

## **West Bengal Panchayat Act, 1957**

**1 of 1957**

**[24 January 1957]**

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# **West Bengal Panchayat Act, 1957**

**1 of 1957**

**[24 January 1957]**

## PREAMBLE

An Act to establish Panchayats in rural areas of West Bengal and to provide for matters connected therewith.

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

1. For the Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, dated the 23rd August, 1955, Part IVA, pages 1295-1296; the Report of the Joint Select Committee of the West Bengal Legislature was published in the Calcutta Gazette, Extraordinary, dated the 14th February, 1956, Part IV A, page 221; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly, held on the 5th September, 1955, the 2nd and 24th February, 1956, the 14th, 16th, 17th, 18th, 24th, 25th, 26th, 27th, 28th, 30th and 31st July, 1956 and the 1st, 2nd, 3rd, 21st, 22nd, 23rd, 24th and 25th August, 1956; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meetings of the West Bengal Legislative Council held on the 14th September, 1955, 31st August, 1956 and the 1st, 3rd, 4th and 5th September, 1956.

2. In terms of the provisions of sub-section (3) of section 3 read with Schedule III of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1958 (West Ben. Act XIX of 1958), this Act shall not extend to, or come into force in, the territories transferred from the State of Bihar to the State of West Bengal by section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).

But in exercise of the power conferred by the second proviso to sub-section (3) of section 3 of West Bengal Act XIX of 1958, this Act came into force in the following part of the transferred territories, namely, in the police-stations of Golapukur and Chopra, in the district of West Dinajpur, vide notification No. 2836/DP/I A-21/59, dated 26.6.62, published in the Calcutta Gazette, of 1962, Part I, page 2258.

## **CHAPTER 1 PRELIMINARY**

### **1. Short title, extent and commencement :-**

(1) This Act may be called the <sup>1</sup>[West Bengal Panchayat Act, 1957].

(2) It extends to the whole of West Bengal, except the areas to which the provisions of the Calcutta Municipal Act, 1951,( Act XXXIII of 1951. ) the Bengal Municipal Act, 1932,( Act XV of 1932 ) the Cooch Behar Town Committee Act, 1903,( Act IV of 1903 ) the Cooch Behar Municipal Act, 1944,(Act III of 1944) the

Chandernagore Municipal Act, 1955, ( Act XVIII of 1955.) and the Cantonments Act, 1924,(II of 1924.) or any parts or modifications thereof apply or may hereafter be applied.

(3) This section shall come into force at once; the remaining sections shall come into <sup>2</sup>force 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.

1. These words were substituted for the words "West Bengal Panchayat Act, 1956" by section 2 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

2. For notifications enforcing the remaining provisions of the Act with effect from:-

(a) the 1st day of March, 1958, in certain police-stations in the districts of Burdwan, Birbhum, Midnapur and 24-Parganas, see notification No. 245/DP/IA- 1/58. dated 26.2.58, published in the Calcutta Gazette. Extraordinary, of 1958. Part J, page 721.

(b) the 1st day of March, 1958, in certain police-stations in the districts of Burdwan, Birbhum, Bankura, Midnapur, Hooghly, 24-Parganas, Murshidabad, Jalpaiguri and Darjeeling, see notification No. 246/DP/IA-2/58, dated 26.2.58, published in the Calcutta Gazette, Extraordinary, of 1958, Part I, page 722.

(c) the 7th June, 1958, in certain police-stations in the districts of Burdwan, Birbhum, Midnapore, Hooghly, Howrah, 24-Parganas, Nadia, Murshidabad, Malda, West Dinajpur and Cooch Behar, see notification No. 1060/DP/IA-29/58, dated 7.6.58, published in the Calcutta Gazette, Extraordinary, of 1958, Part I, pages 2027-2028.

(d) the 15th September, 1958, in the Bauria police-station of the district of Howrah, see notification No. 1695/DP/IA-28/58, dated 10.9.58, published in the Calcutta Gazette, Extraordinary, of 1958, Part I, page 4005.

(e) the 20th day of January, 1959, in certain police-stations in the districts of Birbhum, Cooch Behar, Darjeeling, Howrah, Malda and Jalpaiguri, see notification No. 167/ DP/1A-1/59, dated 20.1.59, published in the Calcutta Gazette, Extraordinary, of 1959. Part I, page 84.

(f) the 20th June, 1959, in police-station Mekliganj, in the district of Cooch Behar, see notification No. 1626/DP/IA-19/59, dated 19.6.59, published in the Calcutta Gazette, Extraordinary, of 1959, Part I, page 1173.

(g) the 30th July, 1959, within certain police-stations in the districts of Bankura, Birbhum, Burdwan, Hooghly, Midnapore, Jalpaiguri, Murshidabad, Nadia, 24-Parganas and West Dinajpur, see notification No. 1884/DP/IA-20/59, dated 21.7.59, published in the Calcutta Gazette, Extraordinary, of 1959, Part I, pages 1551 - 1552, as amended by Corrigendum No. 1251/DP/IA-20/59, dated 11.4.60, published in the Calcutta Gazette, of 1960, Part I, page

1302. The principal notification is partially modified in so far as it relates to police-station Islampur, by notification No. 2255/DP/IA-21/59, dated 8.9.59, published in the Calcutta Gazette, Extraordinary of 1959, Part I, pages 1925-1926.

(h) the 21st November, 1959, in police-station Krishnaganj, in the district of Nadia, see notification No. 2801/DP/IA-38/59, dated 19.11.59, published in the Calcutta Gazette, Extraordinary, of 1959, Part I, page 2291, as amended by Corrigendum No. 1024/DP/IA-38/59, dated 11.4.61, published in the Calcutta Gazette of 1961, Part I, page 1369.

(i) the 28th December, 1959, in police-station Moyna, in the district of Midnapore, see notification No. 3161/DP/IA-20/59, dated 26.12.59, published in the Calcutta Gazette, Extraordinary, of 1959, Part I, page 2532.

(j) the 8th day of June, 1960, within certain police-stations in the districts of Bankura, Burdwan, Hooghly, Midnapore, Cooch Behar, Jalpaiguri, Murshidabad, Nadia, 24-Parganas and West Dinajpur, see notification No. 1840/DP/IA-69/60, dated 7.6.60, published in the Calcutta Gazette of 1960, Part I, page 2071.

(k) the 15th day of December, 1960, within certain police-stations in the districts of 24-Parganas, Burdwan, Bankura, Murshidabad, Darjeeling, Midnapore, Hooghly and Jalpaiguri, see notification No. 3693/DP/IA-69/60, dated 13.12.60, published in the Calcutta Gazette, Extraordinary, of 1960, Part I, page 3259.

(l) the 25th day of June, 1962, in police-station Naxalbari, in the district of Darjeeling, see notification No. 2777/DP/IA-69/60, dated 23.6.62, published in the Calcutta Gazette of 1962, Part I, page 1904.

(m) the 30th day of June, 1962, in police-station Garubathan, in the district of Darjeeling, see notification No. 2837/DP/IA-10/62, dated 26.6.62, published in the Calcutta Gazette of 1962, Part I, page 2258.

(n) the 5th day of April, 1963, in police-stations Basanti, Kultali, Gosaba, Patharpratima and Mandirbazar, in the district of 24-Parganas, see notification No. 919/Panch./IA-4/62, dated 3.4.63, published in the Calcutta Gazette of 1963, Part I, page 875.

(o) the 17th day of June, 1963, in Matiabruze, in the district of 24-Parganas, see notification No. 2326/Panch./IA-4/62, dated 19.6.63, published in the Calcutta Gazette of 1963, Part I, page 1375.

## **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "Adhyaksha" and "Upadhyaksha", respectively, mean Adhyaksha and Upadhyaksha of a Gram Panchayat;

(b) "Anchal Panchayat" means an Anchal Panchayat constituted under this Act;

(c) "building" includes a house, out-house, stable, privy, urinal,

shed, hut, wall (other than a boundary wall not exceeding <sup>1</sup>[three metres] in height) and any other structure, whether of masonry, bricks, wood, mud, metal or any combination of these materials, or any other material whatsoever but does not include a tent or other portable shelter and does not also include any temporary shed erected on ceremonial or festive occasions;

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

(e) "District Board" means a District Board established under the Bengal Local Self-Government Act of 1885;(Act III of 1885.)

(f) "District Judge" include an Additional District Judge and a Subordinate Judge;

(g) "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;

(h) "Gram Panchayat" means a Gram Panchayat constituted under this Act;

(i) "Gram Sabha" means a Gram Sabha constituted under this Act;

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

(k) "Nyaya Panchayat" means a Nyaya Panchayat constituted under this Act;

(l) "Pradhan" and "Upa-Pradhan", respectively, mean Pradhan and Upa-Pradhan of an Anchal Panchayat;

(m) "prescribed" means prescribed by this Act or by any rule made thereunder;

(n) "prescribed authority" means an authority <sup>2</sup>appointed, by notification, for all or any of the purposes of this Act, by the State Government either generally or for a particular purpose;

(o) "public street" means any street, road, lane, gully, alley, passage, pathway, bridge, square or court, whether a thoroughfare 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 of any verandah or other superstructure;

(p) "Sub-divisional Magistrate" includes any Magistrate appointed or empowered by the State Government to discharge all or any of the functions of a Sub-divisional Magistrate under this Act;

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

(r) "village" means an area defined, surveyed and recorded as a distinct and separate village in the revenue records of the district in



which it is situate;

(s) "year" means the year beginning on the first day of April.

1. Substituted for the words "ten feet" by section 2 of the West Bengal Panchayat (Amendment) Act, 1964 (West Ben. Act VIII of 1964).

2. For notification relating to appointment of certain authorities as the prescribed authorities under the Act for certain specified purposes, see notification No. 331/DP/IA-3/58, dated 3.3.58, published in the Calcutta Gazette. Extraordinary, of 1958, Part I, pages 751-756, as subsequently amended from time to time.

## **CHAPTER 2 GRAM SABHA**

### **3. Constitution of Gram Sabha :-**

(1) When this Act has come into force in any area, the State Government may, by notification, constitute one or more Gram Sabhas within such area for the purposes of this Act.

(2) The State Government shall specify the name and the local limits of the jurisdiction of every Gram Sabha in the notification mentioned in sub-section (1).

### **4. Repeal and amendment of certain enactments :-**

(1) On the constitution of a Gram Sabha or Gram Sabhas in an area as aforesaid, the enactments specified in column 3 of Schedule I shall from the date of election <sup>1</sup>[. under sub-section (1) of section 27, of the first Pradhan of the Anchal Panchayat comprising the Gram Sabha or Gram Sabhas so constituted stand repealed or amended within the territorial limits of the Anchal Panchayat] to the extent and in the manner specified in column 4 thereof:

Provided that until a new assessment is made under this Act any assessment, rate, tax, toll, fee or other imposition which was in force in such area under the enactments repealed or amended as aforesaid, shall continue to be in force and all sums due on account of such rate, tax, toll, fee or other imposition in arrears or accruing shall be realised by such authority as may be appointed by the State Government as if they were due under the provisions of this Act, and shall be credited to such fund as the State Government may direct.

(2) When, in consequence of the repeal of the enactments referred to in sub-section (1), any <sup>2</sup>[Panchayat appointed under the Village Chaukidari Act, 1870, (Act VI of 1870) union committee constituted

under the Bengal Local Self-Government Act of 1885,(Act III of 1885) union board established under the Bengal Village Self-Government Act, 1919(Act V of 1919) or Gram Panchayat established under the Bihar Panchayat Raj Act, 1947(Act VII of 1948), in any area ceases to exist, all the properties, funds and other assets which are vested in such <sup>3</sup>[Panchayat, union committee, union board or Gram Panchayat], as the case may be, and all the rights and liabilities thereof shall, save as provided in the proviso to sub-section (1), be vested in such Anchal Panchayat or Anchal Panchayats and in accordance with such allocation, as may be determined by the prescribed authority, whose orders thereon shall be final.

1. These words within the square brackets were substituted for the words "or appointment of the first Adhyaksha of the Gram Panchayat under section 11 or section 14 be repealed or amended in the area concerned" by section 3(a) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

2. These words within the square brackets were substituted for the words "Panchayat, union committee or union board" by section 3(b) (i), *ibid*.

3. These words within the square brackets were substituted for the words "Panchayat, union committee or union board" by section 3(b) (ii), *ibid*.

## **5. Power to alter Gram Sabha areas :-**

(1) The State Government may, after consulting the views of the Gram Sabha or Sabhas concerned, by notification-

(a) exclude from the local limits of the jurisdiction of a Gram Sabha any area comprised therein; or

(b) include within the local limits of the jurisdiction of a Gram Sabha any area in the vicinity thereof; or

(c) divide the area of any Gram Sabha so as to constitute two or more Gram Sabhas; or

(d) unite the areas of two or more Gram Sabhas so as to constitute a single Gram Sabha; or

(e) otherwise alter or revise the limits of any Gram Sabha.

(2) When an area is included within the local limits of the jurisdiction of a Gram Sabha under sub-section (1), such area shall, from the date of such inclusion, become subject to all laws, rules, regulations, by-laws and orders in force in the area of the Gram Sabha.

(3) When an area is excluded from the local limits of the jurisdiction of a Gram Sabha the enactments specified in column 3 of Schedule I shall, from the date of such exclusion, be deemed to be revived in such area to the extent to which they were repealed or amended by the said Schedule:

Provided that all assessments, rates, fees, tolls and other taxes impositions made and imposed under this Act shall continue to be in force in the area until new assessments are made and new taxes, rates, fees, tolls and other impositions made and imposed under the enactments specified in column 3 of Schedule I and all assets and liabilities relating to such area shall vest in the State Government who shall pass such orders as to their disposal as it thinks fit.

#### **6. Effect of inclusion of a Gram Sabha area or a part thereof in a municipality, etc. :-**

(1) If, at any time, the whole of the area of a Gram Sabha is included in a municipality or in an area under the authority of a Municipal Corporation, a Town Committee or a Cantonment, the Gram Sabha shall cease to exist and the properties, funds and other assets vested in such Gram Sabha and all the rights and liabilities of such Gram Sabha shall vest in and devolve on the municipality or on the Municipal Corporation or on the Town Committee, or on the Cantonment authority, as the case may be.

(2) If, at any time, a part of the area of a Gram Sabha is included in a municipality or in an area under the authority of a Municipal Corporation, a Town Committee or a Cantonment, the area of the Gram Sabha shall be deemed to have been reduced to the extent of the part so included in a municipality or in an area under the authority of a Municipal Corporation, a Town Committee or a Cantonment, and the properties, funds and other assets vested in such Gram Sabha and all the rights and liabilities of such Gram Sabha in respect of the part so included shall vest in and devolve on the municipality or on the Municipal Corporation or on the Town Committee or on the Cantonment authority, as the case may be, in accordance with such allocation, as may be determined by the prescribed authority, whose orders thereon shall be final.

#### **7. Members of Gram Sabha :-**

(1) Every Gram Sabha shall consist of all 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 for which the Gram Sabha has been constituted.

(2) The prescribed authority shall from time to time maintain a list of the names of the persons referred to in sub-section (1) and such list shall be the list of members of the Gram Sabha.

## **8. Annual and half-yearly general meeting of the Gram Sabha :-**

(1) Every Gram Sabha shall hold one annual general meeting and one half-yearly general meeting:

Provided that the Adhyaksha of the Gram Panchayat may, at any time, and shall, upon a requisition in writing by not less than one-fifth of the total number of members of the Gram Sabha, within twenty-one days from the receipt of such requisition, convene an extraordinary general meeting.

(2) The requisition referred to in the proviso to sub-section (1) shall state the objects of the meeting and shall be signed by the members requisitioning and shall be deposited or delivered at the office of the Gram Sabha, and may consist of several documents each signed by one or more members.

(3) If the Adhyaksha of the Gram Panchayat concerned fails to convene the meeting within the twenty-one days, the prescribed authority shall, on a written request made by the members requisitioning within ten days from the date of expiry of the period mentioned in the proviso to sub-section (1), convene the meeting within twenty-one days from the date of receipt of the written request.

(4) The meetings of a Gram Sabha shall be held in such manner and at such time and place as may be prescribed.

## **9. Business at the general meetings :-**

(1) The Gram Sabha shall-

(a) at the annual general meeting-

(i) consider the budget for the following year,

(ii) consider the report submitted by the Gram Panchayat on the work done during the previous year and the work proposed to be done during the following year, and give such directions to the Gram Panchayat as it may deem necessary, and

(iii) transact such other business as may be prescribed;

(b) at the half-yearly general meeting, transact such business as may be prescribed.

(2) Every member of the Gram Sabha shall have the right of asking for information on all matters relating to the administration of the Gram Panchayat at the meetings referred to in sub-section (1).

(3) The Adhyaksha of the Gram Panchayat or in his absence the Upadhyaksha of the Gram Panchayat of the Gram Sabha concerned, shall preside at the meetings of the Gram Sabha and in the absence of both, the Gram Sabha shall elect in the manner prescribed one of the members present at the meeting to preside.

#### **10. Quorum :-**

(1) No business shall be transacted at any meeting of the Gram Sabha unless at least one-tenth of the total number of members of the Gram Sabha is present.

(2) In case there be no quorum present, the meeting shall be adjourned to a date within one month to be announced at the meeting by the person presiding notice of which shall be given to the members of the Gram Sabha in the prescribed manner, and at such adjourned meeting no quorum shall be necessary.

(3) At the adjourned meeting no business shall be transacted other than the business which was on the agenda of the meeting at which the adjournment took place.

### **CHAPTER 3 GRAM PANCHAYAT**

#### **11. Establishment, constitution and incorporation of Grain Panchayat :-**

(1) There shall be a Gram Panchayat for every Gram Sabha.

(2) The members of a Gram Sabha shall <sup>1</sup>[elect at such time and in such manner as may be prescribed] from amongst themselves such number of members not being less than nine or more than fifteen as may be determined by the prescribed authority <sup>2</sup>[in accordance with such rules as may be prescribed in this behalf by the State Government on the basis of the number of members of the Gram Sabha], and the members so elected shall constitute the Gram Panchayat.

<sup>3</sup>(2a) If within the time fixed for the election, the members of a Gram Sabha fail to elect the number of members to be elected under sub-section (2), another election shall be held to fill the vacancy or vacancies remaining unfilled and in case the members of the Gram Sabha still fail to elect the number of members at such second election, the State Government may appoint a member or

members to complete the number. Any person so appointed shall be deemed to be a duly elected member.

<sup>4</sup>(3) For the convenience of election, the prescribed authority shall, in accordance with such rules as may be prescribed in this behalf by the State Government,-

(i) divide the area of a Gram Sabha into constituencies, not being less than three or more than five, on the basis of the number of members of the Gram Panchayat determined under sub-section (2),  
(ii) allocate to each such constituency, <sup>5</sup>[seats not being less than two] or more than four, on the basis of the number of members of the Gram Sabha pertaining thereto.

(4) Every Gram Panchayat shall be a body corporate by the name of the Gram Panchayat having perpetual succession and a common seal and shall, subject to the restrictions or qualifications, if any, imposed under this Act or under any other law for the time being in force, have power to accept a gift of, acquire, hold, administer and transfer property both movable and immovable and to enter into any contract or do all things necessary for carrying out its duties under this Act and shall, by its name, sue and be sued.

(5) Notwithstanding anything in sub-section (2), the State Government may associate with any Gram Panchayat elected under that sub-section or appointed under section 13, for such period as it thinks fit, any person whether a member of the Gram Sabha concerned or not, who may, in the opinion of the State Government, possess special qualifications for serving on the Gram Panchayat to enable it to function effectively; and all such person or persons shall be deemed to be members of the Gram Panchayat for all purposes except that they shall not have the right to vote and shall not be eligible for being elected as Adhyaksha or Upadhyaksha:

Provided that the total number of persons so associated with a Gram Panchayat shall not exceed one-third of the total number of members constituting the Gram Panchayat.

(6) Every Gram Panchayat shall, at its first meeting at which a quorum is present elect, subject to the provisions of sub-section (5), one of its members to be the Adhyaksha and another member to be the Upadhyaksha of the Gram Panchayat in the manner prescribed:

Provided that if the Gram Panchayat fails to elect an Adhyaksha, the Adhyaksha of the outgoing Gram Panchayat shall resume office and continue to hold the same until a new Adhyaksha is elected.

1. These words within the square brackets were substituted for the words "elect in the manner prescribed" by section 4(a) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).
2. Inserted by section 2( 1 )(a) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).
3. Sub-section (2a) was inserted by section 4(b) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).
4. Sub-section (3) was substituted for the existing sub-section by section 2(1 )(b) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).
5. Substituted by Corrigendum No. 595 L., dated the 26.2.66, published in the Calcutta Gazette. Extraordinary, dated 26.2.66, Part I, page 807.

## **12. Term of office of members, Adhyaksha and Upadhyaksha :-**

(1) The term of office of the members of the Gram Panchayat shall, subject to the provisions of section 21, be four years computed from the date of the first meeting of the Gram Panchayat at which a quorum is present:

Provided that the prescribed authority may, by notification, extend the term by such period not exceeding <sup>1</sup> [three years] as may be specified in the notification:

Provided further that notwithstanding anything contained in this section, every member of the Gram Panchayat shall continue to hold office until the first meeting of the newly formed Gram Panchayat after a fresh election at which a quorum is present.

(2) An elected Adhyaksha and Upadhyaksha of a Gram Panchayat shall, subject to the provisions of sections 18 and 19, hold office for four years from the date of his election as Adhyaksha or Upadhyaksha, as the case may be.

(3) Notwithstanding anything contained in sub-section (2), an elected Adhyaksha and Upadhyaksha shall be deemed to have vacated office as soon as the newly formed Gram Panchayat has assembled at the meeting held under the provisions of sub-section (6) of section 11.

1. Substituted with retrospective effect for the words "one year" by section 3 of the West Bengal Panchayat (Amendment) Act, 1964

(West Ben. Act VIII of 1964).

**12A. Continuance in office of sitting members and validation of acts and proceedings :-**

<sup>1</sup>[Notwithstanding the omission to hold timely elections in accordance with the provisions of this Act or the rules framed thereunder, sitting members of a Gram Panchayat shall continue and shall be deemed always to have continued lawfully to hold office until the date of the first meeting, at which a quorum is present, of the Gram Panchayat as reconstituted after the coming into force of the West Bengal Panchayat (Amendment) Act, 1964, (Act VIII of 1964) and no act or proceeding of any Gram Panchayat shall, in any manner, be called in question merely on the ground of such omission to hold timely elections.]

1. Section 12A was inserted by section 4, *ibid*.

**13. Appointment of members by prescribed authority :-**

Notwithstanding anything contained in section 11, the prescribed authority may, if it thinks fit, constitute the first Gram Panchayat and appoint the members thereof from amongst the members of the Gram Sabha concerned for a period not exceeding one year from the date of the notification mentioned in section 3 after which they shall be replaced by members elected in the manner prescribed and thereupon they shall be deemed to have vacated office:

Provided that if the members are appointed for a period of less than one year, the prescribed authority may, if it thinks fit, extend the period up to one year:

<sup>1</sup>Provided further that notwithstanding anything contained in this section, every member of the Gram Panchayat who is so appointed shall continue to hold office until the first meeting of the newly formed Gram Panchayat after the first election at which a quorum is present.

1. This proviso was added by section 5 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

**14. Appointment by prescribed authority of first Adhyaksha and Upadhyaksha :-**

Notwithstanding anything contained in this Chapter, the prescribed authority may appoint two of the members of a Gram Panchayat to



be its first Adhyaksha and first Upadhyaksha, respectively, for a period not exceeding one year from the date of the notification mentioned in section 3, after which period they shall be replaced by an Adhyaksha and an Upadhyaksha elected by the Gram Panchayat:

Provided that if the Adhyaksha and the Upadhyaksha are appointed for a period of less than one year, the prescribed authority may, if it thinks fit, extend the period of their appointment up to one year.

**15. Disqualifications of Adhyaksha and Upadhyaksha and members of Gram Panchayat :-**

(1) Notwithstanding anything contained in this Chapter, a person shall not be qualified for being elected or appointed and Adhyaksha or Upadhyaksha or a member of a Gram Panchayat, if-

(a) he is under twenty-five years of age; or

<sup>1</sup>(aa) he is not a citizen of India; or

<sup>1</sup>(aaa) he is in the service of the Central or State Government or of the Zilla Parishad of the district or of an Anchalik Parishad, an Anchal Panchayat or a Gram Panchayat within the district; or

(b) he has been dismissed from the service of the Central or State Government or local authority for misconduct involving moral turpitude and where the dismissal has been made by the Central or State Government, he has been debarred from employment in public service; 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:

Provided that no person shall be deemed to be disqualified for being elected or appointed as Adhyaksha, Upadhyaksha or 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,(I of 1956.) which contracts with or is employed by the Gram Panchayat; or

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

(e) he is an undischarged insolvent; or

(f) 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

(g) any tax, toll, fee or rate due from him under this Act <sup>2</sup>[or under the Village Chaukidari Act, 1870,(Act VI of 1870.) the Bengal

Village Chaukidari Act, 1871(Act 1 of 1871.) or the Bengal Village Self-Government Act, 1919( Act V of 1919.) for the year previous to that in which the election is held remains unpaid.

(2) If any person is or has been convicted by a criminal court of an offence punishable with transportation or imprisonment for a period of more than six months, such person shall not be eligible for election or appointment as Adhyaksha or Upadhyaksha or as a member of a Gram Panchayat, for five years from the date of expiration of the sentence:

Provided that on application made by a person disqualified under this sub-section, the State Government may, if satisfied on sufficient cause being shown, remove the disqualification by an order made in this behalf and shall do so if, in the opinion of the State Government, the offence does not involve moral turpitude.

1. These clauses were inserted by section 2(2) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act. 1965 (West Ben. Act XXVII of 1965).

2. These words within the square brackets were inserted by section 6 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

#### **16. Election or appointment in a Gram Panchayat to be notified :-**

Every election or appointment of the members of a Gram Panchayat and its Adhyaksha and Upadhyaksha shall be notified in the manner prescribed.

#### **17. Resignation of Adhyaksha, Upadhyaksha or member :-**

An Adhyaksha or Upadhyaksha or a member of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted by the said authority shall be deemed to have vacated his office.

#### **18. Removal of Adhyaksha and Upadhyaksha :-**

An elected Adhyaksha or Upadhyaksha of a Gram Panchayat may at any time be removed from office by a resolution of the Gram Panchayat carried by the votes of not less than two-thirds of the total number of members holding office for the time being, at a meeting specially convened for the purpose:

Provided that if the number of members who have voted in favour

of such resolution is less than two-thirds but more than one-half of the total number of members holding office for the time being, the prescribed authority may, if it thinks fit, by order, remove the Adhyaksha or the Upadhyaksha, as the case may be, from his office.

**19. Filling of casual vacancies in the office of Adhyaksha and Upadhyaksha :-**

(1) In the event of removal of an elected Adhyaksha or Upadhyaksha under section 18 or when a vacancy occurs in the office of an elected Adhyaksha or Upadhyaksha by resignation, death or otherwise, the Gram Panchayat shall elect another Adhyaksha or Upadhyaksha in the prescribed manner.

(2) Every Adhyaksha or Upadhyaksha elected under sub-section (1) shall hold office for the unexpired portion of the term of office of the person in whose place he is elected.

**20. Removal of member of Gram Panchayat and appeal :-**

(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, remove him from office-

(a) on the ground of misconduct in the discharge of his duties; or

(b) if he refuses to act or becomes incapable of acting as such member; or

(c) if after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or

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

(e) if he is in arrears for more than one year in payment of rates, tolls, fees or taxes to the Anchal Panchayat; or

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

(g) if he incurs any of the disqualifications mentioned in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 15, after his election as a member of the Gram Panchayat.

(2) Any member of a Gram Panchayat who is removed from his office by the prescribed authority on any of the grounds mentioned in clauses (a), (b), (d), (e), (f) and (g) of sub-section (1), may, within thirty days from the date of the order, appeal to the

Commissioner of the Division within the local limits of whose jurisdiction of the Gram Panchayat is situate, and thereupon the Commissioner of the Division may stay the operation of the order till the disposal of the appeal and he 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. The order passed by the Commissioner of the Division on such appeal shall be final.

## **21. Filling of casual vacancy in place of a member of Gram Panchayat :-**

(1) If the seat 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 appointment or election, as the case may be, of another person under this Act.

(2) The person elected or appointed to a vacancy referred to in subsection (1) shall hold office for the unexpired portion of the term of office of the person in whose place he is elected or appointed.

## **22. Meetings :-**

(1) Every Gram Panchayat shall hold a meeting at least once in a month at such time and such place within the local limits of the Gram Sabha concerned as the Adhyaksha may fix:

Provided that the Adhyaksha when required in writing by one-third of the members of the Gram Panchayat to call a meeting shall do so within seven days, failing which the members aforesaid may, after informing the prescribed authority in writing, call a meeting after giving seven clear days notice to the Adhyaksha and the other members of the Gram Panchayat.

(2) The Adhyaksha or in his absence the Upadhyaksha shall preside at the meetings of the Gram Panchayat; and in the absence of both, the members present shall elect one of their number to be the president of the meeting.

(3) The quorum shall be not less than one-third of the total number of members of the Gram Panchayat.

(4) All questions coming before a Gram Panchayat shall be decided by a majority of votes unless otherwise provided in this Act:

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

### **23. List of business to be transacted at a meeting :-**

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 forty-eight hours 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 had been so given.

### **24. Report on the work of Gram Panchayat :-**

The Gram Panchayat shall prepare and submit annually in the prescribed manner and within the prescribed time a report on the work done during the previous year to the Gram Sabha and also to the prescribed authority.

## **CHAPTER 4 ANCHAL PANCHAYATS**

### **25. Establishment of Anchal Panchayats :-**

(1) For the purposes hereinafter mentioned in this Act the State Government shall establish Anchal Panchayats each comprising as many contiguous Gram Sabhas as it may, by notification, fix in each case.

(2) The State Government shall in the notification, specify the names and the territorial limits of the Anchal Panchayats.

### **26. Constitution of Anchal Panchayats :-**

<sup>1</sup>( 1 ) Every Anchal Panchayat shall consist of the following members, namely:-

(a) the Adhyakshas of all Gram Panchayats within its jurisdiction (ex officio);

(b) such number of members of the Gram Sabha within its jurisdiction elected at the prescribed time and in the prescribed manner by the Gram Panchayat concerned in each case as may, from time to time, be determined in such manner as may be prescribed by the prescribed authority by order made in this behalf so that there shall be at least one member for every five hundred members of the Gram Sabha and that there shall be at least one member from every Gram Sabha:

Provided that no member of a Gram Sabha shall be elected to be a member of an Anchal Panchayat if he has any of the disqualifications mentioned in section 15.

<sup>2</sup>(2) If within the time fixed for the election, a Gram Panchayat fails to elect the number of members to be elected under sub-section (1), another election shall be held to fill the vacancy or vacancies remaining unfilled and in case the Gram Panchayat still fails to elect the number of members at such second election, the State Government may appoint a member or members to complete the number. Any person so appointed shall be deemed to be duly elected member.

<sup>3</sup> XXX XXX XXX.

<sup>4</sup>(3) The term of office of every member of an Anchal Panchayat elected by the members of a Gram Panchayat shall commence from the date of the first meeting of the Anchal Panchayat at which a quorum is present and shall extend until the first meeting of the next newly constituted Anchal Panchayat at which a quorum is present.

(4) When a vacancy occurs in the membership of an Anchal Panchayat it shall be filled within 5[three] months from the date of the vacancy by election by the Gram Panchayat which elected the member whose seat has fallen vacant.

1. Sub-section (1) was substituted for the existing sub-section by section 2(3) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965). Prior to this substitution the second proviso of sub-section (1) was omitted by section 7(a) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

2. Sub-section (1a) was inserted by section 7(b) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

3. Sub-section (2) was omitted by section 7(c), *ibid*.

4. Sub-section (3) was substituted for the original sub-section by section 7(d), *ibid*.

5. This word within the square brackets was substituted for the word "two" by section 7(e), *ibid*.

## **27. Pradhan and Upa-Pradhan of Anchal Panchayat :-**

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

<sup>1</sup>Provided that when a person elected as the Adhyaksha or the

Upadhyaksha of a Gram Panchayat is also elected as the Pradhan or the Upa-Pradhan of the Anchal Panchayat, such person shall cease to be the Adhyaksha or the Upadhyaksha, as the case may be, of the Gram Panchayat with effect from the date of his election as the Pradhan or the Upa-Pradhan of the Anchal Panchayat.

(2) The term of office of the Pradhan and the Upa-Pradhan of the Anchal Panchayat shall be the residue of his term of office as a member of the Anchal Panchayat:

Provided that an elected Pradhan or Upa-Pradhan shall continue in office until a new Pradhan or Upa-Pradhan is elected by the newly constituted Anchal Panchayat after a general election.

1. This proviso was added by section 8, *ibid*.

### **27A. Election or appointment of members, Pradhan and Upa-Pradhan of Anchal Panchayat to be notified :-**

<sup>1</sup>[The election or appointment of the members of every Anchal Panchayat and of its Pradhan and Upa-Pradhan shall be notified in the manner prescribed.]

1. Section 27A was inserted by section 9 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

### **28. Application of sections 17 to 24 in certain cases :-**

The provisions of sections 17 to 24 shall, *mutatis mutandis*, apply in the case of an Anchal Panchayat, its Pradhan, Upa-Pradhan and member.

### **29. Committees of Anchal Panchayats :-**

An Anchal Panchayat may after the election of its Pradhan and Upa-Pradhan, constitute by specific resolutions at a meeting specially convened for the purpose such committee or committees for such purpose or purposes as it may specify and shall determine the number of members of each such committee.

### **30. Incorporation of Anchal Panchayat :-**

Every Anchal Panchayat shall by the name notified under section 25 be a body corporate having perpetual succession and a common seal and shall, subject to the restrictions or qualifications, if any, imposed under this Act or under any other law for the time being in force, have power to accept a gift of, acquire, hold, administer and

transfer property both movable and immovable and to enter into any contract or do all things necessary for the purposes of this Act and shall by the said name sue and be sued.

## **CHAPTER 5 POWERS AND DUTIES OF GRAM PANCHAYATS**

### **31. Obligatory duties of Gram Panchayat :-**

Subject to such conditions as may be prescribed, a Gram Panchayat shall as far as possible within the limits of the fund at its disposal, 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 or an epidemic;
- (c) vaccination and inoculation;
- (d) supply of drinking water and the cleansing and disinfecting the sources of supply and storage of water;
- (e) the maintenance, repair and construction of public streets and protection thereof;
- (f) the removal of encroachments on public streets or public places;
- (g) the protection and repair of buildings or other property vested in it;
- (h) the management and care of public tanks, subject to the provisions of the Bengal Tanks Improvement Act, 1939( Act XV of 1939.), common grazing grounds, burning ghats and public graveyards for the common benefit of the people;
- (i) the supply of any local information which the District Magistrate or the District Board or the Anchal Panchayat within the local limits of whose jurisdiction the Gram Panchayat is situate, may require;
- (j) the registration of births and deaths within the local limits of the jurisdiction of the Gram Panchayat under the provisions of the Bengal Births and Deaths Registration Act, 1873,(Act IV of 1873.) if required to do so by the District Magistrate;
- (k) organising voluntary labour for community works and works for the uplift of its area;

<sup>1</sup> XXX XXX XXX.

1. Omitted by section 2(4) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act. 1965 (West Ben. Act XXVII of 1965).

### **32. Other duties of Gram Panchayats :-**

- (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 or vocational education;
  - (b) rural dispensaries, health centres and maternity and child welfare centres;
  - (c) management of any public ferry under the Bengal Ferries Act, 1885;(Act I of 1885)
  - (d) irrigation;
  - (e) grow-more-food campaign;
  - (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;
  - (k) promotion of village plantations;
  - (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; and
  - (0) the 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.
- (2) The State Government may at any time for reasons to be recorded in writing withdraw from a Gram Panchayat any function assigned to it under sub-section (1).

### **33. Discretionary duties of Gram Panchayat :-**

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, cooperative 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 in sanitary depressions and reclaiming of unhealthy localities;
- (i) the promotion and encouragement of cottage industries;
- (j) the destruction of rabid 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, dharamsalas, rest houses, cattle sheds and cart stands;
- (m) the disposal of unclaimed cattle;
- (n) the disposal of unclaimed corpses 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;
- (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 District Board, 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;
- (u) any other local work or service of public utility or which is likely to promote the health, comfort, convenience or material prosperity of the public, not otherwise provided for in this Act.

**34. State Government to place funds necessary for the performance of functions and duties under section 32 or 33. at the disposal of the Gram Panchayat :-**

Where the State Government assigns any function to a Gram Panchayat under section 32, or where it directs a Gram Panchayat to make provision for any of the items enumerated in section 33, it shall place such funds at the disposal of the Gram Panchayat as may be required for the performance of the functions so assigned to the Gram Panchayat or for making provisions for the item so

directed to be made by the Gram Panchayat.

**35. Delegation of duties to Gram Panchayat by the Central Government or State Government or local authority :-**

Nothing in sections 31, 32 and 33 shall be deemed to impose any duty or confer any power on the Gram Panchayat with respect to any matter which is under the direct administrative control of any department of the Central or State Government or of any local authority, unless such duty or power has been transferred or delegated to the Gram Panchayat by order of the Central or State Government, or of the local authority, as the case may be:

Provided that when the State Government or any local authority transfers or delegates any of its duties or powers to a Gram Panchayat, it shall place the funds necessary for the performance of such duties or powers at the disposal of the Gram Panchayat.

**36. Improvement of sanitation :-**

(1) For the improvement of sanitation, a Gram Panchayat shall have power to do all acts necessary for, and incidental to, the performance of the functions entrusted or delegated to it and in particular and without prejudice to the generality of the foregoing power or to the provisions of any other Act for the time being in force, a Gram Panchayat may require the owner or occupier of any land or building, by written notice and within a reasonable period to be specified in the notice, 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, cess-pool, or other receptacle for filth, sullage water, 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, urinal 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 or 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 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 a person upon whom a notice has been served as aforesaid and which has not been set aside by the prescribed authority fails, without sufficient reason, to comply with the order contained in the notice 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 twenty-five rupees.

### **37. Power of Gram Panchayat over public streets, water-ways and other matters :-**

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

- (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 water-ways;
- (e) with the sanction of the District Board 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.

### **38. Power of Gram Panchayat in respect of polluted private water-supply :-**

(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 any person upon whom a notice has been served as aforesaid and which has not been set aside by the prescribed authority fails, without sufficient reason, to comply with the order contained in the notice 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 twenty-five rupees.

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

(1) Notwithstanding anything contained in the Bengal Water Hyacinth Act, 1936,(Act XIII of 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:

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 any owner or occupier upon whom a notice has been served as aforesaid and which has not been set aside by the prescribed authority fails, without sufficient reason, to comply with the order contained in the notice 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 twenty-five rupees.

**40. Emergent power on outbreak of epidemic :-**

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 Adhyaksha, the Upadhyaksha or any other person authorized by the Adhyaksha may, during the continuance of the outbreak, 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.

**41. Power of recovery of cost for work carried out by Grain Panchayat on failure of any person :-**

If any work required to be done by an order contained in a notice served under sections 36, 38 or 39 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.

**42. Joint Committees :-**

(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.

**43. Delegation of functions by Zilla Parishad :-**

(1) A <sup>1</sup>[Zilla Parishad] may, with the concurrence of a Gram Panchayat and subject to such restrictions 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 the <sup>1</sup>[Zilla Parishad].

1. Substituted for the words "District Board" by section 2(5) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).

#### **44. Appointment of staff :-**

Subject to rules made by the State Government in this behalf a Gram Panchayat may appoint such staff as it may consider necessary to carry out its duties under this Act and may fix the salaries and allowances to be paid to such staff.

#### **45. Delegation of functions of Gram Panchayat to its Adhyaksha :-**

A Gram Panchayat may, at a meeting specially convened for the purpose, by a resolution delegate to its Adhyaksha such duties or powers of the Panchayat as it thinks fit, subject to the approval of the prescribed authority, and may at any time by a resolution withdraw or modify the same:

Provided that when any power delegated to an Adhyaksha is withdrawn or modified, the Gram Panchayat shall forthwith give intimation thereof to the prescribed authority.

### **CHAPTER 6 POWERS AND DUTIES OF ANCHAL PANCHAYATS**

#### **46. Functions of Anchal Panchayats :-**

(1) Subject to rules made by the State Government in this behalf, an Anchal Panchayat shall be responsible for-

(a) the control and administration of the Anchal Panchayat Fund established under this Act;

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

(c) the maintenance and control of dafadars and chowkidars within its jurisdiction and securing the due performance by the dafadars and chowkidars of the duties imposed on them under this Act; <sup>1</sup>\* \*



(d) the proper constitution and administration of the Nyaya Panchayat established <sup>2</sup>[under this Act; and]

<sup>3</sup>(e) the performance of such functions as may be transferred to it under section 31 of the Cattle-trespass Act, 1871(I of 1871.)

(2) The Anchal Panchayat may also perform such other duties as may be assigned to it by the State Government.

1. The word "and" was omitted by section 2(6)(a), *ibid*.

2. Substituted for the words "under this Act." by section 2(6)(b), *ibid*.

3. Clause (e) was added by section 2(6)(c), *ibid*.

**47. Anchal Panchayat may manage estates and interests vested in the State :-**

The State Government may, by general or special order published in the Official Gazette, empower an Anchal 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.

**48. Officers and servants of Anchal Panchayat :-**

(1) For every Anchal Panchayat, there shall be a Secretary who shall be in charge of the office of the Anchal Panchayat and shall be responsible for the preparation of its budget estimate of income and expenditure, the statement of accounts of the previous year, the report on the work done during the previous year and the work proposed to be done during the following year.

(2) The Secretary shall be the executive officer of the Anchal Panchayat and shall be appointed by the State Government or any officer or authority empowered by the State Government in this behalf.

(3) An Anchal Panchayat may, at a meeting specially convened for the purpose, by a resolution delegate to its Secretary such duties or powers of the Anchal Panchayat as it thinks fit, subject to the approval of the prescribed authority, and may at any time by a resolution withdraw or modify the same:

Provided that when any power delegated to the Secretary is withdrawn or modified, the Anchal Panchayat shall forthwith give intimation thereof to the prescribed authority.

(4) Subject to the provisions of sub-section (3), the Secretary shall

act in respect of all other matters under the direction of the Pradhan through whom he shall be responsible to the Anchal Panchayat.

(5) The State Government shall make rules prescribing the method of recruitment, conditions of service, pay and allowances and the age of superannuation of the Secretary.

(6) The salary and allowances of the Secretary shall be paid out of the Anchal Panchayat Fund.

(7) Subject to rules made by the State Government in this behalf, an Anchal Panchayat may appoint such additional staff as it may consider necessary to carry out its duties under this Act, and may fix the salaries and allowances to be paid to such staff.

**49. Delegation of functions of Anchal Panchayat to its Pradhan :-**

An Anchal Panchayat may, at a meeting specially convened for the purpose, by a resolution delegate to its Pradhan such duties or powers of the Anchal Panchayat as it thinks fit, subject to the approval of the prescribed authority, and may at any time by a resolution withdraw or modify the same:

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

**50. Anchal Panchayat may lend the services of its Secretary to a Gram Panchayat :-**

An Anchal Panchayat may, if requested to do so by a Gram Panchayat, lend the services of its Secretary to the Gram Panchayat, on such terms and conditions as may be agreed upon between such Gram Panchayat and the Anchal Panchayat, for such purposes as may be specified by the Anchal Panchayat and thereupon the Secretary shall render such service to the Gram Panchayat.

**CHAPTER 7 DAFADARS AND CHOWKIDARS**

**51. Dafadars and chowkidars :-**

(1) For general watch and ward, prevention of crime, protection of life and property and discharging all functions relevant thereto as hereinafter provided within the local limits of the jurisdiction of an Anchal Panchayat, every Anchal Panchayat shall, unless otherwise

<sup>1</sup>directed or other provision is made by the State Government, maintain under its control such number of dafadars and chowkidars as the State Government may by general or special order determine.

(2) The number of dafadars and chowkidars to be maintained by an Anchal Panchayat and the salary to be paid to them and the nature and the cost of their equipment and all matters relating to their recruitment, conditions of service, power and duties, superannuation, discipline, punishment and dismissal shall be determined in accordance with such rules as may be prescribed.

1. For notification directing that the Anchal Panchayats within the local limits of the police-stations specified in the district of Purulia, shall not maintain under their control any dafadar or chowkidar. see notification No. 2363/DP/3C-3/60, dated 2.8.60, published in the Calcutta Gazette of 1960, Part I, page 2693.

## **52. State Government may contribute cost of maintenance of dafadars and chowkidars :-**

The cost of maintenance of dafadars and chowkidars or any part thereof may be contributed by the state Government to the Anchal Panchayat Fund.

## **53. Powers and duties of chowkidars and dafadars :-**

( 1 ) Every chowkidar shall exercise the following powers and perform the following duties:-

(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 Anchal Panchayat, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in Schedule II which may be committed within the jurisdiction of the Anchal 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 a 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;

(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 thing;

(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

(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;(Act V 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 Schedule II;

(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 Anchal 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 Anchal Panchayat;

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

(ix) he shall supply any local information which the District or Subdivisional Magistrate or any police officer may require;

(x) he shall obey the orders of the Anchal 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 Anchal 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 Anchal Panchayat, and of any damage to any property vested in the Anchal Panchayat or under its control;

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

(xiii) he shall serve such processes as may be prescribed upon persons resident within his jurisdiction; and

(xiv) 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 section 120.

#### **54. Arrested person to be taken to police-station :-**

Whenever a dafadar or a chowkidar arrests any person under section 53, 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, on the following morning.

### **CHAPTER 8 FINANCE AND TAXATION**

#### **55. Anchal Panchayat Fund :-**

(1) For every Anchal Panchayat, there shall be constituted an Anchal Panchayat Fund and there shall be placed to the credit thereof-

(a) any contribution made by the State Government for general or any special purpose;

(b) any tax, toll, fee, rate or other imposition levied and collected under this Act;

(c) any sum contributed by the District Board or any other local authority;

(d) any sum raised as loan or received as gifts or contributions; and income from endowments or trusts made in favour of the Anchal Panchayat:

Provided that where an endowment or trust is made in favour of two or more Anchal Panchayats, the income from such endowments or trusts shall be apportioned between the Anchal Panchayats concerned by the State Government, as far as practicable, in the

manner indicated in the instrument creating such endowment or trust, and in the absence of any such indication in the instrument creating the endowment or trust, in such manner as the State Government may think fit;

(e) all fines and penalties imposed under this Act or the rules made thereunder; and

(f) all other sums received by or on behalf of the Anchal Panchayat under this Act or otherwise.

(2) Every Anchal Panchayat shall set apart and apply annually out of the Anchal Panchayat Fund-

(a) first, such sum as may be required to meet the cost of its own administration;

(b) secondly, such sum as may be required to meet the cost of administration of the Nyaya Panchayat concerned;

(c) thirdly, such sum as may be required to meet the cost of maintenance of dafadars and chowkidars;<sup>1\* \*</sup>

<sup>2</sup>(cc) fourthly, such sum as may be required to perform the duties assigned to it by the State Government under sub-section (2) of section 46 and to exercise the powers, perform the functions and discharge the duties referred to in section 47; and

(d) <sup>3</sup>[fifthly], such sum as may be required to make allotments to the Gram Panchayat Funds under its jurisdiction to enable the Gram Panchayats concerned to carry out their duties and functions under this Act, such allotments being made after taking into consideration-

(i) the amount available for distribution,

(ii) the amount raised as tax, toll, fee or rate from each of the Gram Sabhas within its jurisdiction, and

(iii) the amounts required by the Gram Panchayats concerned according to the budget framed by them for carrying on their duties and functions during any year.

1. The word "and" was omitted by section 2(i) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act XIII of 1978).

2. Clause (cc) was inserted by section 2(ii), *ibid*.

3. The word within the square brackets was substituted for the word "fourthly" by section 2(iii), *ibid*.

## **56. Gram Panchayat Fund :-**

(1) For every Gram Panchayat there shall be constituted a Gram Panchayat Fund to which shall be credited-

(a) the sum or sums assigned to the fund under clause (d) of sub-section (2) of section 55;

(b) any gifts or contributions received;

(c) income from endowments and trusts made in favour, or enterprises under the management, of the Gram Panchayat:

Provided that where an endowment or trust is made in favour of two or more Gram Panchayats within the jurisdiction of the same Anchal Panchayat, the income from such endowment or trust shall be apportioned between the Gram Panchayats concerned by the Anchal Panchayat, as far as practicable, in the manner indicated in the instrument creating such endowment or trust, and in the absence of any such indication in the instrument creating such endowment or trust, in such manner as the Anchal Panchayat may think fit:

Provided further that when an endowment or trust has been made in favour of two or more Gram Panchayats not within the jurisdiction of the same Anchal Panchayat, the income from such endowment or trust shall be apportioned between the Gram Panchayats concerned by the prescribed authority, as far as practicable, in the manner indicated in the instrument creating such endowment or trust, and in the absence of any such indication in the instrument creating such endowment or trust, in such manner as the prescribed authority may think fit;

(d) all sums received by or on behalf of the Gram Sabha or Gram Panchayat under this Act or otherwise.

(2) It shall be the duty of every Gram Panchayat to supply, subject to the approval of the prescribed authority, such funds as may be required by the Gram Sabha concerned, to meet the charges incurred by the Gram Sabha in carrying out its duties under this Act.

## **57. Imposition of tax by Anchal Panchayat :-**

<sup>1</sup>(1) Subject to such rules, rates and scales as may be prescribed by the State Government in this behalf, an Anchal Panchayat shall impose yearly,-

(a) on lands and buildings within the local limits of its jurisdiction, a tax not exceeding two per centum of the annual value of such lands and buildings determined in the prescribed manner to be paid by the owners or occupiers or owners and occupiers thereof;

(b) on professions, trades, callings and employments carried on or held within the local limits of its jurisdiction, a tax on the basis of

the total annual income accrued from such professions, trades, callings and employments, subject to a maximum of two hundred and fifty rupees per annum in respect of any one person.

(2) Subject to such rules and such maximum rates or scales as may be prescribed by the State Government, an Anchal Panchayat may levy the following fees and rates:-

(a) fees on the registration of vehicles;

(b) fees on complaints, petitions and other processes in suits and cases instituted before the Nyaya Panchayat concerned;

(c) a fee for providing sanitary arrangements at places of worship or pilgrimage within its jurisdiction;

(d) a water rate, where arrangement for the supply of water is made by the Gram Panchayat within its jurisdiction;

(e) a lighting rate, where arrangement for lighting of public streets and places and made by the Gram Panchayat within its jurisdiction;

(f) a conservancy rate, where arrangement for clearing private latrines, urinals and cess-pools is made by the Gram Panchayat within its jurisdiction.

(3) The State Government may, by notification, exempt <sup>2</sup>[either wholly or in part] any class of properties or classes of properties specified in the notification from the taxes, rates or fees leviable under this section.

(4) Any person who, in the opinion of the Anchal Panchayat, is too poor to pay <sup>3</sup>[six paise] a month, shall be altogether exempted from payment of any tax, rate or fee under this Act.

1. Sub-section (1) was substituted for the existing sub-section by section 2(7)(a) of the West -Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).

2. Inserted by section 2(7)(b) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).

3. Substituted for the words "one anna" by section 5 of the West Bengal Panchayat (Amendment) Act, 1964 (West Ben. Act VIII of 1964).

## **58. Audit of accounts of Anchal Panchayat and Gram Panchayat :-**

The accounts of every Anchal Panchayat and every Gram Panchayat shall be audited annually or at shorter intervals, by such agency and in such manner as may be prescribed.



## **59. Budget of Gram Panchayat :-**

(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 and after the Gram Sabha has considered it, as provided in section 9, submit it, with such modification, if any, as it may consider necessary to make, to the prescribed authority for sanction through the Anchal Panchayat concerned, and the Anchal Panchayat shall forward the same to the prescribed authority with such observations as it may think fit to make, and thereupon the prescribed authority shall pass the budget with such modifications, if any, as it may think fit to make, and the Gram Panchayat shall abide by the budget as passed by the prescribed authority.

(2) The Gram Panchayat may prepare in each year a supplementary estimate providing for any modification of its budget and may submit it to the prescribed authority for sanction in the manner indicated in the foregoing sub-section.

## **60. Budget of Anchal Panchayat :-**

(1) Every Anchal Panchayat shall, at such time and in such form as may be prescribed, prepare in each year a budget showing its estimated receipts and disbursements for the following year and may, from time to time, prepare a supplementary estimate providing for any modification thereof and submit it to the prescribed authority.

(2) The prescribed authority shall pass the budget with such modification, if any, as it may think fit to make, and the Anchal Panchayat shall abide by the budget so passed.

## **CHAPTER 9 PROPERTIES OF GRAMPANCHAYAT AND ANCHAL PANCHAYAT**

### **61. Vesting of public properties in Gram Panchayat :-**

<sup>1</sup>[Properties of Gram Panchayat and Anchal Panchayat.]

(1) All property within the local limits of the jurisdiction of a 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, erections, 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 water-works, 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 any water-works 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 water-works by reason of their use by the public;

(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 also 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

(t) 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, sewer 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.

1. The heading to Chapter IX was substituted for the original heading "Properties to Gram Panchayat by section 3 of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act XIII of 1978).

## **62. Allocation of properties to Gram Panchayat and Anchal Panchayat :-**

<sup>1</sup>[(1) The State Government may allocate to a Gram Panchayat or an Anchal 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 or, as the case may be, Anchal Panchayat.]

1. Section 62 was substituted for the original section by section 4 of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act XIII of 1978).

## **63. Acquisition of land for Gram Panchayat :-**

(1) Where a Gram Panchayat <sup>1</sup> [or an Anchal Panchayat] 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 District Magistrate 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.

(2) Such land shall, on acquisition and on payment of compensation awarded in accordance with the law under which the acquisition was made, vest in the Gram Panchayat <sup>2</sup>[or, as the case may be, Anchal Panchayat].

Explanation.-"Land" includes immovable property of any kind and benefits which arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

1. The words within the square brackets were inserted by section 5(a), *ibid*.

2. The words within the square brackets were inserted by section 5(b) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act XIII of 1978).

## **CHAPTER 10 CONTROL**

### **64. Supervision and appeal :-**

(1) The prescribed authority may at any time-

(a) inspect or cause to be inspected any immovable property used or occupied by an Anchal Panchayat or a Gram Panchayat or any work in progress under the direction of the Gram Panchayat, Anchal Panchayat or a Joint Committee;

(b) inspect or examine or depute any officer of Government to inspect or examine any department of an Anchal Panchayat or a Gram Panchayat office or any service, work or thing under the control of the Gram Panchayat, Anchal Panchayat or the Joint Committee;

(c) for the purposes of inspection or examination require the Gram Panchayat, Anchal Panchayat or Joint Committee-

(i) to produce any book, record, correspondence, plan or other document,

(ii) to furnish any return, plan, estimate, statement, accounts or statistics, or

(iii) to furnish or obtain any report;

(d) record in writing for the consideration of the Gram Panchayat, Anchal Panchayat or the Joint Committee, as the case may be, any observation it may consider to be proper in regard to the proceedings or duties of such Gram Panchayat, Anchal Panchayat or the Joint Committee;

(e) suspend or cancel any resolution passed, order issued or license or permission granted by an Anchal Panchayat or a Gram Panchayat, or prohibit the doing of any act which is about to be done or is being done by an Anchal Panchayat or a Gram Panchayat or by any person with the authority of the Gram Panchayat or Anchal Panchayat, if in its opinion such resolution, order, license, permission or act,-

(i) has not been lawfully passed, issued, granted, given or authorised, or

(ii) is in excess of the powers conferred by this Act or any other law or is an abuse of such powers, or

(iii) is considered by the prescribed authority as likely to lead to a

breach of the peace or to cause injury or annoyance to the public or to any class or body of persons.

(2) An officer deputed under clause (b) of sub-section (1) shall exercise the powers conferred by clauses (c) and (d) of that sub-section.

(3) When a requisition is made under clause (c) of sub-section (1) the Gram Panchayat, Anchal Panchayat or the Joint Committee, as the case may be, shall comply with such requisition.

(4) The prescribed authority shall, before taking any action under clause (e) of sub-section (1), give an opportunity for an explanation to the Gram Panchayat, Anchal Panchayat or the Joint Committee concerned, as the case may be.

(5) A Gram Panchayat or an Anchal Panchayat aggrieved by any order made by the prescribed authority under clause (e) of sub-section (1), may, within thirty days from the date of the order, appeal to the Commissioner of the Division within the local limits of whose jurisdiction the Gram Panchayat or the Anchal Panchayat, as the case may be, is situate, and thereupon the Commissioner of the Division may stay the operation of the order of the prescribed authority till the disposal of the appeal and he may, after giving notice of the appeal to the prescribed authority, and after giving a hearing to the appellant, modify, set aside or confirm the order of the prescribed authority. The order passed by the Commissioner of the Division on such appeal shall be final.

#### **65. Power to remove Adhyaksha, Upadhyaksha, etc., and appeal :-**

(1) The prescribed authority may, notwithstanding anything contained in sub-section (2) of section 12, section 14 and sub-section (2) of section 27, by an order in writing, remove with effect from a date to be specified in the order any Adhyaksha or Upadhyaksha or any Pradhan or Upa-Pradhan 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 prescribed authority shall, when it proposes to take action under sub-section (1), give to the person concerned an opportunity of showing cause against the action proposed to be taken against him; and the order shall contain a statement of the reasons for the action taken.

(3) Any person against whom action has been taken under

subsection (1), may, within thirty days from the date of the order, appeal to the Commissioner of the Division within the local limits of whose jurisdiction the Gram Panchayat or the Anchal Panchayat, as the case may be, is situate, and thereupon the Commissioner of the Division may stay the operation of the order till the disposal of the appeal and he 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. The order passed by the Commissioner of the Division on such appeal shall be final.

**66. Powers to the prescribed authority in case of default :-**

(1) If at any time it appears to the prescribed authority that an Anchal Panchayat or a Gram Panchayat has made default in performing any duty imposed on it by or under this or any other Act or any rule, regulation or bye-law framed thereunder it may, by an order in writing, fix a time for the performance of that duty.

(2) If such duty is not performed within the period so fixed, the prescribed authority may appoint a person to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the said person from the Anchal Panchayat Fund or the Gram Panchayat Fund, as the case may be,

**67. Power to reconstitute or supersede Panchayats :-**

If the State Government is satisfied on the report of the prescribed authority that an Anchal Panchayat or a Gram Panchayat is not competent to perform, or is persistently making default in performing, the duties imposed on it by or under any law, or is exceeding or abusing its powers it may, by notification, direct-

(a) that the Gram Panchayat or the Anchal Panchayat, as the case may be, be reconstituted with effect from a specified date; or

(b) that the Gram Panchayat or the Anchal Panchayat, as the case may be, be superseded for a specified period, not exceeding <sup>1</sup>[two years.]

1. The words within the square brackets were substituted for the words, "one year" by section 2 of the West Bengal Panchayat (Amendment) Act, 1969 (West Ben. Act X of 1969).

**68. Consequences of reconstitution and supersession :-**

(1) When a Gram Panchayat or an Anchal Panchayat, as the case

may be, is directed to be reconstituted as aforesaid the prescribed authority, shall-

(a) in the case of a Gram Panchayat take immediate steps to hold a fresh election of members in the manner prescribed; and as soon as the election of members is notified as laid down in section 16 the prescribed authority shall declare the Gram Panchayat to be duly reconstituted and the former members of the Gram Panchayat unless they are re-elected shall vacate their offices;

(b) in the case of an Anchal Panchayat immediately call upon the Gram Panchayats concerned to hold fresh elections in the manner prescribed to reconstitute the Anchal Panchayat; and when the election is notified as laid down in sub-section (2) of section 26, the prescribed authority shall declare the Anchal Panchayat to be duly reconstituted and the former members of the Anchal Panchayat unless they are re-elected shall vacate their offices.

(2) When a Gram Panchayat or an Anchal Panchayat, as the case may be, is superseded, the following consequences shall ensue-

(a) all members of the Gram Panchayat or the Anchal Panchayat, as the case may be, shall, as from the date of the order, vacate their offices;

(b) all powers, duties and functions of the Gram Panchayat or the Anchal Panchayat, as the case may be, shall, during the period of supersession, be exercised and performed by such authority, person or persons and in such manner as the prescribed authority may direct; and

(c) all property vested in the Gram Panchayat or the Anchal Panchayat, as the case may be, shall during that period, vest in such authority, person or persons and under such conditions as the prescribed authority may direct.

(3) On the expiration of the period of supersession specified in the notification, the State Government may-

(i) extend the period of supersession for such further term, not exceeding <sup>1</sup>[two years], as it may consider necessary; or

(ii) reconstitute the Gram Panchayat or the Anchal Panchayat, as the case may be, by fresh elections in the manner prescribed, and the persons, who vacated their offices under clause (a) of sub-section (2), shall not be deemed to be disqualified for election.

1. The words within the square brackets were substituted for the words "one year" by section 3 of the West Bengal Panchayat (Amendment) Act, 1969 (West Ben. Act X of 1969).

#### **68A. Special provision in case of prohibitory orders from**

## **Courts :-**

<sup>1</sup>[(1) Where by reason of an order of a competent court an Anchal Panchayat or a Gram Panchayat is unable to exercise or perform the powers, duties or functions conferred or imposed on it by or under any law, the prescribed authority may, with the previous approval of the State Government, 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 prescribed authority may direct.

(2) All properties vested in the Gram Panchayat or Anchal Panchayat, as the case may be, shall, during the period of inability referred to in subsection (1), vest in such authority, person or persons subject to such conditions as the prescribed authority may direct.]

1. Section 68A was inserted by section 2(8) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).

## **69. Appointment of inspecting officers of Panchayats :-**

The State Government may appoint such officers as it may consider necessary for the purpose of inspecting or superintending the operations of all or any of the Panchayats constituted under this Act.

## **CHAPTER 11 NYAYA PANCHAYATS**

### **70. Constitution of Nyaya Panchayats :-**

(1) Every Anchal Panchayat established under this Act 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 from amongst the members of the Gram Sabhas within its jurisdiction, according to prescribed rules and approved by the prescribed authority, for the trial of-

(a) the offences specified in Schedule III or a case transferred to the Nyaya Panchayat under sub-section (2) of section 71, and

(b) all or any of the classes of civil suits specified in section 80:

Provided that no member of a Gram Sabha shall be elected to be a member of a Nyaya Panchayat if he has any of the disqualifications mentioned in section 15:



<sup>1</sup>Provided further that where the number of Gram Sabhas comprised in an Anchal Panchayat is-

- (i) five, one Vicharak shall be elected from each Gram Sabha,
- (ii) more than five, the Gram Sabhas shall be divided into five groups consisting of one or more of the Gram Sabhas as may be determined and specified in this behalf by the Anchal Panchayat and one Vicharak shall be elected from each group, and
- (iii) less than five, one Vicharak shall be elected from each Gram Sabha and the deficiency in the membership of the Nyaya Panchayat shall be filled up by election from such Gram Sabha or Gram Sabhas as may be determined and specified in this behalf by the Anchal Panchayat.

(2) When a person who is a member of an Anchal Panchayat or a Gram Panchayat is elected to a Nyaya Panchayat under sub-section (1), he shall cease to be a member of the Anchal Panchayat or the Gram Panchayat concerned, with effect from the date on which the Nyaya Panchayat is notified under sub-section (3), and the vacancy caused thereby shall be filled in the manner laid down in section 21 or section 28, as the case may be.

(3) 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.

(4) 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.

(5) The term of office of a member of a Nyaya Panchayat shall be four years from the date of the notification mentioned in sub-section (3):

Provided that members of a Nyaya Panchayat shall continue in office until the election of the members of the Nyaya Panchayat by the newly constituted Anchal Panchayat after a general election.

(6) No suit, case or other proceeding pending before a Nyaya Panchayat shall be tried by such Nyaya Panchayat <sup>2</sup>[unless at least three members of the Nyaya Panchayat are present during such trial.]

(7) The Secretary to the Anchal 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.

1. This second proviso was substituted for the original second proviso by section 10(a) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

2. These words within the square brackets were substituted for the words "unless a majority of the members of the Nyaya Panchayat is present during such trial" by section 10(b) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

## **71. Criminal jurisdiction :-**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,(Act V of 1898.) a Nyaya Panchayat constituted under section 70 shall have jurisdiction, within the local limits of the Anchal Panchayat constituting such Nyaya Panchayat to try all offences specified in Schedule III, Part A; and, with effect from the date specified in the notification referred to in sub-section (3) of section 70, no other court shall, except as otherwise provided in this Act, take cognizance of any case triable by a Nyaya Panchayat: 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 97 from trying or which should be, in the opinion of the Nyaya Panchayat or of the District Magistrate or the Subdivisional Magistrate exercising the power conferred by sub-section (1) of section 98, tried in an ordinary court.

(2) A Nyaya Panchayat may try any offence specified in Schedule III, Part B, if the case is transferred to it by a District Magistrate, Subdivisional Magistrate or any other Magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898:(Act V of 1898.)

Provided as follows:-

(a) a Magistrate before whom a complaint of an offence mentioned in Schedule III, Part A, cognizable by a Nyaya Panchayat is made shall transfer the complaint to the Nyaya Panchayat which is competent to try the offence;

(b) the District Magistrate or Subdivisional 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 District Magistrate or Subdivisional 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 an Anchal 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 Magistrate, 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) (a) Whenever a question arises as to which of two or more Nyaya Panchayats subordinate to the same Subdivisional Magistrate ought to try any offence, it shall be decided by the Subdivisional Magistrate.

(b) Whenever a question arises as to which of two or more Nyaya Panchayats not subordinate to the same Subdivisional Magistrate, but subordinate to the same District Magistrate, ought to try any offence, it shall be decided by the District Magistrate.

(c) Where two or more Nyaya Panchayats not subordinate to the same District Magistrate have taken cognizance of the same offence, the District Magistrate 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.

## **72. How case may be instituted :-**

A case before a Nyaya Panchayat may be instituted by petition made orally or in writing to the Secretary of the Anchal 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.

## **73. Power to dismiss or refuse to entertain petition :-**

(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.

## **74. Dismissal for default :-**

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.

## **75. Proceedings preliminary to trial :-**

(1) If the petition be not dismissed, the Nyaya Panchayat shall, subject to the provisions of section 102, 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 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 Magistrate by whom such accused was arrested and thereupon such Magistrate shall, notwithstanding anything contained in sub-section (1) of section 71 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.

#### **76. Compounding of offences :-**

Notwithstanding anything contained in the Code of Criminal Procedure, 1898,(Act V of 1898.) the Nyaya Panchayat may allow the parties to compound any offence triable by it.

#### **77. Bar to appeal :-**

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 District Magistrate or Subdivisional 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 71.

#### **78. Power to impose fine or to award compensation :-**

(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 inflicted 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 and 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 Magistrate, who would have had jurisdiction to try the case but for the provisions of this Act, who 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: (Act XLV 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.

**79. Release after admonition or on probation of good conduct :-**

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,(Act V of 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.

**80. Civil jurisdiction :-**

(1) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887(IX of 1887), the Provincial Small Cause Courts Act, 1887(XII of 1887.), and the Code of Civil Procedure, 1908,(Act V of 1908) and subject to the provisions of sections 81 and 82, a Nyaya Panchayat shall have, within the local limits of the Anchal Panchayat constituting such Nyaya Panchayat, jurisdiction to try the following classes of suits when the value of the suit does not exceed one hundred rupees, namely:-

- (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 injuring 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 97 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 98, tried by an ordinary court.

### **81. Suits not to be tried :-**

No suit shall lie in any Nyaya Panchayat-

- (1) on a balance of partnership account;
- (2) for a share or part of a share under an intestacy, or for a legacy or part of legacy under a will;
- (3) 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;
- (4) 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;
- (5) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property; or
- (6) 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.

### **82. Suits to include whole claim :-**

(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.

### **83. Local limits of jurisdiction :-**

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, <sup>1</sup>[or the cause of action] has arisen wholly or in part within those limits.

1. These words within the square brackets were substituted for the words "and the cause of action "by section 11 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

#### **84. How suit may be instituted :-**

(1) A suit before a Nyaya Panchayat may be instituted by petition made orally or in writing to the Secretary of the Anchal 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.

#### **85. Dismissal of suits barred by limitation, etc. :-**

(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 which would have had jurisdiction to try the suit but for the provisions of this Act.

(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.

#### **86. Dismissal of suits for default :-**

If in any suit before a Nyaya Panchayat the plaintiff fails to appear

on the day fixed, or if in the opinion of the 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.

### **87. Summons to defendant to appear :-**

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.

### **88. Ex parte decision :-**

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.

### **89. No order to be set aside without notice to opposite party :-**

No decision or order of a Nyaya Panchayat shall be set aside under the proviso to section 86 or under the proviso to section 88 unless notice in writing has been served by the Nyaya Panchayat on the opposite party.

### **90. Power to determine parties :-**

(1) Subject to the provisions of clauses (3) and (4) of section 81, 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 of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to subsection (1) during the trial of a suit, he may require that the trial shall begin de novo.

### **91. Decision of suits :-**

(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 101, 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 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 and incident 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 a 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.

## **92. Instalments :-**

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.

## **93. Decisions to be final; but power to Munsif to order retrial :-**

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.

## **94. Death of parties :-**

If the plaintiff or defendant in any suit dies before the suit has been decided, the suit may, subject to the provisions of clause (4) of section 81, be proceeded with at the instance of, or against the legal representatives of the deceased plaintiff or defendant, as the case may be.

## **95. Effect of decision on questions of title, etc. :-**

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.

## **Section 96 to 111 - General Provisions**

## **96. Procedure for Nyaya Panchayat :-**

(1) The provisions of-

(a) the Court-fees Act, 1870,(VII of 1870.)

(b) the Code of Criminal Procedure, 1898,(Act V of 1998.)

(c) the Code of Civil Procedure, 1908,(Act V of 1908.) and

(d) the Indian Evidence Act, 1872,(I 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.

**97. Bar to trial of case or suit in which a Panchayat or its member is interested :-**

No Nyaya Panchayat shall try any case or suit or other proceeding to or in which the Anchal Panchayat concerned or any Gram Panchayat within the Anchal Panchayat or any member of such Nyaya Panchayat is a party or is interested.

**98. Withdrawal or transfer of case or suit :-**

(1) the District Magistrate or the Subdivisional 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 the 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 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 the opinion that the suit is one which should not be tried or heard by the Nyaya Panchayat, and may try to 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 subsection (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.

**99. Certain suits and cases not to be tried :-**

(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.

#### **100. Inspection :-**

(1) The District Judge, the District Magistrate and the Subdivisional 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 case and the records of cases maintained by a Nyaya Panchayat.

(2) The District Judge and the Munsif 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 suit and the records of suits maintained by a Nyaya Panchayat.

#### **101. Attendance of witnesses :-**

(1) Subject to the provisions of section 104, 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(Act V of 1908.), shall be required to appear in person before a Nyaya Panchayat.

(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 Anchal Panchayat concerned to give evidence, unless such a sum of money as may appear to the Nyaya Panchayat to be sufficient to defray the travelling and other expenses of such person in passing to and from the Nyaya Panchayat 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 the Nyaya Panchayat may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty-five rupees.

### **102. Appearance of parties :-**

(1) The parties to cases triable by a Nyaya Panchayat shall appear personally before such Panchayat:

Provided that the Panchayat, if it sees reason 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 Subdivisional Magistrates under section 80A of the Indian Registration Act, 1908, (XVI of 1908.) shall be permitted to appear as an agent of a party before a Nyaya Panchayat.

### **103. Legal practitioners not to practise :-**

Notwithstanding anything contained in the Legal Practitioners Act, 1879 (XVIII of 1879), legal practitioners shall not be permitted to practise before a Nyaya Panchayat.

### **104. Appearance of women :-**

No woman shall be compelled to appear in person before a Nyaya Panchayat as an accused, or as a witness.

### **105. Power to issue commission :-**

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.

**106. Trial of suit triable by more than one Nyaya Panchayat**

:-

Where a suit is maintainable in more than one Nyaya Panchayat, the plaintiff may bring the suit in any one of such Nyaya Panchayat; 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.

**107. Realisation of fees and execution of decrees :-**

(1) All fees imposed and all sums due on bonds 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.

(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 subsection (2) is granted, may apply, 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 to section 93 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.

**108. Registers and records :-**

Every Nyaya Panchayat shall maintain such registers and records and submit such returns as may be prescribed.

**109. Resignation by member of Nyaya Panchayat :-**

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.

**110. Filling of casual vacancies :-**

When the place of a member of a Nyaya Panchayat becomes vacant by his resignation or otherwise, a new member shall be elected by the Anchal Panchayat, who shall hold office so long as the member whose place 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.

**111. Removal of members of Nyaya Panchayat :-**

(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.

**CHAPTER 12 Miscellaneous**

**112. Assistance to District Magistrate and other officers :-**

The District Magistrate, the Subdivisional Magistrate, or any other officer authorised by the State Government in this behalf may require an Anchal Panchayat or a Gram Panchayat to assist him in

the performance of his duties within the local limits of his jurisdiction and the Panchayat shall thereupon assist him so far as it lies in its power.

**113. Liability of member, Pradhan, etc.. for loss due to negligence :-**

Every member of an Anchal Panchayat or a Gram Panchayat including the Pradhan, Upa-Pradhan, Adhyaksha and Upadhyaksha shall be jointly and severally liable for the loss, waste or misapplication of any money or property vested in or belonging to the Panchayat concerned, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while holding the office of the Pradhan, Upa-Pradhan, Adhyaksha or Upadhyaksha or member of the Panchayat, and a suit for compensation or a case for breach of trust may be instituted against him by the Panchayat concerned with the previous sanction of the Subdivisional Magistrate:

Provided that if the Subdivisional Magistrate sanctions or refuses to sanction the institution of a suit or case under this section, the member concerned or the Panchayat concerned may, within thirty days from the date of such order, appeal to the District Magistrate against the said sanction or refusal as the case may be and the decision of the District Magistrate thereon shall be final:

Provided further that the District Magistrate or the Subdivisional Magistrate may, of his own motion, direct the Panchayat concerned to institute a suit or case under this section.

**114. Members of Anchal Panchayat, etc., to be public servants :-**

Every member of an Anchal Panchayat or a Gram Panchayat, including the Pradhan, Upa-Pradhan, Adhyaksha and Upadhyaksha<sup>1</sup>[, or of a Nyaya Panchayat including the Pradhan Vicharak,] or of a Joint Committee constituted under this Act and every employee of a Panchayat and of a Nyaya Panchayat shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. (Act XLV of 1860.)

1. These words within the square brackets were inserted by section 12 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

**115. Indemnity :-**

(1) Notwithstanding anything contained in section 113, no suit or other legal proceedings shall be brought against a member including the Pradhan, Upa-Pradhan, Adhyaksha and Upadhyaksha of an Anchal Panchayat or a Gram Panchayat or a member of a Nyaya Panchayat or a Joint Committee constituted under this Act in respect of any act done or purporting to be done under this Act or rules made thereunder or in respect of any alleged neglect or default on his part in the execution of his duties under this Act or any rule or order made thereunder, if such act was done or such neglect or default occurred in good faith.

(2) No suit or other legal proceeding shall be brought against any Gram Panchayat, Anchal Panchayat or Nyaya Panchayat or any of its members or officers, or any person acting under its direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Gram Panchayat, Anchal Panchayat or Nyaya Panchayat and also (if the suit is intended to be brought against any officer of the Gram Panchayat, Anchal Panchayat or Nyaya Panchayat or any person acting under its direction) at the place of abode of the person against whom the suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit; and unless such notice is proved, the court shall find for the defendant.

(3) Every action referred to in sub-section (2) shall be commenced within three months after the accrual of the cause of action, and not afterwards.

(4) If any Gram Panchayat, Anchal Panchayat or Nyaya Panchayat or person to whom a notice under sub-section (2) is given shall, before a suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

### **116. Validation of proceedings :-**

No act of a Gram Panchayat, Anchal Panchayat, Nyaya Panchayat or a Joint Committee or of any person acting as Pradhan, Upa-Pradhan, Adhyaksha, Upadhyaksha or member of any such Panchayat or Committee shall be deemed to be invalid by reason only of a defect in the constitution of such Panchayat or Committee or on the ground that the Pradhan, Upa-Pradhan, Adhyaksha, Upadhyaksha, or any member of such Panchayat or Committee was not entitled to hold or continue in such office by reason of any

disqualification or by reason of any irregularity or illegality in his election or by reason of such act having been done during the period of any vacancy in the office of the Pradhan, Upa-Pradhan, Adhyaksha, Upadhyaksha or member of such Panchayat or Committee.

### **117. Election disputes :-**

(1) The election of a person as the Adhyaksha or Upadhyaksha or as a member of a Gram Panchayat or as the Pradhan or Upa-Pradhan or as a member of an Anchal Panchayat or as the Pradhan Vicharak or as a member of a Nyaya Panchayat shall not be called in question in any Court:

Provided that an application questioning the election may be presented to such authority within such time and in such manner as may be prescribed.

(2) The hearing of the application, the procedure to be followed at such hearing and the disposal of the application shall be in accordance with such rules as may be prescribed.

(3) No Court shall grant an injunction-

(i) to postpone the election of-

(a) a member of a Gram Panchayat or an Anchal Panchayat, or

(b) an Adhyaksha, Upadhyaksha, Pradhan, Upa-Pradhan, Vicharak or Pradhan Vicharak of a Nyaya Panchayat, or

(ii) to prohibit a person, declared to have been elected under this Act, from taking part in the proceedings of a Gram Panchayat, Anchal Panchayat or Nyaya Panchayat, as the case may be, of which he has been elected Adhyaksha, Upadhyaksha, Pradhan, Upa-Pradhan, Vicharak, Pradhan Vicharak or a member; or

(iii) to prohibit the members formally elected or appointed to a Gram Panchayat, Anchal Panchayat or Nyaya Panchayat, as the case may be, under this Act, from entering upon their duties.

### **Section 118 to 118A - Transitory Provisions**

### **118. Transitory provisions regarding cases and suits :-**

<sup>1</sup>[If, on the repeal under section 4, of the Bengal Village Self-Government Act, 1919,( Act V of 1919) or the Bihar Panchayat Raj Act, 1947(Act VII of 1948), within any territorial limits, any case or suit pending before any bench, Court or Gram Cutcherry constituted under any of those Acts cannot be continued before

such bench, Court or Grain Cutcherry on account of its ceasing to have jurisdiction, then such case or suit shall, upon such repeal, stand transferred to the civil or criminal Court of the lowest grade competent to try the same.]

1. Section 118 was substituted for the original section by section 13 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

**118A. Appointment of Administrator where first constitution of Anchal Panchayat or Gram Panchayat delayed by order of Court :-**

<sup>1</sup>[(1) Where by reason of an order of a competent court setting aside, or prohibiting the holding of, any election held or to be held under the provisions of section 11, section 26 or section 27, or otherwise delaying the constitution of an Anchal Panchayat, the first constitution of any Anchal Panchayat after its establishment under section 25 cannot be completed within such time as the prescribed authority considers to be reasonable, the prescribed authority may, with the previous approval of the State Government, appoint an Administrator to exercise or perform, in such manner and subject to such conditions as the prescribed authority may direct, the powers, duties or functions conferred or imposed on such Anchal Panchayat by or under the provisions of this Act or any other Act or any rule made under this Act within the territorial limits of such Anchal Panchayat.

(2) Notwithstanding anything contained in section 4, upon the appointment of an Administrator under sub-section (1) in respect of any Anchal Panchayat,-

(a) the enactments specified in column 3 of Schedule I shall stand repealed or amended within the territorial limits of such Anchal Panchayat to the extent and in the manner specified in column 4 thereof;

(b) any Panchayat appointed under the Village Chaukidari Act, 1870,(Act VI of 1870.) union committee constituted under the Bengal Local Self-Government Act of 1885( Act III of 1885), union board established under the Bengal Village Self-Government Act, 1919,(Act V of 1919.) or Gram Panchayat established under the Bihar Panchayat Raj Act, 1947,(Act VII of 1948.) having jurisdiction within the territorial limits of such Anchal Panchayat shall cease to function within such limits; and

(c) all such properties, funds and other assets and all such rights

and liabilities of such Panchayat, union committee, union board or Gram Panchayat, as the case may be, as are relatable to the area within the territorial limits of such Anchal Panchayat in accordance with the allocation determined by the prescribed authority by an order made in this behalf shall, subject to such conditions as the prescribed authority may direct, vest in the Administrator.

(3) The appointment of any Administrator under sub-section (1) in respect of any Anchal Panchayat shall terminate immediately on the completion of the constitution of such Anchal Panchayat and the properties, funds, assets, rights and liabilities vested in the Administrator under clause (c) of sub-section (2) shall thereupon stand transferred to and vest in such Anchal Panchayat.

(4) If the first constitution of any Gram Panchayat for a Gram Sabha comprised in an Anchal Panchayat in respect of which an Administrator has been appointed under sub-section (1) has not been completed by reason of an order of a competent Court then, during such period as the constitution of such Gram Panchayat cannot be completed,-

(a) the Administrator appointed under sub-section (1) shall, in such manner and subject to such conditions as the prescribed authority may direct, also exercise or perform the powers, duties or functions conferred or imposed on such Gram Panchayat by or under the provisions of the Act or any other Act or any rule made under this Act within the area of the Gram Sabha concerned; and

(b) the properties to be vested in such Gram Panchayat under section 61 shall, subject to such conditions as the prescribed authority may direct, be vested in the Administrator.

Explanation.-For the purposes of this section, the constitution of an Anchal Panchayat shall be deemed to be completed on the election of its Pradhan and Upa-Pradhan under section 27, and the constitution of a Gram Panchayat shall be deemed to be completed on the election of its Adhyaksha and Upadhyaksha under sub-section (6) of section 11.]

1. Section 118A was inserted by section 2 of the West Bengal Panchayat (Amendment) Act, 1967 (West Ben. Act X of 1967).

## **Section 119 to 119 -**

## **Removal of Difficulty**

### **119. Removal of difficulty :-**

If in establishing, constituting or in the working of, an Anchal Panchayat or a Gram Panchayat in any local area, any dispute or

difficulty arises in the interpretation of any provision of this Act, or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in the Act, the State Government may, by order, decide the same and authorise any matter or thing to be done which appears to it to be necessary for the purpose of removing such difficulty, and the decision of the State Government shall be final.

## **CHAPTER 13 POWER TO MAKE RULES**

### **120. Rules :-**

(1) The State Government may, after previous publication, make <sup>1</sup>rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) any matter for which power to make provision is conferred expressly or by implication on the State Government by this Act;

(b) the establishment of any authority under, and the exercise of powers and performance of duties conferred and imposed upon the State Government by this Act;

(c) the establishment of Anchal Panchayats and Gram Panchayats;

(d) the records and registers that shall be maintained by an Anchal Panchayat, a Gram Panchayat and a Nyaya Panchayat;

(e) the time of holding meetings of a Gram Sabha referred to in sub-section (4) of section 8, the manner of notifying the time and place of such meetings and of the meetings of an Anchal Panchayat and Gram Panchayat, and the manner of conducting business at such meetings, adjournment of meetings and recording the minutes of the meetings;

(f) <sup>2</sup>[the time and manner of] <sup>3</sup>electing members of an Anchal Panchayat, a Gram Panchayat and a Nyaya Panchayat, the deposit to be made by candidates standing for election to the Gram Panchayat, the conditions under which such deposits may be forfeited and the disposal of election disputes;

(g) the manner of recruitment of the staff of an Anchal Panchayat and a Gram Panchayat and the manner of their dismissal, discharge, removal, superannuation, punishment and right of appeal;

(h) the manner of convening a special meeting of an Anchal Panchayat or a Gram Panchayat for the purpose of removing an Adhyaksha, Upadhyaksha, Pradhan or Upa-Pradhan;

- (i) the manner in which and the conditions under which an Anchal Panchayat or a Gram Panchayat is to function as the agent of the State Government or the District Board;
- (j) the manner in which two or more Gram Panchayats may combine to appoint a Joint Committee;
- (k) the forms to be used under this Act;
- (l) the method and time of payment of taxes and other dues, the procedure or recovery; and the authority whose assistance may be taken by an Anchal Panchayat for the recovery of taxes and dues;
- (m) the method of crediting the receipts from various sources to the Anchal Panchayat Fund;
- (n) the manner of crediting the sale proceeds of unclaimed cattle;
- (o) the conditions subject to which an Anchal Panchayat may borrow money;
- (p) the imposition of taxes, tolls, fees and rates, and the manner of assessment and appeal against assessment;
- (q) the framing of budgets;
- (r) the keeping of accounts;
- (s) the audit of accounts and powers of auditors;
- (t) the returns and reports to be submitted by an Anchal Panchayat and a Gram Panchayat and a Nyaya Panchayat;
- (u) the strength, salary, nature and the cost of equipment of the dafadars and chowkidars and all matters relating to their duties, powers and functions and their recruitment, conditions of service, superannuation, discipline, punishment and dismissal;
- (v) the procedure to be followed by a Nyaya Panchayat in trying suits and cases;
- (w) the particulars to be contained in the order or decree of a Nyaya Panchayat;
- (x) the fees to be levied by a Nyaya Panchayat for institution of suits and cases, issue of processes and supplying copies of documents and other papers;
- (y) the issue, service or execution of summons, notices and other processes by a Nyaya Panchayat;
- (z) the procedure for execution of decrees, orders and sentences passed by a Nyaya Panchayat;
- <sup>4</sup>(zz) any other matter which may be, or is required to be, prescribed.

(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 clauses (f), (g), (j), (1), (p), (q), (u) and



(v) of sub-section (2) 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.

1. For the West Bengal Panchayat Rules, 1958, made under this section, see notification No. 1870 L.S.G./3R-15/57, dated 3.8.58, published in the Calcutta Gazette. Extraordinary of 1958, Part I, pages 757-810.

2. These words within the square brackets were substituted for the words "the manner of by section 14 of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).

3. For the West Bengal Nyaya Panchayat Election Rules, 1960, made under section 120(1) and (2)(f) of the Act, see notification No. 3222/DP/N-1/60, dated 1.11.60, published in the Calcutta Gazette. Extraordinary of 1960, Part I, pages 2921-2927.

For the West Bengal Anchal and Gram Panchayat (Account and Audit) Rules, 1959, made under section 120(1) and (2)(g), (r) and (s) of the Act, see notification No. 3566/ L.S.G./3R-15/57. dated 24.4.59, published in the Calcutta Gazette of 1959, Part I, pages 1651-1656, as subsequently amended.

4. Inserted by section 2(9) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965).

## **SCHEDULE 1**

### **SCHEDULE I**

#### **SCHEDULE I**

Enactments Repealed or Amended.  
(Section 4)

11. In section 131, the words "or union committee", occurring in two places, shall be omitted.

12. In section 132, the following shall be omitted, namely:-

(i) in the first paragraph, the words "or union committee", in the four places where they occur.

(ii) in the second paragraph, the words "or committee".

<b>Year.</b>	<b>No.</b>	<b>Short title.</b>	<b>Extent of repeal or amendment.</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1870	VI . .	The Village	The whole. except the preamble and section 1.

		The Village Chaukidari Act, 1870.	48 to 61 (Part II), 66, 67 and 69 and Schedules C and D shall be repealed.
1871	I . .	The Bengal Village Chaukidari Act, 1871.	The whole shall be repealed.
1885	I . .	The Bengal Ferries Act, 1885.	For section 35, the following section shall be substituted, namely:- "35. It shall be lawful for the State Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated; and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32; and thereupon the ferries shall be managed accordingly. The State Government may from time to time vary or annul any order made under this section."
1885	III . .	The Bengal Local Self- Government Act of 1885.	<p>1. In section 5, for the definition of "local authority" the following shall be substituted, namely:- "local authority" means any district board, local board or joint committee constituted under this Act, or any Anchal Panchayat or Gram Panchayat Act, 1957].</p> <p>2. In sub-section (1) of section 7A, in clause (ii), after the words "or as chaukidari tax, or" the words "as rates or tax under 1[the West Bengal Panchayat Act, 1957], or".</p> <p>3. In sections 18 and 18A, for the words "local board or union committee" the words "or local board" shall be substituted.</p> <p>4. Section 36 and the whole of Chapter II of Part I (sections 37 to 44 ) shall be repealed.</p> <p>5. For sub-clause (d) of clause Fifthly of section 53, the following shall be substituted, namely:- "(d) any sums assigned by the district board to a local board or to an Anchal Panchayat constituted under 2[the West Bengal Panchayat Act, 1957]".</p> <p>6. The whole of Chapter III of Part II (sections 56 to 58) shall be repealed.</p> <p>7. In section 73, the following words and figures shall be omitted, namely:- "but subject to the provisions of Chapter III of Part III thereof."</p> <p>8. In section 89, the following words shall be inserted at the beginning of the section,</p>

			namely:- "Subject to the provisions of 1[the West Bengal Panchayat Act, 1957,]".
			9. The whole of Chapter III of Part III (sections 104 to 119) shall be repealed.
			10. In section 130, the following shall be omitted, namely:- (i) in the first paragraph, the following:- "in respect of a union committee, by the district board or the local board to which the committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate, and";
			(ii) the whole of the second and third paragraphs, namely:- "When a local board makes any order under this section, it shall forthwith submit to the district board a copy of the order, with a statement of its reasons for making it, and with any explanation which the union committee concerned may wish to offer. The district board may thereupon confirm, modify or rescind the order"; and (iii) in the penultimate paragraph, the words or union committee".
			13. Section 133 shall be repealed.
			14. In section 138,- (1) the following shall be omitted, namely:- (i) in the first paragraph, the words "or union committee"; (ii) clauses (q) and (q1); and (iii) the whole of the last paragraph; (2) in clause (t) for the words "district boards, local boards and union committees" the words "district boards or local boards" shall be substituted.
			15. In section 142, for the words "local board or union committee" the words "or local board" and for the words "union committee, local board or district board" the words "district board or local board" shall be substituted.
			16. In section 144, for the words "local authority" wherever they occur, the words "district board or local board" shall be substituted.
			17. In section 145, for the words "Every local authority" the words "The district board", and for the words "the district or union funds respectively", the words "the district fund," shall be substituted.
			18. In section 146, in the first paragraph, the

			words "or union committee" and, in the two places where they occur, the words "or committee" shall be repealed and the word "or" shall be inserted after the words "district board". The whole shall be repealed.
1919	V ..	The Bengal Village Self-Government Act, 1919.	
3 1930	VII ..	The Bengal (Rural) Primary Education Act, 1930.	<p>1. In section 2,- (1) before clause (1) the following clause shall be inserted, namely:- (a1) "Anchal Panchayat" means an Anchal Panchayat constituted under the West West Ben. Bengal Panchayat Act, Act I of 1957. 1957;; (2) after clause (9), the following clause shall be inserted, namely:- (9a) "Gram Panchayat" means a Gram Panchayat con-stituted under the West Bengal Panchayat Act, 1957;;</p> <p>(3) in clause (16), for the words "or a Panchayat" the words ", a Panchayat, a Gram Panchayat or an Anchal Panchayat" shall be substituted.</p> <p>2. In clause (g) of section 6, for the words "and Panchayats within the subdivision" the words ", Panchayats and Anchal Panchayats within the subdivision" shall be substituted.</p> <p>3. In section 7, for the words "and Panchayats", in the two places where they occur, the words ", Panchayats and Anchal Panchayats" shall be substituted.</p> <p>4. In section 23- (1) in sub-section (1),- (i) in clause (c), for the words "or Panchayat" the words ", Panchayat or Gram Panchayat" shall be substituted; (ii) in clause (f), for the words "and Panchayats" the words Panchayats, Gram Panchayats and Anchal Panchayats" shall be substituted; (2) in sub-section (2), for the words "or Panchayat" the words ", Panchayat or Gram Panchayat" shall be substituted.</p>
		"Tax for primary education.	<p>5. For section 34, the following section shall be substituted:- 34. (1) The District Magistrate or one of his subordinate officers shall from time to time examine the assessment list prepared under section 16 of the Village Chaukidari Act, 1870, and Ben. Act VI shall consider the assessment made of 1870.</p> <p>under section 38 of the Bengal Ben. Act V Village</p>

			<p>Self-Government Act, of 1919. 1919, and under clause (a) of sub-section (1) of section 57 of the West West Ben. Bengal Panchayat Act, 1957, and, Act I of 1957. after such inquiry as he considers necessary, shall prepare a list of all person assessed to pay the chaukidari rate or the union rate or the Panchayat tax, as the case may be, who, in his opinion have been so assessed wholly or in part in respect of their circumstances arising out of their trade, profession, employment, vocation or calling.</p>
			<p>(2) The District Magistrate shall assess a tax on each of such persons not exceeding one hundred rupees per annum.</p>
			<p>(3) The amount of tax so assessed shall be communicated to the Union Board, Panchayat or Anchal Panchayat concerned, and the Union Board, Panchayat or Anchal Panchayat shall collect and shall have power to collect the tax in the same manner as the union rate or the chaukidari rate or the Panchayat tax: Provided that the period within which the tax may be collected shall be three years from the date on which the tax becomes due.</p>
			<p>(4) Any arrear of the said tax may be recovered by any process enforceable for the recovery of an arrear of union rate or chaukidari rate or Panchayat tax.</p>
			<p>(5) The Union Board, Panchayat or Anchal Panchayat shall remit the amount of tax realised under this section to the District Magistrate after deducting ten percent. thereof to defray the cost of collection:</p>
			<p>Provided that the Union Board, Panchayat or Anchal Panchayat shall in addition be entitled to claim and retain ten per cent. of the total collection made by it during any financial year out of the taxes assessed under sub-section (2) for that financial year, if such total collection amounts to at least eighty per cent. of the aggregate of the taxes assessed for that financial year under that sub-section.</p>
			<p>(6) The proceeds of the said tax in each district shall be paid by the District Magistrate into the District Primary Education Fund of such district.</p>
			<p>Explanation.-In this section "Panchayat tax" means-</p>
			<p>(a) the tax assessed under clause (a) of sub-section (1) of section 57 of the West West Ben. Bengal Panchayat Act, 1957, Act I of or 1957.</p>

			<p>(b) until any tax is so assessed, the chaukidari rate or the union rate assessed under the Village Chaukidari Act, Ben. Act VI 1870, or the Bengal Village of 1870 Self-Government Act, 1919, Ben. Act V and continuing in force under the proviso to sub-section (1) of section 4 of the West Bengal Panchayat Act, 1957."</p> <p>6. In the heading of Chapter VIII, for the words "and Panchayats" the words ", Panchayats, Gram Panchayats and Anchal Panchayats" shall be substituted.</p> <p>7. In section 51, for the words "or Panchayats", in the two places where they occur, the words ", Panchayats, Gram Panchayats or Anchal Panchayats" shall be substituted.</p> <p>8. In section 53- (1) after the words "Bengal Village Ben. Act V Self-Government Act, 1919" the of 1919 words "or in sub-section (4) of section 11 or section 30 of the West Bengal Panchayat Act, 1957" shall be inserted; (2) after the words "every Union Board", the words ", Gram Panchayat or Anchal Panchayat" shall be inserted.</p> <p>9. In sections 56, 60, 60A and 61, for the words "or Panchayat", wherever they occur, the words ", Panchayat or Gram Panchayat" shall be substituted.</p> <p>10. In sub-section (2) of section 66,- (a) in clause *(1), after the words "the Union Board" the words ", Gram Panchayat or Anchal Panchayat" shall be inserted; (b) in clause (25), for the words "and Panchayats" the words ", Panchayats, Gram Panchayats and Anchal Panchayats" shall be substituted.</p>
		Cooch Behar Act.	
1893	III ..	Cooch Behar Village Chowkidary Act, 1893.	The whole shall be repealed.
		Bihar Act.	
1948	VII ..	The Bihar Panchayat Raj Act. 1947.	The whole shall be repealed.
		Central Act.	

1871	I ..	The Cattle-trespass Act, 1871.	<p>In section 32 as substituted by section 3 of the Cattle-trespass (Bengal Amendment) Act, 1947 (Ben. Act IV of 1947),-</p> <p>(1) In sub-section (1),-</p> <p>(a) after the figure "1919" the following words shall be inserted, namely:- "or 4[a Pradhan of an Anchal Panchayat] constituted under the West Bengal Panchayat Act, West Ben. 1957," : Act I of 1919.</p> <p>(b) after the words "Union Board" the words "or 5[Anchal Panchayat]" shall be inserted;</p> <p>(c) in the proviso,-</p> <p>(i) for the words "or President", in the two places where they occur, the words ", President or 6[Pradhan]" shall be substituted;</p> <p>(ii) after the words "Union Board", the words "or the 7[Upa-Pradhan of such Anchal Panchayat]" shall be inserted;</p> <p>(2) in sub-section (2),-</p> <p>(a) for the words "or President" the words ", President or 8[Pradhan]" shall be substituted;</p> <p>(b) for the words "or Vice-President" the words ", Vice-President or 9[Upa-Pradhan]" shall be substituted;</p> <p>(c) for the words "or the President", the words ", the President or the 10[Pradhan]" shall be substituted.</p>
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1. These words within the square brackets were substituted for the words "the West Bengal Panchayat Act, 1956" by section 15(a) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).
2. See foot-note 1 on page 68, ante.
3. The entries relating to "The Bengal (Rural) Primary Education Act, 1930, the entries under the headings "Cooch Behar Act.", "Bihar Act" and "Central Act" were inserted by section 15(b) of the West Bengal Panchayat (Amendment) Act, 1959 (West Ben. Act XV of 1959).
4. Substituted for the words "an Adhyaksha of a Gram Panchayat" by section 2(10)(I)(i) of the West Bengal Panchayat and Zilla Parishads (Amendment) Act, 1965 (West Ben. Act XXVII of 1965)
5. Substituted for the words "Gram Panchayat" by section 2(10)(I) (ii), *ibid*.
6. Substituted for the words "Adhyaksha" by section 2(10)(I) (iii) (a), *ibid*.
7. Substituted for the words "Upadhyaksha of such Gram Panchayat" by section 2(10) (I) (iii)(b), *ibid*.
8. Substituted for the words "Adhyaksha" by section 2(10)(2)(i), *ibid*.
9. Substituted for the words "Upadhyaksha" by section 2(10)(2)(ii), *ibid*.
10. Substituted for the words "Adhyaksha" by section 2(10)(2)(iii), *ibid*.

\*. Sic, For"(1)" read "(1)"—printing mistake.

## **SCHEDULE 2**

### **SCHEDULE II**

#### **SCHEDULE II.**

Offence to be reported by a chowkidar and a dafadar.

(See section 53.)

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, housebreaking, counterfeiting currency notes, coins or stamps, possessing instruments or materials for the purposes of such counterfeiting, causing grievous hurt, riot, administering stupedfying drugs, kidnapping, personating public servants, manufacturing, selling or possessing arms without a license and going armed without a license, and all attempts, preparations and conspiracies to commit, and abetments of, the said offences.

#### **Offences Triable by a Nyaya Panchayat.**

**(See sections 70 and 71.)**

##### **Part A.**

1. Offences under sections 26 and 27 of the Cattle-trespass Act, 1871.(I of 1871.)
2. Offences under enactments (other than the Indian Penal Code and this Act (Act XLV of 1860.)) or any rules or by-laws made thereunder which are punishable with fine only up to a limit of twenty-five rupees.
3. Offences under section 34 of the Police Act, 1861(V of 1861.).
4. Offences under the Bengal Ferries Act, 1885,(Act I of 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, 334, 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 twenty 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 twenty rupees, section 403.