructed by it or vested in it for control and management:

Provided that the *Zilla Parishad* may also construct and maintain such institutions or works of public utility within the area of an urban local body for the benefit of the people of the rural areas of the district and may spend fund and levy charges for maintenance thereof;

(*iv*) make grants in aid of any school, public library, public institution or public welfare organisation within the district,

(*v*) contribute such sums as may be agreed upon towards the cost of maintenance of any institutions, situated outside the district, which are beneficial to, and habitually used by, the inhabitants of the district,

(*vi*) establish scholarships or award stipends within the State for the furtherance of technical or other special forms of education,

[2](*vii*) acquire, consturct and maintain *hats* and markets for the benefit of the people of its areas:

Provided that the *Zilla Parishad* may also construct and maintain a *hat* or market or shopping complex within the area of an urban local body for marketing of agricultural produces and produces of the local artisans and self-help groups of the surrounding rural areas and may spend fund and levy charges for maintenance of such *hat* or market,

(*b*) make grants to the *Panchayat Samitis* or *Gram Panchayats;*

(*c*) contribute, with the approval of the State Government, such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by the commissioners of a municipality within the district;

(*d*) adopt measures for the relief of distress;

(*e*) co-ordinate and integrate the development plans and schemes prepared by *Panchayat Samitis* in the district; and

[3](*f*) perform such other functions as the State Government may, by order, transfer to it, or entrust upon it or devolve on it from time to time;

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[1]Sub-clause (*iii*) was substituted for the original by s. 7(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

[2]Sub-clause (*vii*) was substituted for original sub-clause by s. 7(2) of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

[3]Clause (*f*) was first omitted by s. 41(*3*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the same was again inserted by s. 24(2) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*2*) A *Zilla Parishad* shall have the power to advise the State Government on all matters relating to the development work among *Gram Panchayats* and *Panchayat Samitis.*

(*3*) Notwithstanding anything in sub-section (*1*), a *Zilla Parishad* shall not undertake or execute any scheme confined to a block unless the implementation of such a scheme is beyond the competence of the *Panchayat Samiti* concerned financially or otherwise. In the latter case the *Zilla Parishad* may execute the scheme itself or entrust its execution to the *Panchayat Samiti* and give it such assistance as may be required:

[1]Provided that a *Zilla Parishad* may undertake or execute any scheme referred to in sub-clause (*ii*) of clause (*a*) of sub-section (*1*) confined to an area over which a *Panchayat Samiti* has jurisdiction.

(*4*) A *Zilla Parishad* may undertake or execute any scheme if it extends to more than one block.

Zilla Parishad to have powers of Magistrate in district to which the Vaccination Act extends.

154. In a district to which the Bengal Vaccination Act, 1880, has been, or may hereafter be extended, the *Zilla Parishad* shall exercise all or any of the powers exercisable by the Magistrate of the district under section 25 of the said Act. Ben. Act V of 1880.

State Government may place other property under *Zilla Parishad.*

155. The State Government may from time to time, with the consent of the *Zilla Parishad,* place any road, bridge, *ferry,* channel, building or other property vested in the State Government and situated within the district under the control and management of the *Zilla Parishad* subject to such conditions as it may specify:

[2]Provided that the State Government may, after considering the views of the *Zilla Parishad,* withdraw such control and management to itself subject to such conditions as it may specify.

Control and maintenance of roads which run through a municipality.

156. The State Government may, notwithstanding any thing contained in the Bengal Municipal Act, 1932, direct, after consultation with the commissioners of a municipality, that the control and maintenance of any road part of which runs through a municipality and is vested in the commissioners of such municipality shall be taken over by the *Zilla Parishad* and that the commissioners of such municipality shall make such contribution for the maintenance of the road as may be agreed upon or as may be fixed by the State Government in the absence of agreement. On such direction being given the commissioners of the municipality shall cease to control and maintain such portion of the road as lies within such municipality. Ben. Act XV of 1932.

Zilla Parishad may take over works.

157. A *Zilla Parishad* may take over the maintenance and control of any road, bridge, tank, *ghat,* well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.

Power of *Zilla Parishad* to divert, discontinue or close road.

158. A *Zilla Parishad* may divert, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

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[1]This proviso was added by s. 41 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]This proviso was added by s. 42, *ibid.*

Power of *Zilla Parishad* to transfer roads to the State Government or *Panchayat Samiti.*

159. A *Zilla Parishad* may transfer to the State Government, the commissioners of a municipality, a *Panchayat Samiti* or a *Gram Panchayat* any road or part of a road or any other property which is under its control or management or which is vested in it, on such terms and conditions as may be agreed upon.

Vesting of *Zilla Parishad* with certain powers.

160. (*1*) A *Zilla Parishad* may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(*2*) A *Zilla Parishad* shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-tresspass Act, 1871. 1 of 1871.

(*3*) A *Zilla Parishad* shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

Joint execution of schemes by two or more *Zilla Parishads.*

161. The *Zilla Parishads* of two or more adjacent districts may jointly undertake and execute at common cost any development scheme or project or may jointly establish a common *ferry* on such terms and conditions as may be agreed upon, and in case of any difference as to the interpretation of such terms and conditions the matter shall be referred to the State Government whose decision shall be final.

Power of *Zilla Parishad* to grant licence for fair or *mela.*

162. A *Zilla Parishad* may require the owner or the lessee of a fair or *mela* or an owner or a lessee of land intending to hold a fair or *mela* thereon to obtain a licence in this behalf from the *Zilla Parishad* on such terms and conditions as may be prescribed and on payment of a fee for such licence.

Power of supervision by *Zilla Parishad* over the *Panchayat Samitis,* etc.

163. [1](*1*) A *Zilla Parishad* shall exercise general powers of supervision over *Panchayat Samitis* and *Gram Panchayats* in the district and it shall be the duty of these authorities to give effect to any directions of the *Zilla Parishad*[1] * * *

[2](2) A *Zilla Parishad* may—

(*a*) inspect, or cause to be inspected, any immovable property used or occupied by a *Panchayat Samiti* under it or any work in progress under the direction of the *Panchayat Samiti,*

(*b*) inspect or examine, or depute an officer to inspect or examine, any department of the *Panchayat Samiti,* or any service, work or thing under the control of the *Panchayat Samiti,*

(*c*) inspect or cause to be inspected utilisation of funds in respect of schemes or programmes assigned to the *Panchayat Samiti* by the State Government for execution either directly or through the *Zilla Parishad,*

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[1]Section 163 was renumbered as sub-section (*1*) of that section and in sub-section (1) as so renumbered the words "on matters of policy or planning for development" were omitted by s.43(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]Sub-section (2) was inserted by s. 43(*2*), *ibid.*

(*d*) require a *Panchayat Samiti,* for the purpose of inspection or examination,—

(*i*) to produce any book, record, correspondence or other documents, or

(*ii*) to furnish any return, plan, estimate, statement, accounts or statistics, or

(*iii*) to furnish or obtain any report or information.

[1](*3*) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, a *Zilla Parishad* may—

(*a*) require a *Panchayat Samiti* or *Gram Panchayat* to take into consideration any objection which appears to it to exist to the doing of anything which is about to be done or is being done by such *Panchayat Samiti* or *Gram Panchayat* or any information which appears to it to necessitate the doing of anything by such *Panchayat Samiti* or *Gram Panchayat* within such period as it may fix;

(*b*) direct a *Panchayat Samiti* or *Gram Panchayat* to discharge any duty under this Act within a specified period if such *Panchayat Samiti* or *Gram Panchayat* fails to discharge such duty in accordance with the provisions of this Act and, if such duty is not discharged within the period as aforesaid, appoint any person or persons or authority to discharge such duty and direct that the expenses thereof shall be paid by the *Panchayat Samiti* or the *Gram Panchayat* concerned within such period as it may fix:

Provided that such person or persons or authority shall, for the purpose of discharging the duty as aforesaid, exercise such of the powers under this Act as might have been exercised by the *Panchayat Samiti* or the *Gram Panchayat* concerned while discharging such duty;

(*c*) direct a *Panchayat Samiti* or *Gram Panchayat* to levy any tax, toll, fee or rate, if it fails to do so in accordance with the provisions of this Act;

(*d*) call for meetings of a *Panchayat Samiti* or any of its *Sthayee Samitis* or a *Gram Panchayat* if no meeting of such *Panchayat Samiti* or *Sthayee Samiti* or *Gram Panchayat* is held in accordance with the provisions of this Act or the rules made thereunder.

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[1]Sub-sections (*3*), (*4*) and (*5*) were inserted by s. 26 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[1](*4*) When a *Zilla Parishad* takes any action or issues any direction in respect of any *Gram Panchayat,* such action may be taken and such direction may be issued through and with the assistance of the *Panchayat Samiti* having jurisdiction.

[1](*5*) A *Panchayat Samiti* or *Gram Panchayat,* as the case may be, may appeal to the State Government against any direction under clause (*b*) of sub-section (*3*) within thirty days from the date of such direction, and the decision of the State Government on such appeal shall be final.

Zilla Sansad and its constitution.

[2]**163A.** (*1*) Every *Zilla Parishad* shall have a *Zilla Sansad* consisting of the following members:—

(*a*) *Pradhans* of all *Gram Panchayats,*

(*b*) *Sabhapatis, Sahakari Sabhapatis* and *Karmadhyakshas* of all *Panchayat Samitis* comprising the *Zilla Parishad,*

(*c*) and all members of that *Zilla Parishad.*

(*2*) A *Zilla Parishad* shall hold an annual and a half-yearly meeting of such *Sansad* at such time and place in such manner, as may be prescribed.

(*3*) One-tenth of the total number of members shall form a quorum for a meeting of a *Zilla Sansad:*

Provided that if no quorum is available for such meeting, the meeting shall be adjourned to be held at the same time and place on the seventh day from the date of such meeting in the manner as may be prescribed.

(*4*) A meeting of the *Zilla Sansad* shall be presided over by the *Sabhadhipati* and in his absence by the *Sahakari Sabhadhipati* of the *Zilla Parishad.*

(*5*) The *Zilla Sansad* shall guide and advise the *Zilla Parishad* for all matters relating to development including preparation of annual plan and budget, implementation of development programmes, schemes or projects and undertaking such activities for economic development and for ensuring social justice as are undertaken or proposed to be undertaken by *Zilla Parishad:*

Provided that for such guidance and advice, any member of the *Zilla Sansad* on receipt of the notice for any such meeting, may demand in writing to the Executive Officer for placement of any document such as last report on inspection of accounts of the funds of the *Zilla Parishad* by the Audit team, budget, Annual Action Plan and on receipt of such demand the Executive Officer with the consent of the *Sabhapati,* shall place such documents in the meeting for deliberation:

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[1]*See* foot-note 1 on page 150, *ante.*

[2]This section was inserted by s. 12 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

Provided further that the deliberation, recommendations and observations passed in the meeting of the *Zilla Sansad,* shall be considered in the meeting of *Zilla Parishad* as soon as possible within one month from the date of meeting of the *Zilla Sansad* and the decision of the *Zilla Parishad* along with the action-taken report shall be placed in the next meeting of the *Zilla Sansad.*

Exemption of *Sabhadhipati* and members of *Zilla Parishad* from attending registration office.

164. Notwithstanding anything contained in the Registration Act, 1908, or any rules made thereunder, the registering officer shall, on the requisition of the *Sabhadhipati* made in writing and under the common seal of the *Zilla Parishad,* register a document executed by the *Sabhadhipati* or a member of the *Zilla Parishad* on behalf of the *Zilla Parishad* without requiring the presence of the *Sabhadhipati* or the member concerned at the registration office. 16 of 1908.

Powers, functions and duties of *Sabhadhipati* and *Sahakari Sabhadhipati.*

165. (*1*) The *Sabhadhipati* shall—

(*a*) be responsible for the maintenance of the records of the *Zilla Parishad*;

(*b*) have general responsibility for the financial and executive administration of the *Zilla Parishad*;

(*c*) exercise administrative supervision and control over all officers and other employees of the *Zilla Parishad* and the officers and employees whose services may be placed at the disposal of the *Zilla Parishad* by the State Government;

(*d*) for the transaction of business connected with this Act or for the purpose of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the *Zilla Parishad* under this Act or the rules made thereunder:

Provided that the *Sabhadhipati* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Zilla Parishad* at a meeting;

(*e*) exercise such other powers, perform such other functions and discharge such other duties as the *Zilla Parishad* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

[1]*Explanation.*—For the purpose of discharge of responsibilities and exercise of administrative supervision and control, the *Sabhadhipati* shall rely on the Executive Officer referred to in section 166 and shall generally act through him.

(*2*) The *Sahakari Sabhadhipati* shall—

(*a*) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhadhipati* as the *Sabhadhipati* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Sabhadhipati* may at any time withdraw the powers and functions delgated to the *Sahakari Subhadhipati*;

(*b*) during the absence of the *Sabhadhipati,* exercise all the powers, perform all the functions and discharge all the duties of the *Sabhadhipati*;

[2](*c*) exercise such other powers, perform such other functions, and discharge such other duties as the *Zilla Parishad* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf prescribe.

CHAPTER XV

Establishment of the *Zilla Parishad*

Staff of the *Zilla Parishad.*

166. (*1*) There shall be an Executive Officer for a *Zilla Parishad* appointed by the State Government on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad,* at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

[3](*1A*) The State Government may appoint [4][one or more Additional Executive Officer] for a *Zilla Parishad* on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad,* at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

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[1]This *'Explanation'* was added by s. 27 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]Clause (*c*) was inserted by s. 44 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Sub-sections (*1A*) and (*1B*) were inserted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1980 (West Ben. Act XXXIV of 1980).

[4]The words within the square brackets were substituted for the words "an Additional Executive Officer" by s. 25 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

[1](*1B*) The Additional Executive Officer shall, subject to the provisions of this Act, exercise such powers, perform such functions, and discharge such duties, of the Executive Officer as the State Government may, from time to time, direct.

[2](*2*) The State Government may appoint a Secretary, Deputy Secretary, Additional Deputy Secretary, Financial Controller and Chief Account Officer, Executive Engineer, *Parishad* Public Health Officer and such other officers for a *Zilla Parishad* on such terms and conditions as may be prescribed.

[3](3) Subject to such rules as may be made by the State Government in this behalf and such orders as may be issued by the State Government, a *Zilla Parishad* shall have such employees in its establishment as may be prescribed and they shall be appointed by the Executive Officer of *Zilla Parishad*:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Executive Officer of *Zilla Parishad* without the prior approval of the State Government.

[4](*4*) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the *Zilla Parishad.*

Placing the services of State Government officers at the disposal of the *Zilla Parishad.*

167. The State Government may place at the disposal of the *Zilla Parishad* the services of such officers or other employees serving under it [5][and on such terms and conditions] as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

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[1]*See* foot-note 3 on page 153, *ante.*

[2]At first the words in the proviso to original sub-section (*2*) "first five years" were substituted for the words "first four years" by s. 10 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), thereafter sub-section (*2*) was substituted for the original sub-section and the proviso thereto by s. 45(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), then again sub-section (*2*) was substituted for former sub-section (*2*) by s. 16(*1*) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[3]Sub-section (*3*) was substituted s. 16(*2*), *ibid.* Prior to this substituted there occur following changes in former sub-section (*3*):

(*i*) the words "Subject to such rules as may be made by the State Government, a *Zilla Parishad*" were substituted for the words "A *Zilla Parishad*" by s. 45(*b*) *ibid,* and

(*ii*) a proviso was inserted by s. 28 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[4]Sub-section (*4*) was inserted by s. 45(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]The words within square brackets were inserted by s. 46, *ibid.*

Control and punishment of the staff of the *Zilla Parishad.*

[1]**168.** (*1*) Subject to such rules as may be made by the State Government, the Executive Officer of *Zilla Parishad* shall exercise general control over all employees of the *Zilla Parishad* and may award punishment to an employee, appointed under sub-section (*3*) of section 166, in such manner as may be prescribed.

(*2*) The Executive Officer of *Zilla Parishad* may recommend for punishment of dismissal, removal or reduction in rank of an employee appointed under sub-section (*3*) of section 166 to the *Zilla Parishad*, in such manner as may be prescribed.

(*3*) On receipt of such recommendation the *Zilla Parishad* may award any punishment to such employee in such manner as may be prescribed.

Appeal.

[2]**169.** (*1*) An appeal shall lie to the *Zilla Parishad* against an order of punishment awarded by the Executive Officer of *Zilla Parishad* under sub-section (*1*) of section 168 within one month from the date of that order.

(*2*) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the *Zilla Parishad* under sub-section (*3*) of section 168 within one month from the date of that order.

Exercise of powers, etc., by the officers and employees.

170. Subject to the provisions of this Act and the rules framed thereunder and to any general or special directions given by the State Government in that behalf, the officers and other employees employed by the *Zilla Parishad* and the officers and other employees whose services have been placed at the disposal of the *Zilla Parishad* shall exercise such powers, perform such functions and discharge such duties as the *Zilla Parishad* may determine.

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[1]Section 168 was substituted for the original by s. 17 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution there occur following changes in original section:—

(i) the words "of a *Zilla Parishad*", in sub-section (*2*), were substituted for the words "holding a post carrying monthly salary of less than rupees three hundred" by s. 47(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

(ii) in sub-section (*3*),—

(a) the words "of a *Zilla Parishad*" were substituted for the words "holding a post carrying a monthly salary of less than rupees three hundred" by s. 47(*b*)(*i*), *ibid*, and

(b) the words "*Artha, Sanstha, Unnayan O Parikalpana*" were substituted for the words "*Artha O Sanstha*" by s. 47(*b*)(*ii*), *ibid.*

(iii) in sub-section (4), the words "of a *Zilla Parishad*" were substituted for the words "holding a post carrying a monthly salary of less than rupees three hundred or more" by s. 47(*c*), *ibid.*

[2]Section 169 was substituted for the original by s. 18 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

CHAPTER XVI

Sthayee Samitis of the *Zilla Parishad*

Sthayee Samiti.

171. (*1*) A *Zilla Parishad* shall have the following *Sthayee Samitis*, namely:—

(*i*) [1][*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*;

(*ii*) [2][*Janasasthya O Paribesh*] *Sthayee Samiti*;

(*iii*) *Purta Karya* [3][*O Paribahan*] *Sthayee Samiti*;

(*iv*) *Krishi Sech O Samabaya Sthayee Samiti*;

(*v*) [4][*Shiksha, Sanskriti, Tathya O Krira*] *Sthayee Samiti*;

(*vi*) [5][*Sishu O Nari Unnayan, Janakalyan O Tran*] *Sthayee Samiti*;

[6](*via*) *Bon O Bhumi Sanskar Sthayee Samiti*;

[6](*vib*) *Matsya O Prani Sampad Bikash Sthayee Samiti*;

[6](*vic*) *Khadya O Sarbaraha Sthayee Samiti*;

[6](*vid*) [7][*Khudra Shilpa, Bidyut O Achiracharit Shakti*] *Sthayee Samiti*;

(*vii*) such other *Samiti* or *Samitis* as the *Zilla Parishad* may, subject to the approval of the State Government, constitute.

(*2*) A *Sthayee Samiti* shall consist of the following members, namely:—

(*a*) the *Sabhadhipati* [8][and *Sahakari Sabhadhipati*] *ex officio*;

(*b*) [9][without prejudice to the provisions in clause (*ba*)] not less than three and not more than five persons to be elected in the prescribed manner by the members of the *Zilla Parishad* from among themselves;

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[1]The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 48(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were substituted for the word "*Janasasthya*" by s. 27(*a*)(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[3]The words within the square brackets were inserted by s. 27(*a*)(*2*), *ibid.*

[4]The words within the square brackets were substituted for the word "*Shiksha*" by s. 27(*a*)(*3*), *ibid.*

[5]The words within the square brackets were substituted for the words "*Khudra Silpa, Tran O Janakalyan*" by s. 29(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[6]Clauses (*via*) to (*vid*) were inserted by s. 27(*a*)(*4*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[7]The words within the square brackets were substituted for the words "*Bidyut O Achiracharit Shakti*" by s. 29(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[8]The words within the square brackets were inserted by s.27(*b*)(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[9]The words, brackets and letters within the square brackets were added by s. 13(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[1](*ba*) in *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti, Karmadhyakshas* elected in other *Sthayee Samitis* as referred to in sub-section (1), shall be members *ex officio* and no member shall be elected in the manner referred to in clause (*b*);

[1](*bb*) Leader of the recognized political party in opposition having largest number of members in the *Zilla Parishad* in comparison with other recognized political parties in opposition, shall be a member of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*;

[1](*bc*) one member from each recognized political party in opposition shall be a member of the *Sthayee Samiti* other than [2][the *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti,* if no member in opposition is elected in a *Sthayee Samiti* referred to in clause (*b*):]

Provided that the members selected from the recognized political party having larger number of members in the *Zilla Parishad* shall be the member of the *Sthayee Samiti* placed higher in the consecutive order in sub-section (*1*):

Provided further that if the member of recognized [3][political] parties in opposition is less than the number of *Sthayee Samitis*, the indepedent candidates in opposition in *Zilla Parishad* shall be members of the *Sthayee Samitis* for which no member of the recognized political parties are available and the member senior in age shall be placed as member in the *Sthayee Samiti* placed higher in the order of sub-section (*1*):

Provided also that if the member of recognized political parties added with number of independent members falls short of the number of *Sthayee Samitis*, one additional member from each such political party in opposition in the *Zilla Parishad*, shall be chosen for membership in the *Sthayee Samitis* where no member in terms of this clause has been provided and the same sequential order shall be followed for placement of a member in a *Sthayee Samiti* and such process shall be repeated until all *Sthayee Samitis* have one member under this clause:

Provided also that a member in opposition may be a member of more than two *Sthayee Samitis* if in a term of general election, not more than four members in opposition, either representing a recognized political party or independent, are elected in the *Zilla Parishad*:

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[1]Clauses (*ba*), (*bb*) and (*bc*) were inserted by s. 13(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[2]The words, letter and brackets within the square brackets were substituted for the words "the *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti:*" by s. 3(*1*)(*i*) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

[3]The word within the square brackets was inserted by s. 3(*1*)(*ii*), *ibid.*

Provided also that the members of the recognized political party shall jointly decide and intimate the Executive Officer of the *Zilla Parishad* by a letter under signature of all such members, the name of the member or members who shall represent the party as member of the *Sthayee Samiti* and in case of an independent member the Executive Officer shall determine the membership in each *Sthayee Samiti*:

Provided also that the Executive Officer shall place the entire matter of membership under this clause in a meeting of the *Zilla Parishad* as early as possible in the next meeting.

[1]*Explanation.*—For the purpose of this clause, a member of the *Zilla Parishad* shall be considered a member in opposition if in the election of the *Sabhadhipati* under section 98, he did not cast his vote in favour of the winning condidate or has abstained himself from casting his vote in the said election;

[2](*c*) such number of persons being officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge as the Sate Government may think fit, appointed by the State Government:

Provided that such officers shall not be eligible for election as *Karmadhyaksha* of the *Sthayee Samiti* and shall not have any right to vote.

[3](3) No person, other than the *Sabhadhipati* or the *Sahakari Sabhadhipati,* shall be a member of more than two *Sthayee Samitis* other than the *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti.*

(*4*) An elected member of a *Sthayee Samiti* shall hold office for a period of [4][five years] or for so long as he continues to be a member of the *Zilla Parishad,* whichever is earlier.

(*5*) The meeting of the *Sthayee Samiti* shall be held [5][in the Office of the *Zilla Parishad*] at such time and in such manner as may be prescribed.

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[1]The *Explanation* was added by s. 3(*1*)(*iii*) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

[2]Clause (*c*) was substituted for the original clause by s. 27(*b*)(*2*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this substitution the word "five" was substituted for the word "three" by s. 48(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]This sub-section was substituted for the original by s. 3(*2*) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

[4]The words within the square brackets were substituted for the words "four years" by s. 11 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

[5]The words within the square brackets were inserted by s. 48(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(*6*) A *Sthayee Samiti* shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the *Zilla Parishad.*

(*7*) The State Government may make rules providing for the removal of members of a *Sthayee Samiti* including the *Karmadhyaksha* and for filling up of casual vacancy.

Karma-dhyaksha and Secretary.

172. (*1*) The members of a *Sthayee Samiti* shall elect, in such manner as may be prescribed, a Chairman, to be called *Karmadhyaksha,* from among themselves:

Provided that the members referred to in [1][clauses (*i*), (*iii*) and (*iv*)] of sub-section (*2*) of section 140 shall not be eligible for such election:

Provided further that the *Sabhadhipati* shall be the *ex officio Karmadhyaksha* of the [2][*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*:

[3]Provided also that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a wholetime functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due excercise of his powers, due performance of his functions or due discharge of his duties.

[4]* * * * * *

(*3*) The Secretary of the *Zilla Parishad* shall act as Secretary [5][to the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*] :

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[1]The words, brackets and figures "clauses (*iii*) and (*iv*)" were first substituted with retrospective effect for the words, brackets, figures and letters "sub-clauses (*iii*) and (*iv*) of clause (*a*)" by s. 7 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter the words, brackets and figures within square brackets were substituted for the words, brackets and figures "clauses (*iii*) and (*iv*)" by s. 48(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 48(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]This proviso was added by s. 28(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]Sub-section (*2*) was omitted by s. 48(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]The words within the square brackets were substituted for the words "to all the *Sthayee Samitis*" by s. 14(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[1]Provided that the members referred to in clauses [2][(*a*), (*b*), (*ba*), (*bb*) and (*bc*)] of sub-section (*2*) of section 171 of a *Sthayee Samiti* may select, in such manner [3][as may be determined by the *Sthayee Samiti* in conformity with such directions as may be issued, by one or more orders, general or special, of the State Government], one of the members referred to in clause (*c*) of that sub-section to act as the Secretary to such *Sthayee Samiti*:

[4]Provided further that pending the selection of Secretary to a *Sthayee Samiti* under this clause or during any casual vacancy, in the post of the Secretary to a *Sthayee Samiti,* the Secretary of the *Zilla Parishad* shall act as Secretary to such *Sthayee Samiti.*

[5](*4*) The Secretary to each *Sthayee Samiti* shall, in consultation with the *Karmadhyaksha,* convene the meetings of that *Sthayee Samiti.*

[6](*5*) Notwithstanding anything contained in section 165 or elsewhere in this Act, the *Karmadhyaksha* shall—

(*a*) be responsible for the financial and executive administration in respect of the schemes and programmes [7][under the purview and control of the *Sthayee Samiti* within the budgetary provisions of the *Zilla Parishad,*];

(*b*) be entitled, in respect of the work of the *Sthayee Samiti,* to call for any information, return, statement, account or report from the office of the *Zilla Parishad* and to enter on and inspect any immovable property of the *Zilla Parishad* or to inspect any work in progress and connected with the functions and duties of the *Sthayee Samiti*;

(*c*) be entitled, when authorised by the *Sthayee Samiti,* to require the attendance at its meeting of any officer of the *Zilla Parishad*;

(*d*) exercise such other powers, perform such other functions and discharge such other duties, as the *Zilla Parishad* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

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[1]This proviso was added by s. 48(*c*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The word, letters and brackets within the square brackets were substituted for the letters, word and brackets "(*a*) and (*b*)" by s. 14(*2*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[3]The words within the square brackets were substituted for the words "as may be determined by the *Karmadhyaksha*" by s. 14(*3*), *ibid.*

[4]The proviso was added by s. 14(*4*), *ibid.*

[5]Sub-section (*4*) was inserted by s. 48(*d*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[6]Sub-sections (*5*), (*6*) and (*7*) were inserted by s. 28(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[7]The words within the square brackets were substituted for the words "under the purview and control of the *Sthayee Samiti*" by s. 14(*5*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part IV.—Zilla Parishad.—*Chapter XVI.*—Sthayee Samitis *of the* Zilla Parishad.—*Sections 173, 174.*—*Chapter XVIA.*—Samanway Samiti *of office bearers and* Karmadhyakshas.—*Section 174A.)*

[1](*6*) The *Karmadhyaksha* shall be paid out of the *Zilla Parishad* Fund such remuneration and allowances, and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as the State Government may by order direct or may by rules made in this behalf, prescribe.

[1](*7*) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Karmadhyaksha* from his office if, in its opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making representation against the proposed order.

Resignation.

173. The *Karmadhyaksha* or any other member of a *Sthayee Samiti* may resign his office by giving notice in writing to the *Sabhadhipati* and on such resignation being accepted by the *Zilla Parishad* the *Karmadhyaksha* or such member shall be deemed to have vacated his office.

Casual vacancy.

174. When a vacancy occurs in the office of a *Karmadhyaksha* or a member of a *Sthayee Samiti* by resignation, death or otherwise, the members of the *Sthayee Samiti* shall elect another *Karmadhyaksha* or [2][the members of the *Zilla Parishad* shall elect another] member, as the case may be, in the prescribed manner. The *Karmadhyaksha* or the member so elected shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

[3]CHAPTER XVIA

Samanway Samiti of office bearers and *Karmadhyakshas*

174A. [Samanway Samiti.—*Omitted by s. 15 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).].*

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[1]*See* foot-note 6 on page 160, *ante.*

[2]The words within the square brackets were inserted by s. 50 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)

[3]Chapter XVIA was inserted by s. 51, *ibid.*

CHAPTER XVII

Property and Fund

Power to acquire, hold and dispose of property.

175. A *Zilla Parishad* shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the *Zilla Parishad* shall obtain the previous approval of [1][the prescribed authority].

Works constructed by a *Zilla Parishad* to vest in it.

176. All roads, buildings or other works constructed by a *Zilla Parishad* with its own funds shall vest in it.

Allocation of properties to *Zilla Parishad.*

177. The State Government may allocate to a *Zilla Parishad* any public property situated within its jurisdiction, and thereupon, such property shall vest in and come under the control of the *Zilla Parishad.*

Acquisition of land for *Zilla Parishad.*

178. Where a *Zilla Parishad* requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the aquisition of the land and the Collector may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894, and such land shall, on acquisition, vest in the *Zilla Parishad.* 1 of 1894.

Zilla Parishad Fund.

179. (*1*) For every *Zilla Parishad* there shall be constituted a *Zilla Parishad* Fund bearing the name of the *Zilla Parishad* and there shall be placed to the credit thereof—

(*a*) contributions and grants, if any, made by the Central or the State Government including such part of land revenue collected in the State as may be determined by the State Government;

(*b*) contributions and grants, if any, made by a *Panchayat Samiti* or any other local authority;

(*c*) loans, if any, granted by the Central or State Government or raised by the *Zilla Parishad* on security of its assets;

(*d*) the proceeds of road cess and public works cess levied in the district;

(*e*) all receipts on account of tolls, rates and fees levied by the *Zilla Parishad*;

[1]The words within the square brackets were substituted for the words "the State Government" by s. 26 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*f*) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of, the *Zilla Parishad*;

(*g*) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Zilla Parishad*;

(*h*) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed;

(*i*) money, if any, lying to the credit of the district *Chowkidary* reward fund constituted under section 25 of the Bengal Village Self-Government Act, 1919, the control over which rests with the District Magistrate, shall be credited by the District Magistrate to the *Zilla Parishad* Fund;

Ben. Act V of 1919.

(*j*) all other sums received by or on behalf of the *Zilla Parishad.*

[1]*Explanation.*—A *Zilla Parishad* shall not receive to the credit of its fund—

(*a*) any loan from any individual, severally or jointly, or any member or office bearer of the *Zilla Parishad*, and

(*b*) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the *Zilla Parishad* save and except, in pursuance of a resolution adopted in a meeting of the *Zilla Parishad* accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.

(2) Every *Zilla Parishad* shall—

(*i*) set a part and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Executive Officer, [2][the Additional Executive Officer, the Secretary or the Deputy Secretary;]

(*ii*) allocate the money received under clause (*i*) of sub-section (*1*) among the *Gram Panchayats* of the district concerned.

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[1]This *'Explanation'* was added by s. 30 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[2]The words "and the Additional Executive Officer" were first inserted by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 1980 (West Ben. Act XXXIV of 1980) and thereafter the words within square brackets were substituted for the words "and the Additional Executive Officer" by s. 52(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Finally, the words within square brackets were substituted for the words "the Additional Executive Officer and the Secretary;" by s. 16(*1*) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(*3*) Every *Zilla Parishad* shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(*4*) The *Zilla Parishad* Fund shall be vested in the *Zilla Parishad* and the amount standing to the credit of the fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

(*5*) Subject to such general control as the *Zilla Parishad* may exercise, from time to time, all orders and cheques for payment from the *Zilla Parishad* Fund shall be [1][signed by the Executive Officer, or if authorised by the Executive Officer [2](by the Additional Executive Officer, the Secretary, the Deputy Secretary or the Financial Controller and the Chief Accounts Officer).]

Proceeds of road cess and public works cess to be credited to the *Zilla Parishad* Fund.

180. Notwithstanding anything to the contrary in the Cess Act, 1880, the proceeds of road cess and public works cess, if any, levied and realised in a district shall be credited to the *Zilla Parishad* Fund after payment of the expenses mentioned in section 109 of the said Act. Ben. Act IX of 1880.

Levy of tolls, fees and rates.

181. (*1*) Subject of such maximum rates as the State Government may prescribe, a *Zilla Parishad* may—

(*a*) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *kutcha* road or any bridge vested in it or under its management;

(*b*) levy tolls in respect of any *ferry* established by it or under its management;

(*c*) levy the following fees and rates, namely:—

(*i*) fees on the registration of boats or vehicles;

(*ii*) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;

(*iii*) a fee for licence referred to in section 162;

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[1]The words "signed by the Executive Officer, or if authorised by the Executive Officer by the Secretary" were substituted with retrospective effect for the words "signed by the Executive Officer" by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1979 (West Ben. Act X of 1979) and thereafter the words within first brackets were substituted for the words "by the Secretary" by s. 52(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within first brackets were substituted for the words "by the Additional Executive Officer or the Secretary." by s. 16(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003). Thereafter, the words and brackets within the square brackets were substituted for the words and brackets "(by the Additional Executive Officer, the Secretary or the Deputy Secretary)" by s. 8 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

(*iv*) a water-rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Zilla Parishad* within its jurisdiction;

(*v*) a lighting rate, where arrangement for lighting of public streets and places is made by the *Zilla Parishad* within its jurisdiction;

[1](*vi*) a rate for management or maintenance of institution or works of public utility referred to in sub-clause (*iii*), and sub-clause (*vii*), of clause (*a*) sub-section (*1*) of section 153.

(2) The *Zilla Parishad* shall not undertake registration of any vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* within its jurisdiction or levy fee therefor if such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

(*3*) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws. Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

Zilla Parishad may raise loans and create a sinking fund.

182. A *Zilla Parishad* may, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

Zilla Parishad may borrow money.

[2]**182A.** Notwithstanding anything contained in section 182, a *Zilla Parishad* may borrow money from the State Government or [3]* * * * from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the *Zilla Parishad* for the purpose.

Budget of the *Zilla Parishad*.

183. (*1*) Every *Zilla Parishad* shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year [4]* * * *.

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[1]Sub-clause (*vi*) was inserted by s. 8 of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

[2]Section 182A was inserted with retrospective effect by s. 5 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

[3]The words ", with the previous sanction of the State Government," were omitted by s. 42 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[4]The words "and submit it to the State Government" were omitted by s. 43(*1*), *ibid.*

[1](2) (*a*) The budget prepared under sub-section (*1*) shall be written in English and in vernacular of the district and copies of the budget in both the languages shall be posted in such prominent places within the district as may be prescribed, inviting objections and suggestions from the electors of the *Zilla Parishad.*

(*b*)Copies of the budget shall be forwarded to the State Government for views, if any.

(*c*)The *Zilla Parishad* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any.

(*d*)A copy of the budget approved under clause (*c*) shall be forwarded to the State Government.

(*3*) No expenditure shall be incurred unless the budget is approved by [2][under clause (*c*) of sub-section (*2*)].

Supplementary budget.

184. [3](*1*) The *Zilla Parishad* may prepare in each year a supplementary estimate providing for any modification of its budget and [3][may approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

[4](2) A copy of the supplementary estimate as approved under sub-section (*1*) shall be forwarded to the State Government.

Accounts.

185. A *Zilla Parishad* shall keep such accounts and in such manner as may be prescribed.

[5]CHAPTER XVIIA

Special provision for the District of Darjeeling

Zilla Parishad for Darjeeling to stand dissolved and consequences of dissolution.

[5]**185A.** (*1*) With effect from the date of coming into office of the Council, the *Zilla Parishad* for the district of Darjeeling constituted under this Act shall stand dissolved and the members of the *Zilla Parishad* shall be deemed to have vacated their offices forthwith.

(*2*) Upon such dissolution of the *Zilla Parishad,* the Council shall exercise all the powers, discharge all the duties and perform all the functions of the *Zilla Parishad* under this Act.

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[1]Sub-section (2) was substituted for the original by s. 43(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]The words, figure, letter and brackets within the square brackets were substituted for the words "the State Government" by s. 43(*3*), *ibid.*

[3]Section 184 was renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so renumbered the words within the square brackets were substituted for the words "may submit it to the State Government for approval" by s. 44(*1*), *ibid.*

[4]Sub-section (2) was added by s. 44(2), *ibid.*

[5]Chapter XVIIA consisting of sections 185A and 185B was inserted by s. 19 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(*3*) Notwithstanding anything contained in sub-section (*1*) of this section or elsewhere in this Act,—

(*a*) anything done or any action taken by the *Zilla Parishad* under this Act prior to the coming into office of the Council, and

(*b*) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963, or this Act, applicable to the *Zilla Parishad,* and continuing in force immediately before the coming into office of the Council, shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of the Darjeeling Gorkha Hill Council Act, 1988 until they are repealed or amended.

West Ben. Act I of 1957.
West Ben. Act XXXV of 1963.
West Ben. Act XIII of 1988.

(*4*) Notwithstanding anything contained in section 29 of the Darjeeling Gorkha Hill Council Act, 1988, the properties, funds and liabilities of the *Zilla Parishad* and the officers and employees of the *Zilla Parishad* holding office immediately before the coming into office of the Council, shall be determined and apportioned between the Council and the *Mahakuma Parishad* in such manner as may be prescribed, and such determination and apportionment shall be final.

(*5*) An order made under sub-section (*4*) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

[1](*6*) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

(*a*) no executive power referred to in section 24 of the Darjeeling Gorkha Hill Council Act, 1988, shall be exercised by a *Gram Panchayat* or *Panchayat Samiti* in the hill areas unless the Council assigns such power to such *Gram Panchayat* or *Panchayat Samiti,* as the case may be, on such terms and conditions as the Council may, by general or special direction, specify, and

(*b*) the State Government shall not assign any power, function or duty in relation to any matter, referred to in section 207B or in any other provision of this Act, to any *Gram Panchayat* or *Panchayat Samiti* in the hill areas without prior consultation with the Council and, on transfer of such power, function or duty, the Council shall have power and authority to issue any direction, and adopt any measure, for supervision and monitoring with respect to the exercise of such power, performance of such function and discharge of such duty by the *Gram Panchayat* or the *Panchayat Samiti,* as the case may be.

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[1]Sub-section (*6*) was added by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Mahakuma Parishad.

[1]**185B.** (*1*) For the sub-division of Siliguri in the district of Darjeeling the State Government shall constitute a *Mahakuma Parishad* bearing the name of the sub-division.

(*2*) The *Mahakuma Parishad* shall comprise the areas of the blocks within the sub-division excluding such *mouzas* of the sub-division as are comprised in the hill areas.

(*3*) The *Mahakuma Parishad* shall consist of the following members, namely:—

(*i*) *Sabhapatis* of the *Panchayat Samitis* within the sub-division, *ex officio*;

(*ii*) [2][such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in each Block within the sub-division, the Block being divided [3](by the prescribed authority) for the purpose into constituencies in the prescribed manner,] elected by secret ballot, at such time and in such manner as may be prescribed, [4][from amongst the persons, whose names are included in the electoral roll [5](prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election,) pertaining to any Block within the area of *Mahakuma Parishad,* by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block]:

[6]Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Mahakuma Parishad* area and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same portion to the total

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[1]*See* foot-note 5 on page 166, *ante.*

[2]The words within the square brackets were substituted for the words "two persons, one from each of two such constituencies comprised in the Block within the sub-division as may be specified by notification," by s. 17 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

[3]The words within the round brackets were inserted by s. 31(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[4]The words within the square brackets were substituted for the words "from among themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for *Panchayat* election pertaining to the constituency comprised in such Block;" by s. 29(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[5]The words within the round brackets were substituted for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for *Panchayat* election," by s. 45(*1*)(*a*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[6]The first, second, third, fourth and fifth provisos were inserted by s. 29(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

number of seats in that *Mahakuma Parishad* to be filled up by election as the population of the Scheduled Castes in that *Mahakuma Parishad* area or of the Scheduled Tribes in that *Mahakuma Parishad* area, as the case may be, bears to the total population of that *Mahakuma Parishad* area and such seats shall be subjected to allocation by rotation, in the manner prescribed to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Mahakuma Parishad* area, as the case may be, bears with the total population in that *Mahakuma Parishad* area:

[1]Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

[1]Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in the *Mahakuma Parishad* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

[1]Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section [2]* * * *, when the number of members to be elected to the *Mahakuma Parishad* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in the *Mahakuma Parishad,* in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

[1]Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to the *Mahakuma Parishad,* be disqualified for election to any seat not so reserved:

[3]Provided also that such division into constituencies shall be made in such manner that the ratio between the population of all the Blocks in the *Mahakuma Parishad* and the number of constituencies in the *Mahakuma Parishad* shall, so far as practicable, be the same as in any *Zilla Parishad*:

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[1]*See* foot-note 6 on page 168, *ante.*

[2]The words "or elsewhere in this Act" were omitted by s. 31(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]The sixth, seventh and eighth provisos were inserted by s. 45(*1*)(*a*)(*ii*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1]Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing [2][, issue an order making fresh determination], of the number of members in the *Mahakuma Parishad* or fresh reservation on rotation of the number of constituencies in the *Mahakuma Parishad* and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied for [3][the next] three successive general elections:

[1]Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India;

(*iii*) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas), not being Ministers;

(*iv*) members of the Council of States, not being Ministers, [4][registered as electors within the area of any Block] in the sub-division (excluding the place emprised in the hill areas).

(*4*) The *Mahakuma Parishad* constituted under this section shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

(*5*) The *Mahakuma Parishad* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

(*6*) Notwithstanding anything contained in this Act,—

(*a*) anything done or any action taken by the *Zilla Parishad* under this Act prior to the coming into office of the *Mahakuma Parishad*, and

(*b*) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act 1963, or this Act, applicable to the *Zilla Parishad,*

West Ben. Act I of 1957.
West Ben. Act XXXV of 1963.

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[1]*See* foot-note 3 on page 169, *ante.*

[2]The words within the square brackets were substituted for the words "and by notification, order fresh determination" by 31(*c*)(*i*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

[3]The words were inserted by s. 31(*c*)(*ii*), *ibid.*

[4]The words within the square brackets were substituted for the words "having a place of residence" by s. 45(*1*)(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

and continuing in force immediately before the coming into office of the *Mahakuma Parishad* under this Act, shall, after such coming into office, be applicable to the *Mahakuma Parishad* and shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

(*7*) (*a*) The *Mahakuma Parishad* shall have a *Sthayee Samiti*, namely, *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti.*

(*b*) The *Mahakuma Parishad* may have such other *Sthayee Samiti* or *Samitis* as it may, subject to the approval of the State Government, constitute.

(*c*) A *Sthayee Samiti* shall consist of the following members:—

(*i*) the *Sabhadhipati* [1][and the *Sahakari Sabhadhipati*], *ex officio*;

(*ii*) three persons to be elected in the prescribed manner by the members of the *Mahakuma Parishad* from among themselves;

[2](*iii*) such number of persons, being Officers of the State Government or of any statutory body or corporation or being eminent persons have specialised knowledge, as the State Government may think fit, appointed by the State Government.

(*d*) No person, other than the *Sabhadhipati* or the *Sahakari Sabhadhipati*, shall be a member of more than two *Sthayee Samitis.*

(*e*) All the provisions of sub-sections (*4*) to (*7*) of section 171 and sections 172 to 174 shall apply *mutatis mutandis* to a *Sthayee Samiti* constituted under this section.

(*8*) All the provisions of sections 141 to 152, 153 to 165, 166 to 170, 175 to 185, 186 to 196, 196A, 196B, 197, 197A, 197B, 198 to 202, 202A, 203 to 216, 220 to 221 and 223 shall apply to the *Mahakuma Parishad mutatis mutandis.*

PART V

CHAPTER XVIII

Audit

Audit of accounts of fund.

186. (*1*) The accounts of the funds of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* shall be examined and audited by an auditor appointed in that behalf by the State Government at such time and place, to such extent and in such manner as the State Government may prescribe.

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[1]The words within the square brackets were inserted by s. 45(2)(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-clause (*iii*) was substituted for the previous sub-clause by s. 45(2)(*b*), *ibid.*

(2) An auditor appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Submission of accounts to audit.

187. The *Pradhan,* the *Sabhapati* or the *Sabhadhipati*, as the case may be, shall produce, or cause to be produced, to the auditor all such accounts of the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned as may be required by the auditor.

Powers of auditors.

188. [1](*1*) For the purposes of an audit under this Act an auditor may—

(*i*) require in writing the production before him of any document or the supply of any information which he considers to be necessary for the proper conduct of the audit;

(*ii*) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document, or having, directly or indirectly and whether by himself or his partner, any share or interest in any contract made with, by or on behalf of, the members of the *Gram Panchayat*, the *Panchayat Samiti* or *Zilla Parishad* concerned; and

(*iii*) require any person so appearing before him to make and sign declaration in respect of any such document or to answer any question or prepare and submit any statement.

[1](2) If any person neglects or refuses to comply with the requisition made by the auditor under sub-section (*1*), the auditor may, at any time, refer the matter to the Sub-divisional Officer in the case of a *Gram Panchayat*, or the District Magistrate in the case of a *Panchayat Samiti*, or the Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall be competent to issue such direction to the person neglecting or refusing to comply with the requisition made by the auditor as he may think fit, and such direction shall be binding on such person.

Penalty.

189. Any person who neglects or refuses to comply with the requisition made by the auditor under section 188, within such time as may be specified, shall, on conviction by a Court, be punishable with a fine which may extend to one hundred rupees is respect of each item included in the requisition.

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[1]Section 188 was renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so renumbered sub-section (2) was added by s. 30 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

Audit report.

190. (*1*) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and shall send the report to the *Pradhan,* the *Sabhapati* or the *Sabhadhipati*, as the case may be, of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and a copy thereof to the State Government.

(*2*) The auditor shall append to his report a statement showing—

(*a*) the grants-in-aid received by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and the expenditure incurred therefrom;

(*b*) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of the monies due to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* or in the accounts of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* Fund;

(*c*) any loss or wastage of money or other property owned by or vested in the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad.*

Action on audit report.

191. (*1*) Within two months from the receipt of the report referred to in section 190, the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall, at a meeting, remedy any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall give reasons or explanations in case any defect or irregularity is not removed.

(*2*) If, within the period referred to in sub-section (*1*), no information is received by the auditor from the *Gram Panchayat*, the *Panchayat Samiti*, or the *Zilla Parishad* concerned or if the reasons or explanations given by it for not remedying any defect or irregularity as aforesaid is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 192, [1][refer the matter to Sub-divisional Officer in the case of a *Gram Panchayat*, or the District Magistrate in the case of a *Panchayat Samiti,* or the Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall issue such direction to the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, as he may think fit.]

[1]The words within the square brackets were substituted for the words "refer the matter to the State Government within such time and in such manner as the State Government may prescribe." by s. 31(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[1](*2A*) If within thirty days from the date of issue of any direction under sub-section (1), no information is received from the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, or if the reasons or explanations given by it for not removing the defect or irregularity pointed out in the report referred to in section 190 are not considered sufficient, the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall—

(*i*) specially convene a meeting of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, by giving seven days' notice to the members for discussion of the report as aforesaid, and may appoint an observer for such meeting who shall submit a report on the proceedings of the meeting in writing, duly signed by him, within a week of such meeting;

(*ii*) refer the matter to the State Government with his recommendation for appropriate action under section 192A, section 196B, section 213 or section 214, as the case may be:

Provided that the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, may make recommendations under all or any of the sections 192A, 196B, 213 and 214.

(*3*) It shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 192 and 193, be final and the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned shall take action in accordance therewith.

(*4*) If the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned fails to comply with the order within the period specified therein, the State Government may appoint a person to carry out the order, and may determine the remuneration payable to such person, and may direct that such remuneration and any cost incurred in carrying out the order shall be paid from the fund of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(*5*) A person appointed under sub-section (*4*) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the concerned *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad.*

Laying of audit report.

[2]**191A.** The audit reports of the *Gram Panchayats,* the *Panchayat Samitis* and the *Zilla Parishads* along with the action taken reports for every year shall, as soon as may be after it is received by the State Government, be laid before the State Legislature.

Power of auditor to surcharge, etc.

192. (*1*) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering any such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising

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[1]Sub-section (2A) was added by s. 31(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]Section 191A was inserted by s. 27 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

the making of the illegal payment, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall, in every such case, certify the amount due from such person:

Provided that the auditor may in his discretion waive the surcharge or charge in cases where the amount involved does not exceed twenty-five rupees.

(*2*) For the purposes of this section any member of a *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad,* as the case may be, or of a *Sthayee Samiti* of a *Panchayat Samiti* or a *Zilla Parishad* who is present at a meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (*1*) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if his dissent is not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.

(*3*) The auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (*1*) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the *Pradhan,* the *Sabhapati* or the *Sabhadhipati,* as the case may be, and the State Government.

(*4*) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

Person making or authorising illegal payment to be removed.

[1]**192A.** If any item of account contrary to law is surcharged on any person making or authorising the making of any illegal payment or if any person is charged against for being responsible for the amount of any loss incurred by the negligence or misconduct of that person, he shall, without prejudice to any other provisions of this Act, be liable to be removed under section 213; and upon such removal, such person may be disqualified by the State Government by an order in writing for being elected a member of a *Gram Panchayat* or *Panchayat Samiti* or *Zilla Parishad* for such term as may be specified in the order:

Provided that the State Government shall, before making any order under this sub-section, give to the person concerned an opportunity of being heard:

Provided further that any order under this sub-section shall be published in the *Official Gazette.*

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[1]Section 192A was inserted by s. 32 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

Appeal.

193. (*1*) Any person from whom any sum has been certified by the auditor to be due under section 192 may, within two months of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.

(*2*) Where a person referred to in sub-section (*2*) of section 192, who has been surcharged as authorising an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

Payment of certified sums.

194. (*1*) The sum certified by the auditor to be due from any person under section 192 or where an appeal is made under sub-section (*1*) of section 193, such sum as may be ordered by the State Government to be due from such person shall, within two months of the date of certification, or order, as the case may be, be paid by such person to the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned which shall credit the sum to the fund of the *Gram Panchayat,* the *Panchayat Samiti* or *Zilla Parishad* concerned.

(*2*) Any sum not paid in accordance with the provisions of sub-section (*1*) shall be recoverable as a public demand and the Collector of the district shall, for the purposes of section 4 of the Bengal Public Demands Recovery Act, 1913, be deemed to be the person to whom such demand is payable.

Ben. Act III of 1913.

(*3*) The Collector of the district shall pay to the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned any sum recovered by him under sub-section (*2*).

Certain costs and expenses payable out of funds.

195. (*1*) All expenses incurred by the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned in complying with any requisition of the auditor under section 188 and in prosecuting an offender under section 189 shall be paid from the fund of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(*2*) All expenses incurred by the Collector of the district in connection with the proceedings for recovery of any sum under sub-section (*2*) of section 194 from a person, if not recovered from the person, shall be paid from the fund of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(*3*) If the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned fails to pay expenses referred to in sub-sections (*1*) and (*2*) within such period as may be determined by the State Government in this behalf, the State Government may attach the fund of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned or any portion thereof.

(*4*) After such attachment no person except an officer appointed in this behalf by the State Government shall in any way deal with the attached fund or portion thereof, but such officer may do all such acts in respect thereof, as the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned referred to in sub-section (*1*) might have done if the attachment had not taken place, and may apply the proceeds of the fund in satisfaction

of the expenses due, the interest accruing in respect of such expenses and any additional expenses resulting from the attachment and any subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any charge or debt for which the fund attached was previously liable in accordance with law but all such prior charges and debt shall be paid out of the proceeds of the fund before any part of the proceeds of the fund is applied to the satisfaction of the costs and expenses payable to the State Government under this section.

Certain expenses not chargeable to funds without previous sanction.

196. The members of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned shall not without the previous sanction of the State Government incur any expenditure from the fund of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* concerned in connection with any appeal or proceedings against surcharge, in respect of which a certificate is issued by the auditor.

Internal audit of accounts.

[1]**196A.** *(1)* Notwithstanding anything contained in section 186, the accounts of the funds of a *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad* shall be organised, examined and audited periodically by an officer appointed in this behalf by the State Government in such manner as the State Government may direct.

(2) Report of such internal audit of accounts shall be sent to the concerned *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* and such other officials, as may be prescribed, within one month from the date of completion of internal audit and be placed for discussion at the meeting of such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* in such manner, as may be prescribed.

(3) The *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* shall send replies on the internal audit report to the State Government within one month from the date of such meeting in such manner as may be prescribed.

Special audit of accounts.

[1]**196B.** Notwithstanding anything contained in sections 186 and 196A, the State Government may issue direction for special audit of the Accounts of the funds of a *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad* by such authority as the State Government may direct.

PART VI

CHAPTER XIX

Miscellaneous

Oath or affirmation.

197. Every member of a *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad* other than a member referred to in [2][clauses (*i*) and

[1]Sections 196A and 196B were first inserted by s. 53 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), then section 196A was substituted for previous section by s. 9 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

[2]The words, brackets and figures within the square brackets were substituted with retrospective effect for the words, brackets, figures and letters "sub-clause (*iii*) of clause (*a*) of sub-section (2) of section 94 and sub-clauses (*iii*) and (*iv*) of clause (*a*) of sub-section (2) of section 140" by s. 8 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

(*iii*) of sub-section (2) of section 94 and clauses (*i*), (*iii*) and (*iv*) of sub-section (2) of section 140] shall before taking his seat make and subscribe before such authority as may be specified by the State Government in this behalf, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Majority of members elected to function when in a constituency poll is countermanded or not held.

[1]**197A.** Notwithstanding anything to the contrary contained in this Act,—

(*a*) if at a general election of members in *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* poll in any constituency is countermanded or cannot be held, or, if held, the result of such election cannot be declared for any reason within such period as it considers reasonable, the State Government may, if it finds that at least two-thirds of total number of members for that *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, [2]* * * * * * have been elected and are competent to assume office, notify the constitution of such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* in the manner provided in this Act and the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, shall be deemed to have been constituted under section 4, section 94 or section 140, respectively;

(*b*) the name of any member of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* subsequently elected shall be notified in the *Official Gazette* and such member shall be entitled to assume office and remain a member for the unexpired period of [3][five years] referred to in sub-section (*1*) of section 7, sub-section (*1*) of section 96 or sub-section (*1*) of section 141, respectively.

Cessation of membership on inclusion of a constituency in Municipality, etc.

[4]**197B.** (*1*) Notwithstanding the provisions contained in sections 7, 96 and 141, if at any time the whole of the area of a constituency of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* is included in a municipality, [5]* * * * or Town Committee or a Cantonment, the member elected from such constituency to the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall, as from the date of such inclusion, cease to be a member of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* concerned.

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[1]Section 197A was inserted by s. 2 of the West Bengal *Panchayat* (Second) Amending Act, 1978 (West Ben. Act XXX of 1978).

[2]The words and figures "other than the members appointed under section 210," were omitted by s. 46 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The words within the square brackets were substituted for the words "four years" by s. 12 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

[4]Section 197B were inserted by s. 54 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[5]The words "or a notified area, or a municipal corporation," were omitted by s. 32(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(2) If for inclusion of whole of, the area of a constituency or constituencies of a *Gram Panchayat* in a municipality [1]* * * * or a Town Committee or a Cantonment under sub-section (*1*), the number of members of a *Gram Panchayat* falls short of the number referred to in sub-section (2) of section 4, the *Gram Panchayat* shall continue to function in accordance with the direction of the State Government till its reconstitution or unification with another *Gram Panchayat* under clause (*d*) of sub-section (*3*) of section 3.

Validation.

198. No act or proceeding of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*, shall be deemed to be invalid merely by reason of the existence of any vacancy in the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, or any defect or irregularity in the constitution thereof.

Members, officers and employees to be public servants.

199. All members, officers and employees of the *Gram Panchayat, Panchayat Samiti* and *Zilla Parishad* shall be deemed, when acting or purporting to act in pursuance of the discharge of their duties, or in the exercise of their powers under this Act or under the rules or bye-laws made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Indemnity.

200. No suit or other legal proceeding shall lie against a *Gram Panchayat*, a *Panchayat Samiti,* a *Zilla Parishad* or against any member thereof or any officer or employee for anything in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

Reference of dispute.

201. (*1*) If any dispute arises between two or more *Gram Panchayats* within the jurisdiction of the same *Panchayat Samiti*, it shall be referred to the *Panchayat Samiti* by any party to the dispute and the decision of the *Panchayat Samiti* thereon shall be final.

(2) If any dispute arises between two or more *Panchayat Samitis* or between two or more *Gram Panchayats* within the jurisdiction of different *Panchayat Samitis* or between a *Panchayat Samiti* and a *Gram Panchayat*, within the jurisdiction of the same *Zilla Parishad,* it shall be referred to the *Zilla Parishad* by any party to the dispute and the decision of the *Zilla Parishad* thereon shall be final.

(*3*) If any dispute arises—

(*a*) between a *Gram Panchayat* or a *Panchayat Samiti* within a district on the one side and the *Zilla Parishad* of the same district on the other, or

(*b*) between two or more *Zilla Parishads*, or

[1]The words "or a notified area, or a municipal corporation," were omitted by s. 32(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(*c*) between one or more *Gram Panchayats* in one district on the one side and one or more *Gram Panchayats* in another district on the other, or

(*d*) between one or more *Panchayat Samitis* in one district on the one side and one or more *Panchayat Samitis* in another district on the other, or

(*e*) between one or more *Gram Panchayats* in one district on the one side and one or more *Panchayat Samitis* in another district on the other, or

(*f*) between one or more *Gram Panchayats* in one district on the one side and the *Zilla Parishad* of another district on the other, or

(*g*) between one or more *Panchayat Samitis* in one district on the one side and the *Zilla Parishad* of another district on the other,

the dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.

202. [*(Bar of simultaneous candidature for election.)—Omitted by s. 17 of the West Bengal* Panchayat *(Amendment) Act, 2003 (West Ben. Act VIII of 2003)*].

Bar to simultaneous membership.

[1]**202A.** A member—

(*a*) of a *Gram Panchayat* on being elected a member of a *Panchayat Samiti* or a *Zilla Parishad*,

(*b*) of a *Panchayat Samiti* on being elected a member of a *Gram Panchayat* or a *Zilla Parishad*,

(*c*) of a *Zilla Parishad* on being elected a member of a *Gram Panchayat* of a *Panchayat Samiti*,

(*d*) of a *Nyaya Panchayat* on being elected a member of a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*,

shall cease to be the member of the *Gram Panchayat* or the *Nyaya Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, with effect from the date on which he is declared elected to the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, and shall continue to be a member of the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, to which he is elected.

203. [*(Elections.)—Omitted by s. 18 of the West Bengal* Panchayat *(Amendment) Act, 2003 (West Ben. Act VIII of 2003).*]

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[1]Section 202A was inserted by s. 55 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

204. [*(Disputes as to Election.)—Omitted by s. 19 of the West Bengal* Panchayat *(Amendment) Act, 2003 (West Ben. Act VIII of 2003).*]

Inspection.

205. (*1*) The State Government shall appoint a [1][Commissioner of *Panchayats* and Rural Development] and such other officers as it may consider necessary for the purpose of inspecting or superintending the work of all, or any class of, *Gram Panchayats, Panchayat Samitis* or *Zilla Parishads.*

(*2*) An officer appointed to inspect or superintend the work of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* may at any time—

(*a*) inspect or cause to be inspected any immovable property used or occupied by the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* or any work in progress under the direction of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad;*

(*b*) inspect or examine, or depute any other officer of the Government to inspect or examine, any department of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* or any service, work or thing under the control of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*;

(*c*) require, for the purposes of inspection or examination, the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*—

(*i*) to produce any book, record, correspondence, plan or other document, or

(*ii*) to furnish any return, plan, estimate, statement, accounts or statistics, or

(*iii*) to furnish or obtain any report or information.

(*3*) The Divisional Commissioner or any other officer not below the rank of a [2][Joint Block Development Officer of the Block] when authorised by the State Government in this behalf, may exercise all or any of the powers conferred on an inspecting officer under sub-section (*2*).

(*4*) When an inspection of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* is undertaken by any officer referred to in sub-section (*3*), a report of such inspection shall be submitted by such officer to the State Government.

Delegation.

206. The State Government may, by notification, delegate, subject to such conditions as it may specify, all or any of its powers under this Act except the powers mentioned in section 224 to any person or authority subordinate to it.

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[1]Words within the square brackets were substituted for the words "Director of Panchayats" by s. 19 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

[2]The words within the square brackets were substituted for the words "Deputy Collector" by s. 20 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

Finance Commission.

[1]**206A.** [2](1) As soon as may be after the commencement of the West Bengal *Panchayat* (Amendment) Act, 1994, and thereafter at the expiry of every five years, there shall be a Finance Commission constituted by the Governor, by notification, under clause (*1*) of article 243-I of the Constitution of India which shall consist of not more than five members including the Chairman, selected from amongst the jurists, economists, administrators and social and political workers of eminence.

(*2*) The Finance Commission shall review the financial position of the [3][*Panchayats*] and shall make recommendations as to—

(*a*) the principles which should govern—

(*i*) the distribution between the State and the [3][*Panchayats*] of the net proceeds of taxes, duties, tolls and fees leviable by the State, which may be divided between them, and the allocation between the [3][*Panchayats*] at all levels of their respective shares of such proceeds;

(*ii*) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriated by, the [3][*Panchayats*];

(*iii*) the grants-in-aid to the [3][*Panchayats*] from the Consolidated Fund of the State;

(*b*) any other matter referred to the Finance Commission by the [4][Governor] in the interest of sound finance of the [3][*Panchayats*].

(*3*) The Chairman and the other members of the Finance Commission shall hold office for one year and [5][the term of office may be extended for six months at a time by the State Government by notification, and they shall be paid such fees and allowances as the State Government may, by order, determine.]

(*4*) The Chairman or any other member of the Finance Commission may resign his office by writing under his hand addressed to the Chief Secretary to the Government of West Bengal, but he shall continue in office until his resignation is accepted by the State Government.

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[1]Section 206A was inserted by s. 33 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]Sub-section (*1*) was substituted for the original by s. 49(*1*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[3]The word within the square brackets was substituted for the words "*Gram Panchayats, Panchayat Samitis* and *Zilla Parishads*" by ss. 49(2)(*a*)(*i*)(*1*), 49(2)(*a*)(*i*)(2), 49(2)(*a*)(*ii*), 49(2)(*a*)(*iii*) and 49(2)(*b*)(*ii*), *ibid.*

[4]The word within the square brackets was substituted for the words "State Government" by s. 49(2)(*b*)(*i*), *ibid.*

[5]The words within the square brackets were substituted for the words "the term of office may be extended for six months by the State Government by notification." by s. 49(*3*), *ibid.*

[1](*5*) The Finance Commission shall, in the performance of its functions, determine its own procedure, and exercise such powers, summon such persons and examine such records as may be prescribed.

[2](*6*) The Governor, on receipt of the recommendations of the Finance Commission, shall take such actions as may be considered necessary, and the recommendations of the Finance Commission together with an explanatory memorandum of actions taken thereon, shall be laid for not less than fourteen days before the State Legislature as soon as possible after such recommendations are received and shall be accepted with such modifications as the State Legislature may make during the session in which they are so laid.

(*7*) The State Government may appoint a Secretary for the Finance Commission and such other officers and employees as that Government may think necessary, and may determine the salaries of the Secretary and the other officers and employees.

Transfer of institution.

207. (*1*) The State Government may transfer any institution under its management or control to a *Zilla Parishad* or a *Panchayat Samiti* or a *Gram Panchayat* subject to such conditions, limitations and restrictions as may be agreed upon.

(*2*) When any institution is transferred under sub-section (*1*), persons employed by the State Government shall with effect from the date of such transfer be deemed to be employed by the *Zilla Parishad* or *Panchayat Samiti* or *Gram Panchayat* to which such institution is transferred, on terms and conditions, not being less advantageous than what they were entitled to immediately before such transfer.

State Government to place officers and employees at the disposal of *Gram Panchayat, Panchayat Samiti* and *Zilla Parishad.*

[3]**207A.** (*1*) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

(*a*) upon the issue of any direction to any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* to exercise any power or perform any function or discharge any duty, or

(*b*) upon the transfer to any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* of any function, or control and management of any property,

under any provisions of this Act, [4][the concerned department of the State Government shall, on prior consultation with the *Panchayat* and Rural Development Department of this Government and subject to such conditions as it may deem fit to impose,] place at the disposal of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, the services of such officers and employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

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[1]Sub-section (*5*) was substituted for the original sub-section by s. 49(*4*) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[2]Sub-section (*6*) was substituted for the original sub-section by s. 49(*5*), *ibid.*

[3]Section 207A was inserted by s. 34 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[4]The words within the square brackets were substituted for the words "the State Government shall, subject to such conditions as it may deem fit to impose," by s. 28 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(*2*) The officers and employees whose services are so placed at the disposal of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* shall continue to be the employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or employee, the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, shall make a reference to the State Government for appropriate action.

(*3*) Where any power or function or duty is conferred or imposed on any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

Transfer of powers, functions and duties.

[1]**207B.** (*1*) Without prejudice to the generality of the provisions contained in section 207 or elsewhere in this Act, the State Government may, by order published in the *Official Gazette,* transfer, under such terms and conditions as may be specified in the order, to a *Panchayat* such powers, functions and duties as are exercised, performed and discharged by the State Government under any law made by the State Legislature or otherwise under the executive power of the State in relation to any or all of the following matters:—

(*i*) agriculture including agricultural extension, agricultural marketing and food processing;

(*ii*) irrigation, minor irrigation and water management;

(*iii*) animal resources development;

(*iv*) health and family welfare;

(*v*) public health engineering and rural water supply;

(*vi*) social welfare, women and child development, welfare of handicapped, mentally retarded and weaker sections of people;

(*vii*) land and land reforms, land improvement and soil conservation;

(*viii*) co-operation;

(*ix*) *khadi,* and cottage and small scale industries;

(*x*) rural housing;

(*xi*) public works and communications;

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[1]Section 207B was inserted by s. 50 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(*xii*) education including primary and secondary schools, technical training, vocational education, libraries and cultural activities;

(*xiii*) fisheries;

(*xiv*) social forestry, farm forestry and minor forest-produce;

(*xv*) rural electrification including distribution of power and non-conventional energy sources;

(*xvi*) poverty alleviation programme;

(*xvii*) public distribution system.

(*2*) Upon the transfer of any powers, functions or duties under sub-section (*1*), [1][concerned department of the State Government, on prior consultation with the *Panchayat* and Rural Development Department of this Government,] shall allot to the *Panchayat* such fund and personnel as may be necessary to enable that *Panchayat* to exercise the powers, perform the functions or discharge the duties so transferred.

(*3*) Where any powers, functions or duties conferred by or under any other law for the time being in force, are transferred or delegated to a *Panchayat*, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

Period of limitation for suits.

36 of 1963. **208.** Notwithstanding anything contained in the Limitation Act, 1963, the period of limitation for the institution of any suit by or on behalf of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* for the possession of any immovable property vested in such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* from which it has been dispossessed or of which it has ceased to have possession shall be sixty years from the date of dispossession or discontinuance.

Power of State Government to rescind or suspend resolution of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad.*

209. (*1*) The State Government may, by order in writing, rescind any resolution passed by a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, if in its opinion such resolution—

(*a*) has not been legally passed, or

(*b*) is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder.

(*2*) The State Government shall, before taking any action under sub-section (*1*), give the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* concerned an opportunity of making any representation against the proposed order.

(*3*) The prescribed authority may, by order, in writing suspend the execution of any resolution or order of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this Act

[1]The words within the square brackets were substituted for the words "the State Government" by s. 29 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

or any rules made thereunder, if in his opinion the resolution, or order or act is in excess [1][or an abuse] of the powers conferred by or under this Act or any rules made thereunder, or the execution of the resolution or order, or the doing of the act, is likely to lead to serious breach of the peace or to cause serious injury or annoyance to the public, or to any body of persons.

(*4*) When the prescribed authority makes an order under sub-section (*3*), he shall forthwith forward a copy thereof, with a statement of his reason for making it, to the State Government, who may thereupon rescind the order or direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit.

210. [*(Appointment of members by State Government.)—Omitted by s. 35 of the West Bengal* Panchayat *(Amendment) Act, 1992 (West Ben. Act XVII of 1992).*]

Power of State Planning Board and the District Planning Committee.

211. The State Planning Board and the District Planning Committee shall have power to supervise and evaluate the works of any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad.*

Directions by State Government.

212. In the discharge of their functions the *Gram Panchayat,* the *Panchayat Samiti* and the *Zilla Parishad* shall be guided by such instructions or directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

Power to remove *Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati* and *Sahakari Sabhadhi-pati.*

213. (*1*) The State Government may, notwithstanding anything contained in [2][sub-section (*3*), of section 9], sub-section (*3*) of section 93 and sub-section (*3*) of section 143, by an order in writing, remove with effect from a date to be specified in the order any *Pradhan* or *Upa-Pradhan,* any *Sabhapati* or *Sahakari Sabhapati* or any *Sabhadhipati* or *Sahakari Sabhadhipati* from his office if, in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.

(*2*) The State Government shall, before making any order under sub-section (*1*) give to the person concerned an opportunity of making a representation against the proposed order.

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[1]The words within the square brackets were inserted by s. 57 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words, figures and brackets within the square brackets were substituted for the words, figures and brackets "sub-section (*3*) of section 12," by s. 59, *ibid.*

Disqualification on change of political party by Members of *Panchayats.*

[1]**213A.** (*1*) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification in this behalf, may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a member of such *Panchayat* to be disqualified for being a member thereof, if—

(*a*) he is an elected member set up by a recognised political party and has—

(*i*) voluntarily given up his membership of such recognised political party, or

(*ii*) exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in such *Panchayat*; or

(*b*) he is an elected member not set up by any recognised political party and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the prescribed authority shall not declare any member to be disqualified under this section without giving to such member a reasonable opportunity to represent his case and to be heard in person:

Provided further that an elected member referred to in sub-clause (*ii*) of clause (*a*) shall not, on the prescribed authority being satisfied in this behalf, be declared to be disqualified, if—

(*a*) the action of such member was taken on obtaining prior permission of, or was condoned by, such recognised political party, or

(*b*) such member claims that he and any other members of such recognised political party in the *Panchayat* constitute a group representing a faction consisting of not less than one-third of the total number of members set up by such recognised political party in the *Panchayat* and that all the members of such group have voluntarily given up their membership of such recognised political party, or

[1]Sections 213A and 213B were inserted by s. 51 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(*c*) the former recognised political party of the member merges with another recognised political party, and he claims that he and other members of his former recognised political party, or

(*i*) have become members of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or

(*ii*) have not accepted the merger, and from the time of such merger, he and such other members constituting not less than one-third of the total number of members set up by the former recognised political party in the *Panchayat,* have opted to remain members of the former recognised political party or have formed a new recognised political party.

(*2*) On being declared to be disqualified under sub-section (*1*), a member shall, subject to the provisions of sub-section (*12*), stand removed from the *Panchayat* from the date of such declaration.

(*3*) As soon as may be within one month from the date of the first meeting of a *Panchayat* or within one month from the date on which this section comes into force, as the case may be, elected members set up by the recognised political parties shall, by adopting a resolution, select one member from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the prescribed authority referred to in sub-section (*1*)—

(*i*) a copy of the resolution,

(*ii*) a signed statement containing the names, addresses and constituencies of himself and other members set up by such recognised political party, and

(*iii*) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of the Leader:

[1]Provided further that the prescribed authority referred to in sub-section (*1*) shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was not adopted within one month from the date of the first meeting of the *Panchayat* or within one month from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

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[1]This proviso was added by s. 19(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

(*4*) Where there is only one elected member set up by a recognised political party in a *Panchayat,* he shall furnish the documents referred to in sub-section (*3*) in relation to himself:

Provided that in the event of any increase in the number of members of such recognised political party, the provisions of sub-section (*3*) shall apply as if the first meeting of the *Panchayat* was held or this section came into force, as the case may be, on the date on which such increase took place.

(*5*) A member not belonging to any recognised political party shall furnish a statement to that effect to the prescribed authority referred to in sub-section (*1*) within one month from the date of the first meeting of the *Panchayat.*

(*6*) In the event of any change of the information furnished under sub-section (*3*), sub-section (*4*) or sub-section (*5*), the Leader or the member, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the prescribed authority referred to in sub-section (*1*).

(*7*) The Leader of any recognised political party referred to in sub-section (*3*) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the prescribed authority referred to in sub-section (*1*), stating that—

(*a*) one or more members of such recognised political party have—

(*i*) voluntarily given up his or their membership of such recognised political party, or

(*ii*) have exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in the *Panchayat,* or

(*b*) the member referred to in sub-section (*4*) has voluntarily given up his membership of the recognised political party that set him up, or

(*c*) the member referred to in sub-section (*5*) has joined a recognised political party on the expiry of six months from the date of election,

and that such member or members should be declared to be disqualified under sub-section (*1*) and should be removed from the *Panchayat.*

(*8*) Every petition referred to in sub-section (*7*)—

(*a*) shall contain a concise statement of the material facts on which the petitioner relies, and

(*b*) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and, where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(*9*) On receipt of the petitioner referred to in sub-section (*7*), the prescribed authority referred to in sub-section (*1*) shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

(*a*) the common decision in regard to the manner of voting to be exercised by the majority members set up by the recognised political party, and

(*b*) whether the member or members against whom such petition is filed, exercised the voting right, in a meeting of the *Panchayat* contrary to such manner of voting.

(*10*) For the purpose of enquiry under sub-section (*9*), the prescribed authority may summon such members of the recognised political party or other persons, and require such signed statements from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(*11*) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (*7*), the prescribed authority shall, in consideration of the facts and the documents and the records before it,—

(*a*) reject the petition, or

(*b*) admit the petition wholly or in part and declare any member or members to be disqualified under sub-section (*1*) for being members of the *Panchayat.*

(*12*) Any member of a *Panchayat* declared disqualified under sub-section (*1*) or the Leader of the recognised political party referred to in sub-section (*7*), if aggrieved by the decision of the prescribed authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and [1][after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any member or members to be disqualified in the manner referred to in sub-section (*1*) and, upon such declaration, the member or members shall stand removed from the *Panchayat.*]

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[1]The words, figure and brackets within the square brackets were substituted for the words, figure and brackets "after giving the appellant an opportunity of being heard, set aside or confirm the order or declare under sub-section (*1*) any member or members to be disqualified for being member or members of the *Panchayat.*" by s. 19(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

(*13*) The order passed by the authority appointed under sub-section (*12*) on the appeal shall be final.

(*14*) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a member being declared to be disqualified under sub-section (*1*) for being a member of the *Panchayat.*

(*15*) The State Government may, by notification, make rules for carrying out the purposes of this section.

Explanation.—For the purposes of this section, an elected member shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the prescribed authority referred to in sub-section (*1*) before the expiry of six months from the date of election.

Suspension of members of *Panchayats.*

[1]**213B.** (*1*) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification, may, after giving an office bearer or member of such *Panchayat* an opportunity to show cause against such action as may be proposed to be taken against him, place such office bearer or member under suspension, if he—

(*i*) has, *prima facie*, been found to be guilty of criminal breach of trust or criminal negligence or gross financial irregularity or impropriety in an inspection report on audit of accounts and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

(*ii*) has, in an inspection held by a competent authority, *prima facie*, been found guilty of criminal breach of trust, financial irregularity, misuse or abuse of power for wrongful gain or gross negligence of duty requiring penal action by a competent authority and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

[2](*iii*) has been implicated in a proceeding commenced against him on any criminal charge referred to in clause (*h*) of section 8, section 97 or section 142, as the case may be, and in pursuance of such proceeding, either he has been detained in custody for a period exceeding forty-eight hours or a

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[1]*See* foot-note 1 on page 187, *ante.*

[2]Clause (*iii*) along with the proviso were added by s. 33(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

charge in the precise formulation of the specific accusation within the concept and meaning of the Code of Criminal Procedure, 1973, has been framed against him in a competent court of law: 2 of 1974.

[1]Provided that the prescribed authority immediately after placing the office-bearer under suspension, shall proceed to cause a full enquiry into the accusations made against such office bearer and on completion of such enquiry, may—

(*a*) institute a proceeding against him on a criminal charge under any law for the time being in force,

(*b*) furnish a proposal to a competent authority recommending such legal measures against him under the Act or any rule thereunder as deemed appropriate, or

(*c*) revoke the order for suspension and reinstate him in his office with such direction as may be deemed fit, if the prescribed authority is of the opinion that there is reasonable ground to believe that there has been an irregularity committed without proof of any criminal intent and without any wrongful gain to him or any wrongful loss to the *Panchayat* and on such reinstatement, such office bearer shall be deemed to hold the charge of his office without any interruption because of suspension.

[2](2) When an office-bearer in a *Panchayat* is placed under suspension under sub-section (*1*)—

(*a*) subject to the provisions under clause (*b*), the other office bearer in such *Panchayat* shall exercise the powers, perform the functions and discharge the duties of the office-bearer under suspension, under sub-section (*4*) or sub-section (*5*) of section 9, section 98 or section 143, as the case may be,

(*b*) notwithstanding the provision under clause (*a*), such *Panchayat* may, by majority decision of the existing members directly elected to that *Panchayat,* in a meeting specially convened for the purpose, select a person from among them not being an office-bearer, to act termporarily in place of the office-bearer under suspension and on being so selected, he shall exercise the powers, perform the functions and discharge the duties of such office-bearer until the office bearer placed

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[1]*See* foot-note 2 on page 191, *ante.*

[2]Sub-section (2) was substituted for the original sub-section by s. 33(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

under suspension is reinstated in his office or is subsequently removed or vacates the office by resignation or otherwise in conformity with the provisions of the Act and the rules made thereunder:

Provided that the notice of such meeting shall be given by the office bearer holding the charge with an intimation to the prescribed authority referred to in first proviso to sub-section (*1*) of section 16, section 105 or section 150, as the case may be, and such prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing within a week of the meeting on the proceedings of the meeting.

(*3*) Any office-bearer or member, who is placed under suspension under sub-section (*1*), may within thirty days from the date of the order of suspension, prefer an appeal to such authority as the State Government may appoint in this behalf and thereupon the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(*4*) The order passed by the authority as aforesaid on such appeal shall be final.

Powers of State Government to supersede a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad.*

214. (*1*) If, in the opinion of the State Government, any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*—

(*i*) has shown its incompetence to perform or has persistently made default in the performance of the duties imposed on it by or under this Act or any other law, or

(*ii*) has exceeded or abused its powers,

the State Government may, by order, to be published in the *Official Gazette* stating the reasons therefor supersede the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, and direct that it be reconstituted [1][within such period not exceeding six months] as may be specified in the order:

[1]Firstly, the words "two years" were substituted for the words "six months" by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1982 (West Ben. Act XI of 1982). Thereafter, the words within the square brackets were substituted for the words "within such period not exceeding two years" by s. 52 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

[1]Provided that the members of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* as reconstituted shall hold office for the unexpired portion of the period for which the members of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, would have held office has the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, not been superseded.

(2) The State Government shall, before making any order under sub-section (*1*), give the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, opportunity of making a representation against the proposed order.

District Council

[2]**214A.** (*1*) There shall be a District Council for *Panchayat* in each district consisting of the following members:—

(*i*) *Adhyaksha* or the Chairperson—the Leader of the recognised political party in opposition having largest number of members directly elected with the reserved symbol of such recognised political party in the *Zilla Parishad* or the *Mahakuma Parishad*:

Provided that if, in a term of general election, no member in opposition is elected with the reserved symbol of a recognised political party in a *Zilla Parishad* or *Mahakuma Parishad,* the *Adhyaksha* for that term shall be elected from amongst the members, not being *Sabhadhipati, Sahakari Sabhadhipati* or *Karmadhyaksha,* by the members of the *Zilla Parishad* or the *Mahakuma Parishad,* as the case may be, on majority vote in a meeting;

(*ii*) *Upadhyaksha* or the Vice-Chairperson—to be elected from amongst the members, not being the *Sabhadhipati, Sahakari Sabhadhipati* or *Karmadhyaksha,* by the members of the *Zilla Parishad* or the *Mahakuma Parishad,* as the case may be, on majority vote in a meeting;

(*iii*) five members elected by the members of the *Zilla Parishad* or the *Mahakuma Parishad,* as the case may be, from amongst themselves;

(*iv*) three members, being officers of the State Government or of any statutory body or corporation and having such specialised knowledge as the State Government may think fit, nominated by the State Government;

(*v*) Additional Executive Officer of the *Zilla Parishad* or the *Mahakuma Parishad*—Member-Secretary.

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[1]This proviso was inserted by s. 36 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

[2]Section 214A was inserted by s. 53 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(2) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the functions of the District Council shall be as follows:—

(*a*) to examine the accounts of the *Panchayats* within its territorial jurisdiction, in relation to the budget approved by the *Panchayats* concerned for the expenditure to be incurred by such *Panchayats,* the annual report of such *Panchayats* and such other accounts of such *Panchayats* as the District Council may think fit;

(*b*) to satisfy itself, while scrutinising the accounts of the *Panchayats,* that—

(*i*) the moneys shown in the accounts as having been disbursed where legally available for, and applicable to, the service or purpose to which they have been applied,

(*ii*) the expenditure conforms to the rules governing such expenditure and also the financial proprieties of such expenditure, and

(*iii*) every re-appropriation has been made in accordance with such rules as are applicable;

(*c*) to consider the inspection reports on the annual audit of accounts of any *Panchayat* within its jurisdiction, conducted by the auditors appointed under section 186, and to examine the replies thereto furnished by the respective *Panchayats*;

(*d*) to examine the accounts of stores and stocks maintained by the *Panchayats* within the area of their respective jurisdictions;

(*e*) to pursue the matters relating to the unsettled objections raised in any inspection report on audit of accounts of such *Panchayats* and refer such matters to the authorities concerned suggesting corrective actions;

(*f*) to suggest ways and means to remove the difficulties, if any, experienced by the *Panchayats* in giving effect to any provision of this Act or the rules made thereunder within their respective jurisdictions.

(*3*) The term of office of the members of the District Council shall be for the entire period of the term of office of the members of the *Zilla Parishad,* unless a member of the District Council is restrained by any other provision of this Act from continuing as a member of the *Zilla Parishad.*

(*4*) The District Council shall determine its own procedure and shall have the right to obtain a copy of every inspection report on audit of accounts of any *Panchayat* within the area of its jurisdiction and may call for any record of any *Panchayat* within such area to be produced for its inspection.

(*5*) Without prejudice to the generality of the provisions in sub-section (*4*), the State Government may, by general or special order, provided for—

(*a*) the procedure for convening of the meetings of the District Council and the procedure for the meetings,

(*b*) the powers and duties of the Secretary of the District Council,

(*c*) the terms of office of different members of the District Council and the travelling allowances admissible to such members.

(*6*) Any elected or nominated member of the District Council may resign his office as such member by tendering his resignation in writing to the *Sabhadhipati* of the *Zilla Parishad* or the *Mahakuma Parishad,* as the case may be, and such resignation shall take effect from the date on which it is accepted by the *Sabhadhipati.*

(*7*) Any casual vacancy in the office of any member of the District Council shall be filled in such manner as may be prescribed and the member elected or nominated to fill such casual vacancy shall hold office for the unexpired portion of the term of the *Zilla Parishad.*

Consequences of supersession.

215. (*1*) When an order of supersession has been passed under section 214 then with effect from the date of the order—

(*a*) all the members of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, and all the members of the *Sthayee Samitis* thereof shall vacate their offices;

(*b*) all the powers, duties and functions which, under the provisions of this Act or any rule or bye-law made thereunder or any law for the time being in force, may be exercised, discharged or performed by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, or any *Sthayee Samiti* thereof shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf;

(*c*) all properties vested in the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, shall remain vested in the State Government until the reconstitution of such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad.*

(*2*) On the reconstitution of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, the authority, person or persons appointed under clause (*b*) of sub-section (*1*) shall cease to exercise his functions.

Special provision in case of prohibitory orders from Courts.

216. Where by reason of an order of a competent court a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* is unable to exercise or perform the powers, duties or functions conferred or imposed on it by or under any law, the State Government may appoint any authority, person or persons to exercise or perform, as the case may be, during the period of such inability, any or all of such powers, duties and functions in such manner and under such conditions as the State Government may direct.

Transitory provisions.

217. (*1*) After the coming into force of this Act in any area, the State Government may appoint any authority, person or persons for any *Gram Panchayat* or *Anchal Panchayat* constituted in that area under the West Bengal *Panchayat* Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established in that area under the West Bengal *Zilla Parishads* Act, 1963, and the authority, person or persons so appointed shall exercise, perform and discharge all the powers, functions and duties of such *Gram Panchayat, Anchal Panchayat, Anchalik Parishad* or *Zilla Parishad*, as the case may be.

West Ben. Act I of 1957.

West Ben. Act XXXV of 1963.

(*2*) With the appointment of the authority, person or perosns referred to in sub-section (*1*), all the members of the *Gram Panchayat, Anchal Panchayat, Anchalik Parishad* or *Zilla Parishad*, as the case may be, in respect of which such authority, person or persons, as the case may be, has been so appointed shall vacate their offices as such members.

Repeal.

218. (*1*) With effect from the date of the coming into office of a *Gram Panchayat* under sub-section (*4*) of section 4, the provisions of the West Bengal *Panchayat* Act, 1957, [1][relating to *Gram Sabha, Gram Panchayat, Anchal Panchayat* and *Nyaya Panchayat* shall stand repealed within the territorial limits of the *Gram* and the Union Board constituted under the Bengal Village Self-Government Act, 1919, shall cease to function].

Ben. Act V of 1919.

(*2*) With effect from the date of the coming into office of a *Panchayat Samiti* under sub-section (*3*) of section 94, [2]* * * * the provisions of the West Bengal *Zilla Parishads* Act, 1963, relating to *Anchalik Parishads* shall stand repealed within the territorial limits of the Block.

(*3*) With effect from the date of the coming into office of a *Zilla Parishad* under sub-section (*3*) of section 140, the provisions of the West Bengal *Zilla Parishads* Act, 1963, relating to *Zilla Parishads* shall stand repealed in the district.

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[1]The words within the square brackets were substituted with retrospective effect for the words "relating to *Gram Panchayat* shall stand repealed within the territorial limits of the *Gram*" by s. 9(*a*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

[2]The words and figures "the provisions of the West Bengal *Panchayat* Act, 1957 relating to *Anchal Panchayats* and" were omitted with retrospective effect by s. 9(*b*), *ibid.*

Vesting.

219. When in consequence of the repeal of the enactments referred to in section 218 any *Gram Panchayat, Nyaya Panchayat* or *Anchal Panchayat* constituted under the West Bengal *Panchayat* Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal *Zilla Parishads* Act, 1963, ceases to exist [1][or when the Union Board constituted under the Bengal Village Self-Government Act, 1919, ceases to function,] in any area—

West Ben. Act I of 1957. West Ben. Act XXXV of 1963. Ben. Act V of 1919.

(*a*) the authority, person or persons, if any, appointed under section 217 in respect of such *Gram Panchayat, Anchal Panchayat, Anchalik Parishad* or *Zilla Parishad,* as the case may be, shall cease to exercise all functions;

(*b*) all properties movable or immovable and all assets—

(*i*) vested in such *Gram Panchayat* shall vest in the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(*ii*) vested in such *Anchal Panchayat* shall vest in such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

[2](*iia*) vested in such Union Board shall vest in such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(*iii*) vested in such *Anchalik Parishad* shall vest in such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(*iv*) vested in such *Zilla Parishad* shall vest in the *Zilla Parishad* constituted under this Act;

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[1]The words within the square brackets were inserted with retrospective effect by s. 10(*a*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

[2]Sub-clause (*iia*) was inserted with retrospective effect by s. 10(*b*), *ibid.*

(*c*) all rights acquired, all debts and obligations incurred, all matters and things engaged to be done—

(*i*) by such *Gram Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (*i*) of clause (*b*),

(*ii*) by such *Anchal Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (*ii*) of clause (*b*),

[1](*iia*) by such Union Boards shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause **(*iia*) of** clause (*b*),

(*iii*) by such *Anchalik Parishad* shall be deemed to have been acquired, incurred or engaged to be done by such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (*iii*) of clause (*b*),

(*iv*) by such *Zilla Parishad* shall be deemed to have been acquired, incurred or engaged to be done by the *Zilla Parishad* constituted under this Act;

(*d*) all suits or other legal proceedings instituted or which but for the coming into office of the *Gram Panchayat,* the *Panchayat Samiti* or the *Zilla Parishad* constituted under this Act, might have been instituted by or against [2][the Union Board constituted under the Bengal Village Self-Government Act, 1919, or] the *Gram Panchayat* or *Anchal Panchayat,* constituted under the West Bengal *Panchayat* Act, 1957, or the *Anchalik Parishaa* or *Zilla Parishad* established under the West Bengal *Zilla Parishad* Act, 1963, may be continued

Ben. Act V of 1919.

West Ben. Act I of 1957.

West Ben. Act XXXV of 1963.

[1]Sub-clause (*iia*) was inserted with retrospective effect by s. 10(*c*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

[2]The words within square brackets were inserted with retrospective effect by s. 10(*d*)(*i*), *ibid.*

or instituted by or against the *Gram Panchayat* or *Panchayat Samiti,* as determined by the prescribed authority under sub-clauses (*i*), (*ii*), [1][(*iia*)] or (*iii*) of clause (*b*), or the *Zilla Parishad,* as the case may be, and in all such suits or other legal proceedings pending immediately before such constitution or establishment, such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* constituted under this Act, shall stand substituted;

(*e*) all suits and cases pending before a *Nyaya Panchayat* constituted under the West Bengal *Panchayat* Act, 1957, shall be deemed to have been transferred to such *Nyaya Panchayat* constituted under this Act as may be determined by the prescribed authority;

West Ben. Act I of 1957.

(*f*) persons employed by—

(*i*) such *Gram Panchayat* and continuing in office immediately before the coming into office of the *Gram Panchayat* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,

(*ii*) such *Anchal Panchayat* and continuing in office immediately before the coming into office of the *Gram Panchayat* or *Gram Panchayats* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,

[2](*iia*) such Union Board and continuing in office immediately before the coming into office of the *Gram Panchayat* or *Gram Panchayats* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,

(*iii*) such *Anchalik Parishad* and continuing in office immediately before the coming into office of the *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act for such area shall be deemed to be employed by such *Panchayat Samiti* or *Panchayat Samitis* as may be determined by the prescribed authority,

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[1]The brackets, figure and letter within the square brackets were inserted with retrospective effect by s. 10(*d*)(*ii*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

[2]Sub-clause (*iia*) was inserted with retrospective effect by s. 10(*e*), *ibid.*

[1](*iv*) such *Zilla Parishad* and continuing in office immediately before the coming into office of the *Zilla Parishad* constituted under this Act shall be deemed to be employed by such *Zilla Parishad:*

Provided that the terms and conditions of such persons shall not be less advantageous than those enjoyed by them immediately before the coming into office of such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be;

(*g*) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the Bengal Local Self-Government Act, 1885, applicable to the District Board, [2][or the Bengal Village Self-Government Act, 1919, applicable to the Union Board,] or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963, applicable to the *Gram Panchayat, Anchal Panchayat, Anchalik Parishad* and *Zilla Parishad* and continuing in force immediately before the coming into office of the *Gram Panchayat, Panchayat Samiti* and *Zilla Parishad* under this Act shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

Ben. Act III of 1885. Ben. Act V of 1919. West Ben. Act I of 1957. West Ben. Act XXXV of 1963.

Prosecution.

220. Prosecution in a court under this Act for breach of bye-laws may be instituted by a *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad* or by any person authorised by such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad,* as the case may be, in this behalf.

Recovery of arrears.

221. [3][All arrears of taxes, tolls, rates, fees and cess] leviable by a *Gram Panchayat,* a *Panchayat Samiti* or *Zilla Parishad* under this Act shall, without prejudice to any other mode of recovery, be recoverable as public demands.

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[1]Sub-clause (*iv*) was substituted by s. 60 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[2]The words within the square brackets were inserted with retrospective effect by s. 10(*f*) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

[3]The words within the square brackets were substituted for the words "All arrears of taxes, tolls, rates and fees" by s. 21 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

222. [*(Provisions for removing difficulties.)—Omitted by s. 61 of the West Bengal* Panchayat *(Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).*]

Bye-laws.

223. (*1*) A *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad* [1][shall make bye-laws,] [2][or amend bye-laws], not inconsistent with the provisions of this Act or the rules made thereunder, for enabling it to discharge its functions under this Act.

[3](*1A*) The bye-laws made or amended under sub-section (*1*) shall be published by the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad,* as the case may be, in the manner prescribed.

(*2*) The State Government may, by notification, rescind any bye-law and thereupon such bye-law shall cease to have effect.

(*3*) In making a bye-law under sub-section (*1*), a *Gram Panchayat,* a *Panchayat Samiti* or a *Zilla Parishad* may provide that a breach of the same shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing breach with a further fine which may extend to ten rupees for every day during which the breach continues after the offender has been convicted of such breach.

Power to make rules.

224. (*1*) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and wihtout prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(*3*) All rules made under this Act shall be published in the *Official Gazette,* and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

(*4*) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the *Official Gazette,* and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

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[1]The words ", with the previous approval of the State Government," were first omitted by s. 54 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the words within the square brackets were substituted for the words "may make bye-laws" by s. 22 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

[2]The words within the square brackets were inserted by s. 62(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[3]Sub-section (*1A*) was inserted by s. 62(*b*), *ibid.*

(Second Schedule.—Offences triable by a Nyaya Panchayat.*)*

[1]* * * * * * * * * *

SECOND SCHEDULE

Offences triable by a *Nyaya Panchayat*

(See sections 51 and 52.)

PART A

1 of 1871. 1. Offences under sections 26 and 27 of the Cattle Trespass Act, 1871.

45 of 1860. 2. Offences under enactments (other than the Indian Penal Code and this Act) or any rules or bye-laws made thereunder which are punishable with fine only up to a limit of fifty rupees.

5 of 1861. 3. Offences under section 34 of the Police Act, 1861.

Ben. Act I of 1885. 4. Offences under the Bengal Ferries Act, 1885, except those under sections 28 and 30.

5. Offences under the following sections of the Indian Penal Code, namely, sections 160, 269, 277, 289, 290, 294, 323, 341, 352, 358, 426, 447, 448, 504 and 510; and when the value of the property in the opinion of the *Nyaya Panchayat* is not over two hundred rupees, sections 379 and 411.

PART B

Offences under the following sections of the Indian Penal Code, namely, sections 283, 428, 430, 431, 506 and 509; and when the value of the property in the opinion of the Magistrate is not over two hundred rupees, section 403.

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[1]The FIRST SCHEDULE was omitted by s. 10 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

(Third Schedule.—Form of oath or affirmation to be made by a member of a Gram Panchayat, *a* Panchayat Samiti, *a* Zilla Parishad *or* Mahakuma Parishad.*)*

[1]THIRD SCHEDULE

Form of oath or affirmation to be made by a member of a *Gram Panchayat,* a *Panchayat Samiti* [2][, a *Zilla Parishad* or *Mahakuma Parishad.*]

I, A.B., [3]* * * * * * * having been $\frac{\text{elected}}{\text{appointed}}$ a member of the ..... *Gram Panchayat/Panchayat Samiti/Zilla Parishad* [4][*I Mahakuma Parishad*] do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter.

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[1]Third Schedule was substituted for the original with retrospective effect by s. 6 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

[2]The words within the square brackets were substituted for the words "or a *Zilla Parishad,*" by s. 20(*a*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

[3]The words "being an *ex-officio* member or" were omitted by s. 63 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

[4]The words within the square brackets were inserted by s. 20(*b*) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).