

## **West Bengal Panchayat Act, 1973**

**41 of 1973**

**[17 January 1974]**

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**West Bengal Panchayat Act, 1973**

**41 of 1973**

**[17 January 1974]**

An Act to reorganise Panchayats in rural areas of West Bengal and to provide for matters connected therewith. WHEREAS it is expedient to reorganise Panchayats in rural areas of West Bengal and to provide for matters connected therewith: It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows-- 1. For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Part IVA, of the 3rd May, 1973, page 1354; for report of the Select Committee



on the Bill, see the Calcutta Gazette, Extraordinary, Part IVA, of the 27th August, 1973, pages 2511-2602; for Proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly held on the 10th May, 1973 and 30th and 31st August, 1973.

PART 1

PART I

CHAPTER 1

PRELIMINARY

**1. Short Title, Extent And Commencement :-**

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

1

(c) the Calcutta Municipal Corporation Act, 1980(W.B. Act 59 of 1980),

(d) the Siliguri Municipal Corporation Act, 1990(W.B. Act 30 of 1990),

(g) the West BengalMunicipal Act, 1993 (W.B. Act 22 of 1993),  
any parts or modifications thereof apply or mayhereafter be applied].

(3)This section shall come intoforce at once; the remaining sectionsshall come into force2 onsuch date or dates and in such area or areas as the State Government may, bynotification, appoint and different dates may be appointed for differentsections and for different areas.

1 . Substitutedby s. 2 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. ActXXIV of 1997) w.e.f. 5.1.1998, for the following :

"(2) It extends to the whole of West Bengal, except the areas to which theprovisions of--

(a) theCooch Behar Town Committee Act, 1903 (Cooch Behar Act IV of 1903),

(b) theCantonments Act, 1924 (2 of 1924),

(e) theHowrah Municipal CorporationAct, 1980 (West Ben. Act LVIII of 1980),

(f)the Calcutta Municipal Corporation Act, 1980(West Ben. Act XXX of 1980),

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

(i) the Chandernagore Municipal Corporation Act, 1990 (West Ben. Act XXXII

of 1990), or any parts or modifications thereof, apply or may hereafter be applied."

2. Sections 2 to 224 of this Act came into force on 1st February, 1974 in the whole of West Bengal except the areas included in (i) police-stations of Asansol, Chittaranjan, Kulti, Hirapur, Salampur, Jamuria, Barabani, Faridpur, Ranigunj, Durgapur, Ondal in the district of Burdwan; (ii) coalfield areas in the district of Bankura, Purulia and Darjeeling; and (iii) Tea Gardens, Cinchona Plantations and Reserve Forests, vide Notification No. 13850-Panch, dated 29.1.1974, published in the Calcutta Gazette, Extraordinary, Part I, of the 1st February, 1974, page 199.

## **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context,--

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

(2) "Block" means an area referred to in section 93; means the Mahakuma Parishad for the subdivision of Siliguri in the district of Darjeeling constituted under section 185B;]

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

1 1 [(13a) "Municipality" means an institution of self-government constituted under Article 243Q of the Constitution of India;]

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

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

1 2 [(15a) "office bearer" means the Pradhan, Upa-Pradhan, Sabhapati, Sahakari-Sabhapati, Sabhadhipati or Sahakari Sabhadhipati or any two or more of them together;

(15b) "Panchayat" means an institution of 13 [self-government constituted under Article 243B of the Constitution of India], and includes Gram Panchayat, Panchayat Samiti, Mahakuma Parishad or Zilla Parishad;]

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

1 4 [(16a) "population" means the population as ascertained at the

last preceding census of which the relevant figures have been published;]

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

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

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

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

15 [(20a)"recognised political party" means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;]

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

(22)"Sabhadhipati" means a Sabhadhipati of a Zilla Parishad 16 [elected under section 143, and includes the Sabhadhipati of Mahakuma Parishad;

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

(24)"Sahakari-Sabhadhipati" means a Sahakari-Sabhadhipati of a Zilla Parishad, 17 [elected under section 143, and includes the Sahakari-Sabhadhipati of the Mahakuma Parishad];

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

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

18 [(26a)"State Election Commissioner" means the State Election Commissioner referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994 (West Ben. Act VIII of 1994;]

19 [(26b)"State Government" means the State Government in the Department of Panchayats and Rural Development;]

(27)"State Planning Board" means the West Bengal State Planning

Board established by the State Government;

20 means a Zilla Parishad of a district constituted under section 140.

1. Inserted by s. 2(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Inserted by s. 2(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). 6) "Director of Panchayat" means the Director of Panchayats, Department of Panchayats, Government of West Bengal, and includes a Joint Director of Panchayats, a Deputy Director of Panchayats and an Assistant Director of Panchayats;

5. Substituted by s. 3(2), of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997), w.e.f. 5.1.1998, earlier which was as follows: "Panchayat Officer" means an officer appointed as such by the State Government;

6. Inserted by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

7. Substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

8. Substituted by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994) for clause (11a). That was earlier substituted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

9. Inserted by s. 2(c) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

10. Substituted by s. 3(2) of the West Bengal Panchayat (Amendment) Act 1994 (West Ben. Act XVIII of 1994), earlier it was as follows:

(13) "mouza" means an area defined, surveyed and recorded as a distinct and separate village in the revenue record of the district in which it is situated;

11. Inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995) w.r.e.f. 28.02.1994.

12. Inserted by s. 3(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

13. Substituted by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997 for the words "self-government".

14. Added by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

15. 1988) for the words and numbers "elected under section 143".

17. Substituted by s. 2(e) of the West Bengal Panchayat

(Amendment) Act, 1988 (West Ben. Act XX of 1988) for the words and numbers "elected under section 143".

18. Inserted by s. 3(5) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

19. Inserted by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

20.

## PART 2

### GRAM PANCHAYAT

## CHAPTER 2

### CONSTITUTION OF GRAM PANCHAYAT

### **3. Gram :-**

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

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

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

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

Inserted by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

2.

(b) allocate to each such constituency seats, 14 [not exceeding two], on the basis of electorate of the Gram; [Provided that such division into constituencies and such allocation of seats shall be made in such manner that the ratio between the population of the Gram and the number of seats in the Gram Panchayat shall, so far as practicable, be the same in any Gram Panchayat.

(3A) 16 [\*\*\*]

(4) Every Gram Panchayat constituted under this section shall 17 [ \* \* \* ] be notified in the Official Gazette and shall come into the office with effect from the date of its first meeting at which a quorum is present.

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

corporatename, sue and be sued.

1. Substituted by s. 4(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994) for the words "of the West Bengal Legislative Assembly in force on last date of nominations for Panchayat election".
2. Substituted by s. 4(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983) for the words "not being less than seven".
3. Substituted by s. 4(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994) for the words "more than twenty-five".
4. Substituted by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978) for the words "as may be determined by the prescribed authority in accordance with such rules as may be made in this behalf by the State Government". members so elected shall be members of the Gram Panchayat" by s. 3(1) (a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). order fresh determination".
10. Substituted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997), w.e.f. 5.1.1998, for the words "and the reservation of the number of seats".
11. Inserted by s. 3(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.
12. Inserted by s. 3(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).
13. Omitted the words "not being less than three or more than fourteen" by s. 4(b) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).
14. Substituted by s. 4(b), *ibid*, for the words "not exceeding three".
15. Omitted by s. 4(c) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983), which was earlier inserted by s. 3(b) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978).
17. Omitted the words and numbers, "notwithstanding anything contained in section 210," by s. 4(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which were earlier inserted by s. 3(c) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978).

#### **4. Gram Panchayat And Its Constitution :-**

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

(2) Persons whose names are included in the electoral roll 1 [prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election] pertaining to the area comprised in the Gram, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members 2 [not being less than five] or 3 [more than thirty] 4 [as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine] 5 [\*\*\*];

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

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

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

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section 7 [ \* \* \* ], when the number of members to be elected to a Gram Panchayat

is determined by the prescribed authority or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a Gram Panchayat in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

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

8 [Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing 9 [, by order, direct the prescribed authority to make fresh determination] of the number of members of a Gram Panchayat or fresh reservation on rotation of the number of seats in such Gram Panchayat and, on such order being issued by the State Election Commissioner, the determination of the number of members 10 [or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for 11 [the next] three successive general elections:

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

12 [(2A) The Gram Panchayat shall consist of the following members:

(i) members selected under sub-section (2);

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

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

(a) divide the area of a Gram into constituencies 13 [ \* \* \* ] on the basis of number of members of Gram Panchayat determined under subsection (2);

## **5. Effect Of Alteration Of The Area Of A Gram :-**

(1) When an area is excluded from a Gram under clause (a) of subsection (3) of section 3, such area shall, as from the date of the notification referred to in that sub-section, cease to be subject to the jurisdiction of the Gram Panchayat of the Gram and, unless the



State Government otherwise directs, to the rules, orders, directions and notifications in force therein.

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

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

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

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

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

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

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

1. Substituted by s. 5(a) of the West Bengal Panchayat

(Amendment) Act, 1983 (West Ben. ActII of 1983).

2. Substitutedby s. 5(b), of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. ActII of 1983).

3.Explanation inserted. by s. 4 of the West BengalPanchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997),w.e.f. 8.8.1997.

## **6. Effect Of Inclusion Of A Gram Or Part Thereof In Municipality, Etc :-**

(1) If at any time, the whole of the area of a Gram is included in a municipality 1 [by a notification under any law for the time being in force or in an area under the authority of] a Town Committee or a Cantonment, the Gram Panchayat concerned shall cease to exist 2 [within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier,] and the properties, funds and other assets vested in such Gram Panchayat and all the rights and liabilities of such Gram Panchayat shall vest in and devolve on the Commissioners of the Municipality 3 [\* \* \*] or on the Town Committee or on the Cantonment Authority, as the case may be, 4 [in accordance with the orders of the prescribed authority. The persons employed under such Gram Panchayat shall, 5 [with effect from the date on which the Gram Panchayat ceases to exist,] be deemed to be employed by the Municipality 6 [\* \* \*] or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.]

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

accordance with such allocation as may be determined by the prescribed authority and such determination shall be final and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in the area under the authority of the Municipality, Town Committee or Cantonment as the case may be, shall apply to the part of the area of the Gram so included.]

1. Substituted by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words and numbers "on in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation."
2. Inserted by s. 3(b), of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.
3. Omitted the words "or the notified area authority or on the Municipal Corporation" by s. 3(c) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.
4. Inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).
5. Substituted by s. 3(d) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "with effect from the date of such inclusion,".
6. Omitted the words "or the notified area authority or on the Municipal Corporation" by s. 3(e), *ibid*, w.r.e.f. 28.12.1994.
7. Substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, which was earlier as follows :

"(2) If, at time, a part of the area of a Gram is included in a municipality or in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation, a Town Committee or a Cantonment, the area of the Gram shall be deemed to have been reduced to the extent of the part so included in a municipality or in the area constituted as notified area or under the authority of a Municipal Corporation, a Town Committee or a Cantonment, and the properties, funds liabilities of the Gram Panchayat concerned, in respect of the part so included shall vest in and devolve on the Commissioners of the Municipality or the notified area authority or on the Municipal Corporation or on the Town Committee or on the Cantonment Authority, as the case may be, in accordance with such

allocations may be determined by the prescribed authority and such determination shall be final and, unless the State Government otherwise directs all rules, orders, directions and notifications in force in the area under the authority of the Commissioners of the Municipality, notified area authority, Municipal Corporation, town Committee or Cantonment, as the case may be, shall apply to the part of the area of the Gram so included. "

## **6A. Constitution Of Gram Panchayat Comprising Whole Or Part Of Area Of Municipality :-**

1

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

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

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

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

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

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

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

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

Inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 18.12.1994.

## **7. Term Of Office Of Members Of Gram Panchayat :-**

(1) The members of a Gram Panchayat shall, subject to the

provisions of sections 11 and 213A, hold office for a period of five years from the date appointed for its first meeting and no longer.

1.

(2) The period of five years referred to in sub-section (1) shall be held to include any period which may elapse, between the expiry of the said period and the date of the first meeting of the newly formed Gram Panchayat after a fresh election at which a quorum is present: Provided that if such first meeting of the newly-formed Gram Panchayat cannot be held within three months of the expiry of the said period of five years, the State Government may, by order, terminate the term of office of the members of the Gram Panchayat continuing in office under this sub-section and appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Gram Panchayat under this Act or any other law for the time being in force until the date on which such first meeting of the newly-formed Gram Panchayat is held."

## **7A. General Election To Gram Panchayat :-**

Omitted by sec. 6 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).]

Inserted by sec. 4 of the West Bengal Panchayat (Amendment) Act, 1982 (West Ben. Act XVII of 1982). Thereafter the section omitted by sec. 6 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to omission, section 7A stood as under:

"7A. General election to Gram Panchayat.--(1) There shall be held a general election for the constitution of a Gram Panchayat in accordance with the provisions of section 4 before the expiry of the term of office of the members thereof under section 7.

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

Provided also that in the event of the number of Grams having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of the offices of the Pradhan and the Upa-Pradhan required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the Pradhan and the Upa-Pradhan beginning from the Gram having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:]

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

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Pradhan in a Gram Panchayat is reserved for any category of persons in accordance with the rules in force, the office of the Upa-Pradhan in that Gram Panchayat shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the Upa-Pradhan, such office is required to be reserved for the said term of

election, such reservation for the same category shall be made in another office of the Upa-Pradhan within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

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

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

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

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

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

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

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

(3) The Pradhan and the Upa-Pradhan shall, subject to the provisions of section 12 and to their continuing as members, hold office for a period of 8 [five years]:

9[ \*\*\*]

(4) When--

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

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

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

(6) When the office of the Pradhan and the Upa-Pradhan are both vacant, or the Pradhan and the Upa-Pradhan are temporarily unable to act, the prescribed authority may appoint 10 [for a period of thirty days at a time] a Pradhan and an Upa-Pradhan from among the members of the Gram Panchayat to act as such until a Pradhan or an Upa-Pradhan is elected and assumes office 11 [or until the Pradhan or the Upa-Pradhan resumes duties, as the case may be].

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

12 [(8) On election of the Pradhan following a general election or the office of the Pradhan otherwise falling vacant, the Pradhan holding office for the time being or the Upa-Pradhan or any authority or any other member exercising the

powers, performing the functions and discharging the duties of the Pradhan shall make over all cash, assets, documents, registers and seals which he may have in his possession, custody or control as soon thereafter as possible on such date, place and hour as may be fixed by the Block Development Officer to the newly-elected Pradhan or, in the case of a vacancy occurring otherwise, to the Upa-Pradhan or to the authority or person, as the case may be referred to in the proviso to sub-section (2) of section 7 or sub-section (6) of this section or clause (b) of sub-section (1) of section 215 13 [or section 216] in the presence of the Block Development Officer or any other officer authorised in writing by him in this behalf.]

14. Inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

11. Inserted by s. 6(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

15. [9A. Penalty for default

1. Inserted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

2. Inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

## **8. Disqualifications Of Members Of Gram Panchayat :-**

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

(a) he is a member of 1 [\* \* \*] any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or  
2 [(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti 3 [or a Zilla Parishad or the Mahakuma Parishad or the Council;] and for the purposes of this clause, it is hereby, declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any University or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or]

(c) he has, directly or indirectly by him Self or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the Gram Panchayat, or the Panchayat Samiti of the Block comprising the Gram concerned, 4 [or the Zilla

Parishad of the district, or the Mahakuma Parishad, or the Council:]  
Provided that no person shall be deemed to be disqualified for being elected a member of a Gram Panchayat by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956 (1 of 1956), which contracts with or is employed by the Gram Panchayat or Panchayat Samiti of the Block comprising the Gram 4 [or the Zilla Parishad of the districts or the Mahakuma Parishad or the Council;] or

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

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

(f) he is an undischarged insolvent; or

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

5 [(h) (i) he has been convicted by a court--

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

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

(C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 (West Ben. Act X of 1952) and five years have not elapsed from the date of the expiration of the sentence; or

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

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

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

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

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

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



1. Omitted the words "a Nyaya Panchayat or a Panchayat Samiti or a Zilla Parishad or of" by s. 5(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).
2. Substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985).
3. Substituted by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "or a Zilla Parishad;".
4. Substituted by s. 3(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988), for "or the Zilla Parishad of the district;".
5. Substituted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, which was earlier as follows:  
"(h) he has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter IXA of the Indian Penal Code or section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 or Chapter III or Part VII of the Representation of the People Act, 1951; and five years have not elapsed from the date of the expiration of the sentence; or".
6. Inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

## **9. Pradhan And Upa-Pradhan :-**

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

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

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

is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:]

4 [5 [Provided also] that subject to such rules as may be made by the State Government in this behalf, the offices of the Pradhan and the Upa-Pradhan shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

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

(5) When--

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

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

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

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

1. Inserted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

2. Substituted by s. 8(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "shall not be eligible for such election."

3. Inserted by s. 7(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

4. Added by s. 8(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

5. Substituted by s. 7(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), for the words "Provided further".

6. Provisos inserted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997), w.e.f. 5.1.1998.

7. Provisos inserted by s. 8(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

8. Substituted by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), for the words "four years".

9. Omitted by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"Provided that a Pradhan or Upa-Pradhan shall continue in office after the expiry of the said period until a new Pradhan or Upa-Pradhan is elected and assumes office or until an authority, or a person or persons is or are appointed under the proviso to sub-section (2) of section 7."

10. Inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

12. Inserted by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

13. Inserted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

14. Inserted by s. 6(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

9A Penalty For Default

## **10. Resignation Of Pradhan Or Upa-Pradhan Or A Member :-**

(1) A Pradhan or Upa-Pradhan 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 the Pradhan, the Upa-Pradhan or the member shall be deemed to have vacated his office.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Gram Panchayat within thirty days of such acceptance.

### **11. Removal Of Member Of Gram Panchayat :-**

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

(a) 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

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

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

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

(e) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act or the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919), or the West Bengal Panchayat Act, 1957 (West Ben. Act 1 of 1957), or the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963).

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

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

## **12. Removal Of Pradhan And Up-Pradhan :-**

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

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

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

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

1. Substituted by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994) for the words "A Pradhan or an Upa-Pradhan".

2 . Substituted by s. 9(b), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by a resolution of the Gram Panchayat carried by the majority of the existing members of the Gram Panchayat.

3. Inserted by s. 9(c) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

4. Substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, which was earlier as follows:

"Provided also that there shall not be more than one resolution for the removal of the Pradhan or the Upa-Pradhan within a period of six months".

## **13. Filling Of Casual Vacancy In The Office Of Pradhan Or**

## **Upa-Pradhan :-**

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

## **14. Filling Of Casual Vacancy In Place Of A Member Of Gram Panchayat :-**

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

## **15. Term Of Office Of Pradhan, Upa-Pradhan Or Member Filling Casual Vacancy :-**

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

## **16. Meetings Of Gram Panchayat :-**

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

Provided that the first meeting of a newly-constituted Gram Panchayat shall be held <sup>2</sup> [on such date and at such hour and] at such place within the local limits of the Gram concerned as the prescribed authority may fix:

Provided further that the Pradhan when required in writing by <sup>3</sup> [one-third] of the members of the Gram Panchayat subject to a minimum of <sup>4</sup> [three members] to call a meeting <sup>5</sup> [shall do so fixing the date and hour of the meeting <sup>6</sup> [to be held] within fifteen days after giving intimation to the prescribed authority and seven days, notice to the members of the Gram Panchayat,] failing which the members aforesaid may call a meeting <sup>7</sup> [to be held] <sup>8</sup> [within thirty-five days] after giving intimation to the prescribed authority and seven clear days notice to the Pradhan and other

members of the GramPanchayat. Such meeting shall be held 9 [in the office of the GramPanchayat on such date and at such hour] as the members calling the meeting may decide. 10 [The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take action thereon as it may deem fit.]

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

12 Inserted by s. 8(1), of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

13 . Substituted by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for "one-fourth".

15 . Substituted by s. 8(2), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for "four".

16. Inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **16A. Meetings Of The Gram Sansad :-**

1 [16A. 2 Meetings of the Gram Sansad

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

(2) Every Gram Panchayat shall hold within the local limits of the Gram an annual and a half-yearly meeting for each 3 [Gram Sansad] at such place, on such date and at such hour as may be fixed by the Gram Panchayat:

Provided that the annual meeting of the 3 [Gram Sansad] shall be held ordinarily in the month of May and the half-yearly meeting of the 3 [Gram Sansad] shall be held ordinarily in the month of November every year:

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

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

(4) Every meeting of the 3 [Gram Sansad] shall be presided over by the Pradhan and, in his absence, by the Upa-Pradhan and in the absence of both, the member or

one of the members, as the case may be, elected from the constituency comprising the 3 [Gram Sansad] or, in the absence of such member or members, any other member of the Gram Panchayat shall preside over the meeting :

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

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

6 [(4A) One-tenth of the total number of members shall form a quorum of a Gram Sansad:

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

(5) The attendance of the members of the 3 [Gram Sansad] in the annual and the half-yearly meeting and the proceedings of such meetings shall be recorded by such officer or employees of the Gram Panchayat or, in the absence of the officers and employees of the Gram Panchayat, by such member of the Gram Panchayat as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the presiding member shall then sign it.]

8 [(6) A Gram Sansad shall guide and advise the Gram Panchayat in regard to the schemes for economic development and social justice undertaken or proposed to be undertaken in its area and may, without prejudice to the generality of such guidance and advice,--

(a) identify, or lay down principles for identification of, the schemes which are required to be taken on priority basis for economic development of the village,

(b) identify, or lay down principles for identification of, the beneficiaries for various poverty alleviation programmes,

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

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

1. Substituted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), which was earlier inserted by s. 9 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) as follows:

"16A. Public meeting of the Gram Panchayat.--(1) Every Gram Panchayat shall hold within the local limits of the Gram an annual and a half-yearly public meeting for each constituency of the Gram at such place, on such date and at such hour as may be fixed by the Gram Panchayat:

Provided that such annual or half-yearly meeting for a number of constituencies of a Gram Panchayat taken together may be held at the same place and on the same date and hour:

Provided further that the annual public meeting shall ordinarily be held in the month of May and the half-yearly public meeting shall ordinarily be held in the month of November every year.

(2) The Gram Panchayat shall, at least seven days before the date of holding the meetings referred to in sub-section (1), give public notice of such meetings by beat of drums as widely as possible, announcing the place, date and hour of the meeting. A notice of such meeting shall also be hung up in the office of the Gram Panchayat."

2. Substituted by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997) w.e.f. 8.8.1997, for "Public meeting of the Gram Panchayat". [16B. Public meeting of the Gram Sabha members:

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

## **17. List Of Business To Be Transacted At A Meeting :-**



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

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

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

### **17A. Transaction Of Business At Gram Sansad Meeting :-**

(1) The Gram Panchayat shall place for 3 [deliberation, recommendation and suggestion]--

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

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

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

8 [(b) in the half-yearly meeting of the Gram Sansad--

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

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

(2) Such other business relating to the affairs of the Gram Panchayat may also be transacted at such annual or half-yearly 9 [meeting of the 10 [Gram Sansad]] as may be agreed upon by the persons present at such meeting.]

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

1. Substituted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997., for the words "Transaction of business at public meetings."

3. Substituted by s. 8(1), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "public meeting".

5.. Substituted by s. 7(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), for the words "the budget of the Gram Panchayat". shall be deemed to be modified to the extent of the recommendations and suggestions, if any, of the Gram Sabhas of the Gram" by s. 12(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which were earlier added by s. 8(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). meeting of the Gram Sabha, the latest report on the audit of the accounts of the Gram Panchayat". Substituted by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "public meeting".

10. Inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

12. Chowkidars".

6. Substituted by s. 8(b), of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "performance by Dafadars and Chowkidars".

7. Inserted by s. 3 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

### **18. Report On The Work Of Gram Panchayat :-**

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

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

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

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

1. Original section 18 renumbered as sub-section (1) of that section by s. 11 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Inserted by s. 11, of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)

3. Added by s. 13 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

### **CHAPTER 3**

### **POWERS AND DUTIES OF GRAM PANCHAYAT**

### **19. Obligatory Duties Of Gram Panchayat :-**

1 [(1) A Gram Panchayat shall function as a unit of self-government

and, in order to achieve economic development and secure social justice for all, shall, subject to such conditions as may be prescribed or such directions as may be given by the State Government,--

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

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

2 [(2) 3 [Without prejudice to the generality of the provisions of sub-section (1) and subject to such conditions as may be prescribed or such directions as may be given by the State Government,] the duties of Gram Panchayat shall be to provide within the area under its jurisdiction for--

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

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

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

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

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

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

(l) the maintenance and 5 [control of Dafadars, Chowkidars and Gram Panchayat Karmees] within its jurisdiction and securing due 6 [performance by the Dafadars, Chowkidars and Gram Panchayat Karmees] of the duties imposed on them under this Act;

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

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

of the Gram Sansad.]

(c) management of any public ferry under the Bengal Ferries Act, 1985 (Ben. Act 1 of 1985);

3 [(e) agriculture including agricultural extension and fuel and fodder;]

(f) care of the infirm and the destitute;

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

(l) arranging for cultivation of land lying fallow;

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

1 . Substituted by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "or vocational education".

2. Inserted by s. 9(b), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

3 . Substituted by s. 9(c), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), which was earlier as follows : "(e) grow-more-food campaign;"

4. Inserted by s. 9(d) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

5. Inserted by s. 9(e), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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

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

(f) the allotment of places for storing manure;

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

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

2

(m) the disposal of unclaimed cattle;

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

3

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

(p4) public distribution system;

(r) the performance in the manner prescribed or any of the functions of 4 [the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be,] with its previous approval, calculated to benefit the people living within the jurisdiction of the Gram Panchayat;

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

Inserted by s. 10(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

2. Inserted by s. 10(c), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

4.

## **20. Other Duties Of Gram Panchayat :-**

(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<sup>1</sup> [vocational, adult or non-formal education;]

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

(d) irrigation<sup>2</sup> [including minor irrigation, water management and watershed development];

(g) rehabilitation of displaced persons;

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

(j) bringing waste land under cultivation<sup>4</sup> [through land improvement and soil conservation];

(k) promotion of village plantations<sup>5</sup> [, social forestry and farm forestry];

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

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

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

6 [(q) minor forest produce;

(r) rural housing programme;

(s) rural electrification including distribution of electricity;

(t) non-conventional energy sources; and

(u) women and child development.]

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

6. Inserted by s. 9(f), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Zilla Parishad. "[Provided that such erection of new structure or new building or such addition to any structure or building or such permission of the Gram Panchayat shall be subject to such rules as may be made by the State Government in this behalf:

3

(b) does not have any provision for erection or construction of a sanitary latrine of any description.]] [Provided that no permission under sub-section (1) shall be necessary for erection of any new thatched structure, tin shed or tile shed without brick wall covering an area not exceeding 6 [eighteen square meters where such structure or shed does not cover more than three-fourths of the total area of the land (including appurtenant land) and there is a setback of not less than nine-tenth metre on the road- side :]

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

(3) On receipt of such application the authority, after making such enquiry as it considers necessary and 7 [in accordance with such rules as may be made by the State Government in this behalf,] shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.

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

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

(6) Where 8 [any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be,] in contravention of the provisions of sub-section (1), the authority may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be specified in the order and in default the authority may itself effect the

demolition and recover the cost thereof from the owner as a public demand.

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

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

(d) deepen or otherwise improve such waterways;

(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.

1.

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

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

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

(2) The Upa-Pradhan shall--

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

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

. Inserted by s. 13 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

## **21. Section 21 :-**

## **22. State Government To Place Funds . Necessary For The Performance Of Functions And Duties Under Section 20 Or 21 At The Disposal Of The Gram Panchayat :-**

Where the State Government assigns any function to a Gram Panchayat under section 20 or where it directs a Gram Panchayat to make provision for any of the items enumerated in section 21, it

shall place such funds at the disposal of the Gram Panchayat as may be required for the due performance of such function or for making such provision, as the case may be.

### **23. Control Of Building Operation :-**

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

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

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

(2) Every person seeking permission under sub-section (1) shall make an application in writing to such authority, in such form, containing such particulars and on payment of such fee 4 [ \* \* \* ] as may be prescribed :

5

1 . Substituted by s. 12(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "erect any structure or building".

2. Added by s. 15(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

3. Substituted by s. 12 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, which was earlier as follows :

"Provided further that a Gram Panchayat shall not accord permission for erection of a new structure, or construction of a new building, having provisions for erection or construction, as the case may be, of any dry latrine, by whatever name called."

4 . Omitted the words "not exceeding twenty-five rupees," by s. 15(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

5. Inserted by s. 12(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

6 . Substituted by s. 15(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "two hundred square feet:".

7. Substituted by s. 15(3) of the West Bengal Panchayat



(Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "within such time as may be prescribed".

8 . Substituted by s. 12(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "any structure or building is being or has been erected".

9. Substituted by s. 12(d), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

#### **24. Improvement Of Sanitation :-**

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

(a) to close, remove, alter, repair, cleanse, disinfect, or put in good order any latrine, urinal, water- closet, drain, cesspool, or other receptacle for filth, sullage, rubbish or refuse pertaining to such land and 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 neighborhood;

(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 neighborhood;

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

(d) to remove any dirt, dung, night soil, manure or any obnoxious or offensive matter there from and to cleanse the land or building:

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

Provided further that the prescribed authority shall, when it

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

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

## **25. Power Of Gram Panchayat Over Public Streets, Waterways And Other Matters :-**

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

(a) construct new bridges and culverts;

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

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

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

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

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

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

Inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

## **26. Power Of Gram Panchayat In Respect Of Polluted 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 the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case

may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

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

## **28. 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 Pradhan, the Upa-Pradhan or any other person authorised by the Pradhan 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.

### **29. Power Of Recovery Of Cost For Work Carried Out By Gram Panchayat On Failure Of Any Person :-**

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

### **30. 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 Panchayat 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.

### **31. Delegation Of Functions By Zilla Parishad :-**

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

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

1. Inserted by s. 7(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

2 . Substituted by s. 7 (b), of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988). , for "the Zilla Parishad."

### **32. Delegation Of Functions Of Gram Panchayat To Its Pradhan :-**

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

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

### **32A. Constitution Ofupa-Samitis And Delegation Of Powers, Functions And Duties Of Gram Panchayats To The Upa-Samitis :-**

<sup>1</sup>[32A. Constitution of Upa-Samitis and delegation of powers, functions and duties of Gram Panchayats to the Upa-Samitis

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

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

(i) Artha O Parikalpana Upa-Samiti,

(ii) Krishi O Pranisampad B ikas Upa-Samiti,

(iii) Siksha O Janasasthya Upa-Samiti,

(iv) N ari, Sishu Unnayan O Samaj Kalyan Upa-Samiti,

(v) Sh ilpa O Parikathama Upa-Samiti, and

(vi) such other Upa-Samiti as the Gram Panchayat may, subject to the approval of

the State Government, constitute.

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

(a) the Pradhan and the Upa-Pradhan, ex officio,  
(b) such number of members as may be prescribed, to be elected by the members from among themselves; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

( 7) Each Upa-Samiti shall hold at least six meeting in a year in the office of the Gram Panchayat.]

1 . Substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 2003

(West Ben. Act VIII of 2003). Earlier section 32 was inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992) and then substituted by s. 13 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997) as follows:

"32A. Delegation of powers, functions and duties of Gram Panchayats to its members .-- ( 1) Subject to such direction as may be issued by the State Government in this behalf, a Gram Panchayat shall, as soon as may be within three months following the first meeting referred to in section 9, by a resolution carried by the majority of the existing members at a meeting specially convened for the purpose, arrange its powers, functions or duties referred to in Chapter III of this Act, into such number of sets as it may consider necessary and delegate powers, functions or duties relating to any such set or sets to one member or a group of members, severally or jointly as it may think fit:

Provided that the Gram Panchayat may take one or more such resolutions in different meetings on different dates:

Provided further that each member of the Gram Panchayat shall be delegated, severally or jointly, one or more such sets of powers, functions or duties.

( 2) When a Gram Panchayat delegates powers, functions or duties to a group of members, the Gram Panchayat shall also nominate one member from the group to act as Convenor for the group and such Convenor shall be responsible for convening the meetings of the group, shall coordinate functions of members within the group and prepare and place report of actions taken or proposed to be taken to the Pradhan and the Gram Panchayat from time to time :"

Provided that the group shall devise its own procedure for holding the meetings and for performing other functions subject to the direction of the Gram Panchayat and the State Government.

( 3) Without prejudice to the generality of the provisions under sub-section ( 1), the Gram Panchayat shall form one or more sets of powers, functions or duties relating to development of women and children, welfare of the Scheduled Castes and Scheduled Tribes, family welfare and other social welfare programmes and shall delegate powers, functions or duties with respect to any such set to one woman member or a group of members and in any such group, women shall comprise not less than half members:

Provided that for such group, the Convenor referred to in sub-section ( 2) shall be a woman.

( 4) The delegation referred to in sub-section ( 1) or sub-section ( 3) shall not prejudice the powers, functions and duties of the Pradhan or the Upa-Pradhan under section 34:

Provided also that no financial power shall be delegated to any such member, severally or jointly.

( 5) The member or the group of members referred to in sub-section ( 1) or subsection ( 3), may--

(a) take, subject to the directions of the Pradhans, the assistance of the employees of the Gram Panchayat.

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

(c) may place before the Pradhan and the Gram Panchayat a proposal for execution of a scheme, programme or project and may seek sanction of fund for such purpose and the Pradhan or the Gram Panchayat shall consider the proposal for execution and for sanction of fund:

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

( 6) The Gram Panchayat may, at any time, by a resolution carried by the majority of the existing members at a meeting specially convened for the purpose, rearrange, modify or withdraw such delegation and again delegate the powers, functions or duties so withdrawn to another member or a group of members as the case may be.",



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

### **34. Powers, Functions And Duties Of Pradhan And Upa-Pradhan :-**

(1) The Pradhan shall--

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

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

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

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

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

#### **CHAPTER 4**

#### **ESTABLISHMENT OF GRAM PANCHAYAT**

### **35. Secretary Of The Gram Panchayat :-**

(1) There shall be a Secretary for every Gram Panchayat appointed by the State Government or any authority empowered by the State Government in this behalf. [(2) The Secretary shall be responsible for maintenance and upkeep of the records of the office of the Gram Panchayat and shall discharge such duties as may be prescribed.]

(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity, of the Secretary.

. 2) The Secretary shall be in-charge of the office of the Gram Panchayat and shall discharge such duties as may be prescribed."

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Gram Panchayat without the prior approval of the State Government or such authority subordinate to it as may be prescribed.

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

2 [(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the Gram Panchayat.]

1. Inserted by s. 14(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Inserted by s. 14(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **36. Staff Of The Gram Panchayat :-**

(1) Subject to such rules as may be made by the State Government in this behalf, a Gram Panchayat may appoint such officer and employees as may be required by it and may fix the salaries and allowances to be paid to the persons so appointed:

(2) The State Government may place at the disposal of the Gram Panchayat the services of such officers or other employees serving under it 1 [and on such terms and conditions] as it may think fit:

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

### **36A. Exercise Of Powers, Etc. By The Officers And Employees :-**

1 [36A. Exercise of powers, etc. by the officers and employees

#### **CHAPTER 5**

DAGADARS, CHOWKIDARS AND GRAM PANCHAYAT KARMEES

### **37. Dafadars, Chowkidars And Gram Panchayat Karmees :-**

#### **37. 1 Dafadars, Chowkidars and Gram Panchayat Karmees**

(1) For general watch and ward, prevention of crime, protection of life and property 2 [, running of office of the Gram Panchayat] and discharging all functions relevant thereto as hereinafter provided within the local limits of the jurisdiction of a Gram Panchayat every Gram Panchayat shall, unless otherwise directed or other provisions are made by the State Government, maintain under its control such number of 1 [Dafadars, Chowkidars and Gram Panchayat Karmees] as the State Government may by general or special order determine.

(2) 3 [The manner of maintenance of Dafadars, Chowkidars and Gram Panchayat Karmees by a Gram Panchayat,] the salary, allowances and gratuity to be paid to them and the nature and the cost of their equipment and all matters relating to their recruitment, conditions of service, superannuation, discipline, punishment and dismissal shall be determined in accordance with such rules as may be made:

Provided that the Gram Panchayat shall have disciplinary control over 4 [Dafadars, Chowkidars and Gram Panchayat Karmees].

1. Substituted by s. 9(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "Defadars and Chowkidars".

2. Inserted by s. 9(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

3. Substituted by s. 9(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "The number of Dafadars and Chowkidars to be maintained by a Gram Panchayat and".

4. Substituted by s.9(b) ibid, w.r.e.f. 28.12.1994, for the words "Defadars and chowkidars."

### **38. State Government May Contribute Cost Of Maintenance :-**

The State Government may contribute to the Gram Panchayat Fund the entire or any part of the cost of maintenance of 1 [Dafadars, Chowkidars and Gram Panchayat Karmees] including the amount necessary for the payment of salary, allowances, provident fund and gratuity to 1 [Dafadars, Chowkidars and Gram Panchayat Karmees] and the amount necessary for their reward and

equipment.

1. Substituted by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "Defadars and Chowkidars".

### **39. Powers And Duties Of Chowkidars, Dafadars And Gram Panchayat Karmees :-**

1 Powers and duties of Chowkidars, Dafadars and Gram Panchayat Karmees

(1) 2 [Every Chowkidar or Gram Panchayat Karmee] shall exercise the following powers and perform the following duties, namely--

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

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

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

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

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

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

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

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

(g) any released convict committing a breach of any rule made under sub-section (3) of section 565 of the Code of Criminal

Procedure, 1898 (5 of 1898);

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

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

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

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

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

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

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

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

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

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

(xiii) he shall serve such processes as may be prescribed upon persons residing within the jurisdiction of the Gram Panchayat; 3 [ \* \* \* ]

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

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

thereunder.

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

1. Substituted by s. 9(d), of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), for the words "Powers and duties of Chowkidars and Dafadars".

2. Substituted by s. 9(d), of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "Every Chowkidar".

3. Omitted the word "and" by s. 9 (d) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

4. Inserted by s. 9(d), of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

5. Original clause (xiv) renumbered as clause (xv) of that sub-section by s. 9(d) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

#### **40. Arrested Person To Be Taken To Police-Station :-**

Whenever a 1 [Dafadar, Chowkidar or Gram Panchayat Karmee] arrests any person under section 39 he shall forthwith take the person so arrested to the police-station having jurisdiction over the area in which the arrest is made:

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

1. or a Chowkidar". other things provided for such streets;

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

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

(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 subsoil appertaining thereto shall also be deemed to vest in the Gram Panchayat:

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

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

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

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

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

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

## CHAPTER 6

### PROPERTY AND FUND

#### **41. Power To Acquire, Hold And Dispose Of Property :-**

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

Provided that in all cases of acquisition or disposal of immovable property the Gram Panchayat shall obtain the previous approval of the State Government.

#### **42. Vesting Of Public Properties In Gram Panchayat :-**

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

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

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

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

(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 subsoil appertaining thereto shall also be deemed to vest in the Gram Panchayat:

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

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

(e) all public lamps, lamp-posts and apparatus connected therewith



or appertaining thereto; and

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

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

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

#### **43. Allocation Of Properties To Gram Panchayat :-**

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

#### **44. Acquisition Of Land For Gram Panchayat :-**

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

1. Substituted by s.16 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act xxxvii of 1984), for the words "District Magistrate".

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

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

(b) contributions and grants, if any, made by the Zilla Parishad, 1 [Mahakuma Parishad, Council,] Panchayat Samiti or any other local authority;

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

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

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

(b) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the Gram Panchayat save and except in pursuance of a resolution in a meeting of the Gram Panchayat accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.]

(a) the cost of administration of the Nyaya Panchayat, and

(c) the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Secretary.

(4) The Gram Panchayat Fund shall be vested in the Gram Panchayat and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

Provided that the Executive-Assistant shall be responsible for writing the cheques for signature under the direction of the Pradhan subject to the resolution of the Gram Panchayat:

Explanation.--In this section,--

(b) "Executive Assistant" or a Gram Panchayat means an employee appointed as such by a Gram Panchayat under section 36 in terms of such rules as the State Government may make in this behalf and shall also include any other employee of the Gram Panchayat empowered to perform the functions of the Executive Assistant.]

4. Substituted by s. 15(2) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), which was earlier as follows:

"(5) Subject to such general control as the Gram Panchayat may exercise from time to time, all orders for payment from the Gram Panchayat Fund shall be signed by the Pradhan, or in his absence, by the Upa-Pradhan. All cheques shall be signed jointly by the Pradhan and the Upa-Pradhan and in the absence and in the Pradhan or the Upa-Pradhan, as the case may be, by the Upa-Pradhan or the Pradhan and another member authorised by the Gram Panchayat at a meeting in this behalf:

Provided that any casual absence of the Pradhan or the Upa-Pradhan for a period not exceeding five consecutive days shall not be construed as absence of the Pradhan or the Upa-Pradhan, as the case may be, for the purpose of this sub-section:

#### **46. Imposition Of Tax By Gram Panchayat :-**

(1) Subject to such rules as may be made in this behalf, a Gram Panchayat shall impose yearly--

1 [(a) on lands and buildings within the local limits of its jurisdiction, a tax--

(i) at the rate of 2 [one per centum] of the annual value of such lands and buildings when the annual value does not exceed rupees one thousand, and

4 [\* \* \*]

(2) The following lands and buildings shall be exempted from imposition of tax under sub-section (1), namely:--

(b) lands and buildings belonging to a local authority and used or intended to be used exclusively for a public purpose and not used or intended to be used for purposes of profits;

(3) The State Government may, by notification, exempt either wholly or in part any other class of properties or classes of properties specified in the notification from the taxes or rates leviable under this section.

(5) Subject to such rules as may be made in this behalf a Gram Panchayat shall levy--

(b) a duty in the shape of an additional stamp duty at the rate of ten per centum on all payments for admission to any entertainment.

Explanation.--In this section.

(b) "entertainment" includes any exhibition, cinematograph exhibition, performance, amusement, games or sports to which persons are admitted for payment;

. Substituted by s. 18(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

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3 . Substituted by s. 18(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "fifty rupees".

6. Omitted by s. 12(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), which was earlier as follows:

"(4) The tax payable under this Act by any person in the employment of any government, local authority, company, firm or other association of persons shall be paid by such person or shall be deducted in the manner prescribed, as the case may be, by the Principal Officer thereof from any amount payable to such person on behalf of such government, local authority, company, firm or other association of persons and the Principal Officer shall deliver

the amount in the manner prescribed to the Gram Panchayat concerned." means with reference to--

(ii) a local authority, company, firm or other association of persons, the Chairman, Secretary, Treasurer, Manager or agent of such local authority, company, firm or other association of persons..

(ii) fees on plaints and petitions and other processes in suits and cases instituted before the Nyaya Panchayat concerned;

(iv) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Gram Panchayat within its jurisdiction;

(vi) a conservancy rate, where arrangement for clearing private latrines, urinals and cesspools is made by the Gram Panchayat within its jurisdiction;

(ix) tolls in respect of any ferry established by, or under the management of, the Gram Panchayat,]

(xii) a drainage rate where arrangement for regular clearance of common drains is made by the Gram Panchayat within its jurisdiction;

(xv) fees on registration for 5 [shallow or deep tube-wells] fitted with motor-driven pump sets and installed for irrigation for commercial purposes, subject to such terms and conditions as may be prescribed.

6 [(xvi) fees on the village produces sold in the village market organized by the Gram Panchayat to be determined by means of weight, measurement or by number or any two or more of them;

(xvii) fees on erection, exhibition, fixing or retaining upon or over any land, building, wall, hoarding, or structure, any advertisement for public display in any manner whatsoever, in any place whether public or private excepting those exhibited by the State Government in the public interest.].

(2) The Gram Panchayat shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and melas within its jurisdiction or levy fee therefor if such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority. shall be such as may be provided by bye-laws.

(4) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.]

1 . Substituted by s. 13(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the

words "fees and rates,".

2 . Inserted by s. 13(2), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

3. Substituted by s. 18(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "licence".

4. Inserted by s. 18 (1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

5. Substituted by s. 5(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003), for the words "shallow tube-wells".

6. Added by s. 5(2), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

7. Inserted by s. 18(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

#### **47. Levy Of Rates And Fees :-**

(1) Subject to such maximum rates as the State Government may prescribe, a Gram Panchayat may levy the following 1 [fees, rates and tolls.] namely:--

(i) fees on the registration of vehicles;

(iii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and mela/as within its jurisdiction as maybe specified by the State Government by notification;

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

2 [(vii) fees on 3 [registration] for running trade, wholesale or retail, within the jurisdiction of the Gram Panchayat unless such 4 [registration] on such trade is prohibited under any law for the time being in force;

(viii) tolls on persons, vehicles or animals or any class of them at any toll bar which is established by the Gram Panchayat on any road or bridge vested in, or under the management of, the Gram Panchayat;

4 [(x) fees on licence on dogs and birds and other domestic per animals;

(xi) a general sanitary rate where arrangement for the construction and maintenance of public latrines is made by the Gram Panchayat within its jurisdiction;

(xiii) fees for grazing cattle on grazing land vested in, or under the management and control of, the Gram Panchayat,

(xiv) fees for use of burning ghat vested in, or under the management and control of, the Gram Panchayat,

Explanation.--In this clause, "commercial purpose" includes any purpose for which irrigation water is supplied to the land of any person, other than the owner of the shallow tube-well, on realisation of water rates, by whatever name called, from the owner of such land.]

7 [(3) The scales of tolls, and the fees or rates and the terms and conditions of imposition thereof, shall be such as may be provided by bye-laws.

(4) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.]

1 . Substituted by s. 13(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "fees and rates,".

2 . Inserted by s. 13(2), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

3. Substituted by s. 18(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "licence".

4. Inserted by s. 18 (1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

5. Substituted by s. 5(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003), for the words "shallow tube-wells".

6. Added by s. 5(2), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

7. Inserted by s. 18(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

#### **47A. Power To Borrow Money :-**

A Gram Panchayat may borrow money from the State Government or 2 [ \* \* \* ] from banks or other financial institutions for furtherance of its objective on the basis of such specific schemes as may be drawn up by the Gram Panchayat for the purpose.]

2 [(2) (a) The budget prepared under sub-section (1) shall be written in vernacular of the district or the locality concerned and copies of the budget shall be posted in such prominent places within the Gram Panchayat as may be prescribed, inviting objections and suggestions by the members of the Gram Sabha.

(c) The budget with objections, suggestions and views, if any, received from various quarters shall, within such period as may be prescribed, be placed in the meeting of the Gram Sabha for discussions proposing modification, if any, of the budget.

(e) A copy of the budget approved under clause (d) shall be forwarded to the Panchayat Samiti having jurisdiction.]

3. Substituted by s. 20(3) of the West Bengal Panchayat (Amendment) Act, 1994

(West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti". sub-section (1) shall be forwarded to the Panchayat Samiti having jurisdiction.]  
 .Original section 49 renumbered as sub-section (1) of that section by s. 21(1), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti".  
 2. Substituted by s. 21(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti", for the words "submit it to the Panchayat Samiti for approval".  
 3. Inserted by s. 21(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti".

#### **48. Budget Of The 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 1 [ \* \* \* ].

(b) Copies of the budget shall be forwarded to the Panchayat Samiti having jurisdiction over the Gram for its views, if any.

(d) The Gram Panchayat shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions, and views, if any, and the discussions in the meeting of the Gram Sabha, and approve the budget with modifications, if any,

(3) No expenditure shall be incurred unless the budget is approved 3 [under clause (d) of sub-section (2).]

1. Omitted the words "and shall submit the budget to the Panchayat Samiti having jurisdiction over the area of Gram" by s. 20(1), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

2. Substituted by s. 20(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"(2) The Panchayat Samiti may, within such time as may be prescribed, either approve the budget or return it to the Gram Panchayat for such modifications as it may direct. On such modifications being made the budget shall be resubmitted within such time as may be prescribed for approval of the Panchayat Samiti. If approval of the Panchayat Samiti is not received by the Gram Panchayat by the last date of the year the budget shall be deemed to be approved by the Panchayat Samiti."

#### **49. Supplementary Budget :-**

1 [(1)] A Gram Panchayat may prepare in each year a

supplementary estimate providing for any modification of its budget and 2 [approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

3 [(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the Panchayat Samiti having jurisdiction.]

.Original section 49 renumbered as sub-section (1) of that section by s. 21(1), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti".

2. Substituted by s. 21(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti"., for the words "submit it to the Panchayat Samiti for approval".

3. Inserted by s. 21(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the Panchayat Samiti".

## **50. Accounts :-**

A Gram Panchayat shall keep such accounts and in such form as may be prescribed.

### CHAPTER 7

#### NYAYA PANCHAYATS

## **51. Constitution Of Nyaya Panchayat :-**

(1) Every Gram Panchayat shall, if authorised by the State Government by notification to do so, constitute a Nyaya Panchayat, consisting of five members, to be called Vicharaks, elected by it at such time and in such manner as may be prescribed from amongst persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in the Gram, other than a person who is a member of any Gram Panchayat, Panchayat Samiti 1 [Zilla Parishad, Mahakuma Parishad, Council] or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1, for the trial of--

(b) all or any of the classes of civil suits specified in section 61:

(2) Every Nyaya Panchayat constituted under sub-section (1) shall be notified in the Official Gazette, or in such other manner as may be prescribed, and shall come into office with effect from the date



specified in the said notification.

(4) The term of office of a member of a Nyaya Panchayat shall be 2 [five years] from the date of the notification mentioned in sub-section (2):

(5) No Nyaya Panchayat shall try any suit, case or other proceeding pending before it unless at least three members of the Nyaya Panchayat are present during such trial.

## **52. Criminal Jurisdiction :-**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), a Nyaya Panchayat constituted under section 51 shall have jurisdiction, within the local limits of the Gram Panchayat constituting such Nyaya Panchayat, to try all offences specified in the Second Schedule, Part A; and, with effect from the date specified in the notification referred to in sub-section (2) of section 51, no other court shall, except as otherwise provided in this Act, take 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 78 from trying or which should be, in the opinion of the Nyaya Panchayat or of the Sessions Judge or the Sub-divisional Judicial Magistrate exercising the power conferred by sub-section (1) of section 79, tried in an ordinary court.

(2) A Nyaya Panchayat may try any offence specified in the Second Schedule, Part B, if the case is transferred to it by a Sessions Judge, a Sub-divisional Judicial Magistrate or any other Judicial Magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898 (5 of 1898):

Provided that--

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

(b) the Sessions Judge or Sub-divisional Judicial Magistrate may transfer any case from one Nyaya Panchayat to another or to any other court subordinate to him if in the interest of justice he considers it necessary to do so;

(c) the Sessions Judge or Sub-divisional Judicial Magistrate may, with the consent of the parties, transfer any case cognizable by a Nyaya Panchayat, if the place of residence of the complainant is situated within the limits of a Gram Panchayat for which there is no

Nyaya Panchayat, to any Nyaya Panchayat situated at a distance from such place of residence convenient, in the opinion of the Sessions Judge or the Sub-divisional Judicial Magistrate, as the case may be, for the parties and witnesses.

(3) Every offence triable by a Nyaya Panchayat shall ordinarily be tried by the Nyaya Panchayat within the local limits of whose jurisdiction it was committed.

(4) The offence of theft triable by a Nyaya Panchayat or any offence which includes theft or the possession of stolen property, triable by a Nyaya Panchayat, may be tried by the Nyaya Panchayat within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

(5) An offence triable by a Nyaya Panchayat, committed whilst the offender is in the course of performing a journey, may be tried by the Nyaya Panchayat through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which; the offence was committed, passed in the course of that journey.

(6) When it is uncertain in which of several areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one and continues to be committed in more local areas than one, or where it considers of several acts done in different local areas, it may be tried by a Nyaya Panchayat having jurisdiction over any such local areas.

(7) Whenever a question arises as to which of two or more Nyaya Panchayats subordinate to the same Sub-divisional Judicial Magistrate ought to try any offence, it shall be decided by the Sub-divisional Judicial Magistrate.

(8) Whenever a question arises as to which of two or more Nyaya Panchayats not subordinate to the same Sub-divisional Judicial Magistrate, but subordinate to the same Sessions Judge, ought to try any offence, it shall be decided by the Sessions Judge.

(9) Where two or more Nyaya Panchayats not subordinate to the same Sessions Judge have taken cognizance of the same offence, the Sessions Judge within the local limits of whose jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Nyaya Panchayat subordinate to him and if he so decides all other proceedings against such person in respect of such offence shall be discontinued.

### **53. How Case May Be Instituted :-**

A case before Nyaya Panchayat may be instituted by petition more orally or in writing to the Secretary of the Gram Panchayat or in his absence to a member of the Nyaya Panchayat. If the petition is made orally, the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the offence and such other particulars, if any, as may be prescribed, and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be; shall; thereafter; direct the petitioner to appear before the Nyaya Panchayat on a particular date.

### **54. 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, 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.

### **55. 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.

### **56. Proceeding Preliminary To Trial :-**

(1) If the petition be not dismissed, the Nyaya Panchayat shall, subject to the provisions of section 83, by summons require the accused to appear and answer the petition.

(2) If the accused fails to appear or cannot be found, the Nyaya Panchayat shall report the fact to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the offence but

for the provisions of this Act, who may issue a warrant for the arrest of the accused and when arrested may forward him for trial to the Nyaya Panchayat or release him on bail to appear before it.

(3) The Nyaya Panchayat shall, if possible, try the case on the day on which the accused appears or is brought before it, but if that is not possible, the Nyaya Panchayat shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before it on any subsequent day or days to which the trial may be adjourned:

Provided that if the accused fails or refuses to execute a bond, the Nyaya Panchayat shall, instead of releasing him, send him back under custody to the Sub-divisional Judicial Magistrate by whom such accused was arrested and thereupon such Sub-divisional Judicial Magistrate shall, notwithstanding anything contained in sub-section (1) of section 52, take cognizance of the complaint made before the Nyaya Panchayat and shall try such accused person in the same manner and under the same procedure as if the complaint were made before him.

### **57. Compounding Of Offences :-**

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), the Nyaya Panchayat may allow the parties to compound any offence triable by it.

### **58. Bar To Appeal :-**

Notwithstanding anything contained in the Code of Criminal Procedure 1898 (5 of 1898), there shall be no appeal by a convicted person in any case tried by a Nyaya Panchayat:

Provided that the Sessions Judge or Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the Nyaya Panchayat is situate, if satisfied that failure of justice has occurred, may, of his own motion, or on the application of any of the parties concerned, made within thirty days from the date of the order of the Nyaya Panchayat, cancel or modify any order of conviction or of compensation made by a Nyaya Panchayat or direct the retrial of any case by a court of competent jurisdiction subordinate to him, notwithstanding anything contained in sub-section (1) of section 52.

### **59. 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 awarded by any Nyaya Panchayat.

(3) When a Nyaya Panchayat impose a fine under sub-section (1), it may, when passing the order, direct that the whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence.

(4) If a Nyaya Panchayat is satisfied that a complaint made before it or transferred to it for trial is false, vexatious or frivolous, it may order the complainant to pay to the accused, such compensation not exceeding twenty-five rupees, as it thinks fit.

(5) If such fine or compensation is not paid or realised within thirty days of the passing of the sentence or order or within such further time as the Nyaya Panchayat may allow, the Nyaya Panchayat shall record an order declaring the amount of fine imposed or compensation awarded and that it has not been paid, and shall forward the same to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the case but for the provisions of this Act, and the Sub-divisional Judicial Magistrate shall--

(a) proceed to execute the order as if it were an order passed by himself, or

(b) in default of payment, sentence the accused to imprisonment in accordance with Chapter III of the Indian Penal Code (45 of 1860), notwithstanding anything contained in sub-section (2) of this section:

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.

#### **60. 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 (5 of 1898), instead of sentencing him at once to any punishment, direct that he shall 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.

#### **61. Civil Jurisdiction :-**

(1) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887), the Provincial Small Cause Courts Act, 1887 (9 of 1887), and the Code of Civil Procedure 1908 (5 of 1908), and subject to the provisions of sections 62 and 63, a Nyaya Panchayat shall have, within the local limits of the Gram Panchayat constituting such Nyaya Panchayat, jurisdiction to try the following classes of suits when the value of the suit does not exceed two hundred and fifty rupees, namely:--

- (a) suits for money due on contracts;
- (b) suits for the recovery of movable property or the value of such property;
- (c) suits for compensation for wrongfully taking or damaging movable property; and
- (d) suits for damages by cattle-trespass.

(2) No other court shall have jurisdiction to try any suit of the classes mentioned in sub-section (1):

Provided that nothing in this Act shall take away the jurisdiction of any court to try a suit which a Nyaya Panchayat is prohibited by section 78 from trying or which should be, in the opinion of the Nyaya Panchayat or of the District Judge exercising the power conferred by sub-section (2) of section 79, tried by an ordinary court.

## **62. Suits Not To Be Tried :-**

No suit shall lie in any Nyaya Panchayat--

- (a) on a balance of partnership account;
- (b) for a share or part of a share under an intestacy, or for a legacy or part of legacy under a Will;
- (c) by or against the Union of India or a State Government or a local authority or public officers for acts done in their official capacity;
- (d) by or against minors or persons of unsound mind or when any such person is in the opinion of the Nyaya Panchayat a necessary party;
- (e) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property; or
- (f) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

## **63. 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.

## **64. Local Limit 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, or the cause of action has arisen wholly or in part within those limits.

#### **65. 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 Gram Panchayat or in his absence to a member of the Nyaya Panchayat. If the petition is made orally the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the claim and such other particulars, if any, as may be prescribed and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall thereafter direct the petitioner to appear before the Nyaya Panchayat on a particular date.

(2) The plaintiff on instituting his suit shall state the value of the claim.

#### **66. 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 having jurisdiction to try such suit.

(3) Where it is proved to the satisfaction of the Nyaya Panchayat that a suit has been adjusted wholly or in part by any lawful agreement or compromise or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit. The Nyaya Panchayat shall pass a decree in accordance therewith so far as it relates to the suit:

Provided that where the Nyaya Panchayat refuses to pass a decree in accordance with the agreement or compromise, it shall record its reasons in writing for so doing.

#### **67. 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 Nyaya Panchayat, he shows negligence in prosecuting his suit, it may dismiss the suit for default:

Provided that a Nyaya Panchayat may restore a suit dismissed for



default, it 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.

#### **68. 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.

#### **69. 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.

#### **70. 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 67 or under the proviso to section 69 unless notice in writing has been served by the Nyaya Panchayat on the opposite party.

#### **71. Power To Determine Parties :-**

(1) subject to the provisions of clauses (c) and (d) of section 62, the Nyaya Panchayat shall add as parties to a suit any person whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register:

Provided that when any party is added, notice shall be given to him

and he shall be given an opportunity to appear before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin de novo. If by chance anybody added as defendant during the trial of the suit, the fresh trial shall be started.

## **72. Decision Of Suit :-**

(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 subsection (3) of section 82 and the persons by whom such amounts are payable:

Provided that if the members of the Nyaya Panchayat present during the trial of a suit fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the Nyaya Panchayat:

Provided further that in the case of equality of votes of the members of a Nyaya Panchayat present during the trial of a suit, the Pradhan Vicharak, or the person who is elected as Pradhan Vicharak for that sitting, shall have a second or casting vote and the decision of the Nyaya Panchayat shall be in accordance with such second or casting vote.

(2) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the Nyaya Panchayat and the Nyaya Panchayat shall have full power to determine by whom and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid:

Provided that where the Nyaya Panchayat directs that the successful party shall not get the costs of the suit, it shall state its reasons in writing.

(3) If a Nyaya Panchayat is satisfied that a suit instituted before it is false, vexatious or frivolous, it may direct the plaintiff, by an order in writing, to pay to the defendant such compensation, not exceeding twenty-five rupees, as it may think fit.

## **73. Installments :-**

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.

**74. Decision 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.

**75. 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 (d) of section 62, be proceeded with at the instance of, or against the legal representatives of, the deceased plaintiff or defendant, as the case may be.

**76. 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.

**77. Procedure For Nyaya Panchayat :-**

(1) The provisions of--

- (a) the West Bengal Court-fees Act, 1970 (West Ben. Act X of 1970),
- (b) the Code of Criminal Procedure, 1898 (5 of 1898),
- (c) the Code of Civil Procedure, 1908 (5 of 1908), and
- (d) the Indian Evidence Act, 1872 (1 of 1872), shall not apply to any trial before a Nyaya Panchayat.

(2) The procedure to be followed by a Nyaya Panchayat in any trial, in the enforcement of its decisions and orders, and in the method of forming a quorum shall, subject to the provisions of this Act, be in accordance with prescribed rules.

## **78. Bar To Trial Of Case Of Suit In Which A Panchayat Or Its Member Is Interested :-**

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

## **79. Withdrawal Or Transfer Of Case Or Suit :-**

(1) The Sessions Judge or the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the Nyaya Panchayat is situate, may, of his own motion or on the application of any of the parties to a case or on the motion of the Nyaya Panchayat concerned, withdraw the case pending before a Nyaya Panchayat if, for reasons to be recorded by him in writing, he is of opinion that the case is one which should not be tried or heard by the Nyaya Panchayat, and may try or hear the case himself or transfer it for disposal to another Judicial Magistrate who would have had jurisdiction to try the case but for the provisions of this Act.

(2) The District Judge, within the local limits of whose jurisdiction a Nyaya Panchayat is situate, may, of his own motion or on the application of any of the parties to a suit or on the motion of the Nyaya Panchayat concerned, withdraw the suit pending before a Nyaya Panchayat if, for reasons to be recorded by him in writing, he is of opinion that the suit is one which should not be tried or heard by the Nyaya Panchayat, and may try or hear the suit himself or transfer it for disposal to the court of the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act.

(3) If at any stage of a case or a suit any party to such case or suit informs the Nyaya Panchayat that he has applied or that he intends to apply for the withdrawal or transfer of the case or suit under sub-section (1) or sub-section (2), as the case may be, the Nyaya Panchayat, shall stay further proceedings in the case or suit until such time as it thinks fit.

## **80. 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.

### **81. Inspection :-**

(1) The Sessions Judge and the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the Nyaya Panchayat is situate, shall have the power at all times to inspect the proceedings of any criminal case and the records of criminal cases maintained by a Nyaya Panchayat.

(2) The District Judge and the Munsif within the local limits of whose 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.

### **82. Attendance Of Witnesses :-**

(1) Subject to the provisions of section 85, a Nyaya Panchayat may, by summons, send for any person to appear and give evidence or to produce or cause the production of any document: Provided that no person who is exempt from personal appearance in court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908 (5 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 Gram Panchayat concerned to give evidence, unless such sum of money as may appear to the Nyaya Panchayat to be sufficient to defray the travelling and other expenses of such person and for one days attendance is deposited in the Nyaya Panchayat by the party who cites such person as his witness.

(4) If any person whom a Nyaya Panchayat summons by written order to appear or give evidence, or to produce any document before it fails, without lawful excuse, to obey such summons and thereby commits an offence, the Nyaya Panchayat may take cognizance of such offence and may sentence the person convicted of such offence to a fine not exceeding twenty-five rupees.

### **83. Appearance Of Parties :-**

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

Provided that the Nyaya Panchayat, if it thinks fit so to do, may dispense with the personal attendance of an accused and permit him to appear by agent.

(2) The parties to suits triable by a Nyaya Panchayat may appear by agent.

Explanation.--"Agent" in sub-sections (1) and (2), means a person who is authorised in writing to appear and plead for either party.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person whose name is included in a list of touts framed and published by Sub-divisional Magistrate under section 80A of the Registration Act, 1908 (16 of 1908), shall be permitted to appear as an agent of a party before a Nyaya Panchayat.

### **84. Legal Practitioners Not To Practise :-**

Notwithstanding anything contained in the Legal Practitioners Act, 1879 (18 of 1879), legal practitioners shall not be permitted to practise before a Nyaya Panchayat.

### **85. Appearance Of Woman :-**

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

### **86. 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.

### **87. 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 Panchayats and any dispute regarding the jurisdiction of a Nyaya Panchayat to entertain any suit shall be decided by the Munsif who would have had jurisdiction to try the same but for the provisions of this Act, and the decision of the Munsif thereon shall be final.

### **88. Realisation Of Fees And Execution Of Decrees :-**

(1) All fees imposed and all sums decreed under this Act by a Nyaya Panchayat may be realised under the orders of the Nyaya Panchayat in the same manner as an arrear of rate or tax imposed under this Act and any amount realised in pursuance of such an order shall be paid to the persons entitled to get the same.

(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 make an application, on production of such certificate, to the court of the Munsif within the local limits of whose jurisdiction the defendant actually and voluntarily resides or carries on business or personally works for gain, for execution of the decree granted by the Nyaya Panchayat.

(4) The court of the Munsif, to which the application referred to in subsection (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 74 modifying any such decree, shall be dismissed, although limitation has not been pleaded:

Provided that where the decree is for payment of a sum of money or delivery of any movable property which the decree directs to be made at a certain date, the application for execution of the decree may be made within three years from that date.

### **89. Registers And Records :-**

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

## **90. Resignation By Member Of Nyaya Panchayat And Filling Of Casual Vacancy :-**

(1) A member of a Nyaya Panchayat may resign during his term of office by notifying in writing his intention to do so to the prescribed authority and, on such resignation being accepted by the prescribed authority, shall be deemed to have vacated his office.

(2) When the office of a member of a Nyaya Panchayat becomes vacant by resignation or otherwise a new member shall, in the same manner as laid down in section 51, be elected by the Gram Panchayat, who shall hold office so long as the member whose office he fills would have been entitled to hold office if such vacancy had not occurred:

Provided that no act of the Nyaya Panchayat shall be deemed to be invalid by reason only that the number of members Nyaya Panchayat at the time of the performance of such act was less than the prescribed number.

## **91. 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.

Before removing a member under sub-section (1), the State Government shall allow the members concerned an opportunity of being heard in accordance with such rules as may be prescribed.

## **92. Reference To Sessions Judge, Etc. :-**

Any reference in this Chapter to the Sessions Judge, the Sub-divisional Judicial Magistrate and the Judicial Magistrate shall, in the district where the West Bengal Separation of Judicial and Executive Functions Act, 1970 (West Ben. Act VIM of 1970), is not in force, be construed as a reference to the District Magistrate, Sub-divisional Magistrate and Magistrate, respectively.

### **PART 3**

### **PANCHAYAT SAMITI**

### **CHAPTER 8**

### **CONSTITUTION OF PANCHAYAT SAMITI**

## **93. Block :-**

(1) The State Government may, by notification, divide a district into



Blocks each comprising such contiguous Gram as may be specified in the notification: [Provided that a Block may comprise such Grams as are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section 1 have not come into force.]

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

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(d) unite the areas of two or more Blocks so as to constitute a single Block.. Substituted by s. 6(b), of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

#### **94. Panchayat Samiti And Its Constitution :-**

(1) For every Block the State Government shall constitute a Panchayat Samiti bearing the name of the Block.

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

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

Provided also that notwithstanding anything contained in the foregoing provisions of this sub

7 [Provided also that such division into constituencies shall be made in such manner that the ratio between the population of a Block in a Panchayat Samiti or fresh reservation on rotation of the number of seats in that Panchayat Samiti and, on such order being issued by the State Election Commissioner, the determination of the number of members 9 [or the number of seats reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for 10 [the next] three successive general elections: members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the Block or any part thereof, not being 12 [Ministers;]

(b)members of the Council of States, not being Ministers, 13 [registered as electors within the area of the 14 [B[(c)members of the Zilla Parishad, not being Sabhadhipati or Sahakari Sabhadhipati, elected thereto from the constituency comprising any part of the Block.]) Every Panchayat Samiti constituted under this section shall 16 [ \* \* \* ] be notified in the Official Gazette and shall come into office with effect from the date of its first meeting at which a quorum is present.

1. Inserted by s. 4(a) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978).

2. Inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

3. Substituted by s. 15(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat election pertaining to the constituency comprised in such Gram;". Bengal Legislative Assembly in force on the last date of nomination of Panchayat election pertaining to the area comprised in the Block."

5. Inserted by s. 15(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

6. Omitted the words "or elsewhere in this Act" by s. 16(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

7. Inserted by s. 22(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

8. Substituted by s. 16(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act, XV of 1997), w.e.f. 8.8.1997, for the words "and by notification, order fresh determination".

10. Inserted by s. 16(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

11. Substituted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979). Block; ".210," by s. 22(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which were earlier inserted by s. 4(b) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978).) When the area of any Block is divided under clause (c) of subsection (3) of section 93 so as to constitute two or more Blocks, there shall be reconstitution of the Panchayat Samitis for the newly constituted Blocks in accordance with the provisions of this

Act, and the PanchayatSamiti of the Block so divided shall,as from the date of coming into office of the newly constituted Panchayat Samitis, cease to exist.]

2 [(4

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

(b)suchmembershaving unexpired terms of office shallbe declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, bynotification in the Official Gazette asmembers tothe newly constituted Panchayat Samitithat comprises the constituencies, wholly or in part, from which suchmembers wereelected to the former PanchayatSamitis and any such member shall hold office in the newly constituted Panchayat Samiti for the unexpiredportion of the term of his office.]

2.Substituted by s. 8(b), of the West Bengal Panchayat(Amendment) Act, 1983 (West Ben. Act II of 1983).

### **95. Effect Of The Alteration Of The Area Of A Block :-**

(1) When any Gram is excluded from a Block under clause (a) of sub-section (3) of section 93, such Gram shall,as from the date of the notification referred to in that sub-section, cease to be subjectto the jurisdiction of the PanchayatSamiti of that Block and, unless the State Government otherwise directs, to the rules, orders,directions, and notifications in force therein.

1 [(3

3 [Explanation.--For the purpose ofreconstitution of the Panchayat Samitiafter division referred to in sub-section(3)or after unification referred to in sub-section(4),--

(a) it shall not be necessary to hold general elections to thenewly constituted Panchayat Samiti orPanchayat Samitis when the terms of office of themembers ofthe former Panchayat Samitis withinthe scope and meanings of sub-section(1)of section 96, do not expire, and

1.Substituted by s. 8(a) of the WestBengal Panchayat(Amendment) Act, 1983 (West Ben. Act II of 1983).

### **95A. Effect Of Inclusion Of Any Area Of Block In Any Area Of Municipality :-**

1 [95A.Effect of inclusion of any area of Blockin any area ofMunicipalitylock is included in thearea of a Municipality by a notification under any law for the time

being in force or in an area under the authority of a Town Committee or a Cantonment, the Panchayat Samiti for such area shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such Panchayat Samiti shall vest in and devolve on the Municipality or the Town Committee or the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The person employed under such Panchayat Samiti shall, with effect from the date on which the Panchayat Samiti ceases to exist, be deemed to be employed by the Municipality or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.]

1. Inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994. [96. Office of members of Panchayat Samiti

(2) There shall be held a general election for the constitution of a Panchayat Samiti within a period not exceeding five years from the date of the previous general election held for the Panchayat Samiti:

"96. Office of members of Panchayat Samiti

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

(c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the Panchayat Samiti, or a Gram Panchayat within the Block concerned 4 [, or the Zilla Parishad of the district, or the Mahakuma Parishad or the Council:]

Provided that no person shall be deemed to be disqualified for being elected a member of a Panchayat Samiti by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956 (1 of 1956), which contracts with or is employed by the Panchayat Samiti or any such Gram Panchayat 5 [or such Zilla Parishad or the Mahakuma Parishad or the Council]; or

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

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

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

he has been convicted by a court--

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

(Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 (West Ben. Act X of 1952), and five years have not elapsed from the date of the expiration of the sentence; or

(ii) he is disqualified for the purpose of elections to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951

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

(j) he has been convicted under section 189 at any time during the last ten years; or

(k) he has been surcharged or charged under section 192 at any time during the last ten years; or

(l) he has been removed under section 213 at any time during the last five years.]

Substituted by s. 3 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985). Substituted by s. 10(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "a Zilla Parishad".. Substituted by s. 10(b), of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "a Zilla Parishad", for the words "or the Zilla Parishad of the district.". Substituted by s.

10(b), of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "a Zilla Parishad", for the words and punctuation "or such Zilla Parishad;". Substituted by s. 18 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, which was earlier as follows: Inserted by s. 25(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). [Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties.]

Provided also that the offices of the Sabhapati and the Sahakari Sabhapati in any Panchayat Samiti having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Block, shall not be considered for allocation by rotation:

(4) When-- [ \* \* \* ] [(9) Notwithstanding anything to be contrary contained in this Act, the State Government may, by an order in writing, remove a Sabhapati or a Sahakari Sabhapati from his office if, in its opinion, he holds any office of profits or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to interfere with due exercise of his powers, performance of his functions or discharge of his duties: (iii)," which were earlier substituted by s. 2 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) for the words, brackets and number "sub-clause (iii) of clause (a)". Substituted by s. 26(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "shall not be eligible for such election."

4. Inserted by s. 26(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

"Provided that Sabhapati or Sahakari Sabhapati shall continue in office after the expiry of the said period until a new Sabhapati or Sahakari Sabhapati is elected and assumes office or until an authority or a person or persons is or are appointed under the proviso to sub-section (2) of section 96."

11. Omitted by s. 21(c), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "and assumes office".

12. Substituted by s. 17(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the word "honorary". member, 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

(b) if he was disqualified to be a member of the Panchayat Samiti at the time of his becoming a member

(3

3 [ \* \* \* ]

. Inserted by s. 22(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Omitted the words "provided he is not an ex officio member of the Panchayat Samiti" by s. 22(a), ibid. Sabhapati or a Sahakari Sabhapati".

2. Substituted by s. 27(b), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by a resolution of the Panchayat Samiti carried by the majority of the existing members of the Panchayat Samiti".

3. Inserted by s. 27(c), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "A Sabhapati or a Sahakari Sabhapati".

4. Substituted by s. 12 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, which was earlier as follows:

"Provided also that there shall not be more than one resolution for the removal of the Sabhapati or the Sahakari Sabhapati within a period of six months."

## **96. Office Of Members Of Panchayat Samiti :-**

### **96A. Omitted :-**

1[ \* \* \* ]

1. Omitted by s. 24, of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows: , which was earlier inserted by s. 16 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992) as follows:

" 96 A. General election to Panchayat Samitis

( 1) There shall be held a general election for the constitution of a Panchayat Samiti in accordance with the provisions of section 94 before the expiry of the term of office of the members thereof under section 96.

( 2) Notwithstanding anything contained in sub-section ( 1), if the Government is of opinion that circumstances exist under which it is not possible to hold election in the area or in any part of the area of a Panchayat Samiti, it may, on the expiry of the term of office of the members of the Panchayat Samiti under sub-section ( 1) of section 96, by an order published in the Official Gazette, extend such term of office for such period, not exceeding six months at a time, as may be specified in the order:

Provided that prior to the issue of any notification for such extension of the term of office beyond six months from the date of expiry of the term under sub-section ( 1) of section 96, such notification shall be laid before the State Legislature and shall be subject to such modification as the State Legislature may make."

## **97. Disqualifications Of Members Of Panchayat Samiti :-**

Subject to the provisions contained in sections 140 and 142, a person shall not be qualified to be a member of a Panchayat Samiti, if-- [(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti or 3 [a Zilla Parishad or Mahakuma Parishad or the Council] and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or]

6 [(h

(C)undersection 3 or section 9 of the WestB

1.Omitted the words "of a Gram Panchayat other thanthe Pradhan or a Nyaya Panchayat or a Zilla Parishad or" by s. 20(a) of the WestBengal Panchayat(Amendment) Act, 1984 (West Ben.Act XXXVII of1984).

2.Substituted by s. 3 of the WestBengal Panchayat(Amendment) Act, 1985 (West Ben. Act VI of 1985).

3.Substituted by s. 10(a) of the WestBengal Panchayat(Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "a Zilla Parishad".

4 . Substitutedby s. 10(b), of the West Bengal Panchayat(Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "a Zilla Parishad",for the words "orthe Zilla Parishad of thedistrict."

5.Substituted by s. 10(b), of the WestBengal Panchayat(Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "a Zilla Parishad",for the words and punctuation "or such ZillaParishad;"

6. Substituted by s. 18 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben.Act XV of 1997), w.e.f. 8.8.1997, which was earlier asfollows:

"(h)he has beenconvicted by a Court of an offence involving moral turpitude punishable withimprisonment for a period of more than six months or an offence under ChapterIXA of the Indian Penal Code or section 3 or section 9 of the West Bengal Local Bodies (Electoral Offencesand Miscellaneous Provisions) Act, 1952, or Chapter III of Part VIIof theRepresentation of the People Act, 1951, and five years have notelapsed from the date of expiration of the sentence; or".

## **98. Sabhapati And Sahakari Sabhapati :-**

(1) Every Panchayat Samiti shall, at its first meeting at which a quorumis present, elect, in the prescribed manner, one of itsmembers tobe the Sabhapati and another member to be the Sahakari Sabhapati of the Panchayat Samiti:

Provided also that in theevent of the number of Blocks having the ScheduledCastes or the Scheduled Tribes population constituting more than five per centof the total population, falling shortof the number of the offices of the Sabhapatiand the Sahakari Sabhapati requiredfor reservation in a district, the State Election

Commissioner may, by order, include, for the purpose of reservation, other such offices of the Sabhapati and the Sahakari Sabhapati beginning from the Block having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained

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

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

Provided also that the provisions for reservation of the offices of the Sabhapati and the Sahakari Sabhapati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in Article 334 of the Constitution of India.]

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

(3) The Sabhapati and the Sahakari Sabhapati shall, subject to the provisions of section 101 and to their continuing as members, hold office for a period of 7 [five years]:

8 [\* \* \*]

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

(5) When--

(6) When the offices of the Sabhapati and the Sahakari Sabhapati are both vacant or the Sabhapati and the Sahakari Sabhapati are temporarily unable to act, the prescribed authority may appoint 9 [for a period of thirty days at a time] a Sabhapati and a Sahakari



Sabhapati from among the members of the Panchayat Samiti to act as such until a Sabhapati or a Sahakari Sabhapati is elected 10 [and assumes office or until the Sabhapati or the Sahakari Sabhapati resumes duties, as the case may be.]

11

(8) The Sabhapati and the Sahakari Sabhapati or a Panchayat Samiti shall be paid out of the Panchayat Samiti Fund such 12 [remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

13

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

2 . Substituted by s. 26(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "shall not be eligible for such election."

3. Inserted by s. 17(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVIII of 1992).

5. Inserted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXXIV of 1997), w.e.f. 5.1.1988.

6. Inserted by s. 26(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

7. Substituted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1982 (West Ben. Act XII of 1982), for the words "four years". Sabhapati or Sahakari Sabhapati shall continue in office after the expiry of the said period until a new Sabhapati or Sahakari Sabhapati is elected and assumes office or until an authority or a person or persons is or are appointed under the proviso to sub-section (2) of section 96."

11. Omitted by s. 21(c), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "and assumes office".

12 . Substituted by s. 17(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the word "honoraria".

## **99. Resignation Of Sabhapati, Sahakari Sabhapati Or A Member :-**

(1) A Sabhapati or a Sahakari Sabhapati or a member of a

Panchayat Samiti may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Sabhapati, the Sahakari Sabhapati or the member shall be deemed to have vacated his office.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Panchayat Samiti within thirty days of such acceptance.

#### **100. Removal Of Member Of Panchayat Samiti :-**

(1) member; or

(c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 97 after his becoming a member

(2) The order passed by such authority on such appeal shall be final. ex officio member of the Panchayat Samiti" by s. 22(a), ibid.

#### **101. Removal Of Sabhapati Or Sahakari Sabhapati :-**

1 [Subject to the other provisions of this section, a Sabhapati or a Sahakari Sabhapati] of a Panchayat Samiti may, at any time, be removed from office 2 [by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 94] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of the Sabhapati from his office is under consideration, the Sabhapati or while any resolution for the removal of the Sahakari Sabhapati from his office is under consideration, the Sahakari Sabhapati shall not, though he is present, preside, and the provisions of sub-section (2) of section 105 shall apply in relation to every such meeting as they apply in relation to a meeting from which the Sabhapati or, as the case may be, the Sahakari Sabhapati is absent:

3 [Provided further that no meeting for the removal of the Sabhapati or the Sahakari Sabhapati under this section shall be convened within a period of one year from the date of election of the Sabhapati or the Sahakari Sabhapati:

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

1. Substituted by s. 27(a) of the West Bengal Panchayat

(Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "A Sabhapati or a Sahakari Sabhapati".

2 . Substituted by s. 27(b), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by a resolution of the Panchayat Samiti carried by the majority of the existing members of the Panchayat Samiti".

3. Inserted by s. 27(c), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "A Sabhapati or a Sahakari Sabhapati".

4 . Substituted by s. 12 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, which was earlier as follows:

"Provided also that there shall not be more than one resolution for the removal of the Sabhapati or the Sahakari Sabhapati within a period of six months."

### **102. Filling Of Casual Vacancy In The Office Of Sabhapati Or Sahakari Sabhapati :-**

In the event of removal of a Sabhapati or a Sahakari Sabhapati under section 101 or when a vacancy occurs in the office of a Sabhapati or a Sahakari Sabhapati by resignation, death or otherwise, the Panchayat Samiti shall elect another Sabhapati or Sahakari Sabhapati in the prescribed manner.

### **103. Filling Of Casual Vacancy In The Office Of A Member Of Panchayat Samiti :-**

If the office of a member of a Panchayat Samiti becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner.

### **104. Term Of Office Of Sabhapati, Sahakari Sabhapati Or Member Filling Casual Vacancy :-**

Every Sabhapati or Sahakari Sabhapati elected under section 102 and a person who becomes a member under section 103 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

### **105. Meetings Of A Panchayat Samiti :-**

9 [Provided also that for the purpose of convening a meeting under section 101

10 [Provided also that if the Panchayat Samiti does not fix at any meeting, the date and hour of the next meeting]

(2) One-fourth of the total number of members shall form a quorum for a meeting of a Panchayat Samiti:

Provided that no quorum shall be required for the transaction of business. All questions coming before a Panchayat Samiti shall be decided by majority of votes:

1. Substituted by s. 23 (1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Substituted by s. 23(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)., for the words "in the office of the Block Development Officer concerned at such time". Substituted by s. 23(1), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)., for the words "shall do so within seven days". Inserted by s. 19(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

5. Inserted by s. 19(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

7. Block concerned."

9. Inserted by s. 13(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

#### **106. List Of Business To Be Transacted At A Meeting :-**

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

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

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

#### **107. Report On The Work Of Panchayat Samiti :-**

The Panchayat Samiti shall prepare in the prescribed manner a report on the work done during the previous year and the work

proposed to be done during the following year and submit it to the prescribed authority and to the Zilla Parishad concerned within the prescribed time.

### **108. Block Development Officer To Attend Meeting :-**

The Block Development Officer shall attend meetings of the Panchayat Samiti and shall participate in the deliberations thereof.

#### **CHAPTER 9**

#### **POWERS AND DUTIES OF PANCHAYAT SAMITI**

### **109. Powers Of Panchayat Samiti :-**

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have authority;

(iii) manage or maintain any work of public utility or any institution vested in it or under its control and management; as may be required for the relief of distress;

(e) co-ordinate and integrate the development plans and schemes prepared by Gram Panchayats in the Blocks, if and when necessary;

4 [\* \* \*]

(2) A Panchayat Samiti may undertake or execute any scheme if it extends to more than one Gram.

Panchayat Samiti shall have power to--", which was earlier as follows: Inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988). Gram Panchayats in the Block.".. Added by s. 24 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **110. State Government May Place Other Property Under Panchayat Samiti :-**

The State Government may, from time to time, with the consent of a Panchayat Samiti, place any road, bridge, ferry, channel, building or other property vested in the State Government and situated within the Block under the control and management of the Panchayat Samiti subject to such conditions as it may specify:

Provided that the State Government may, after considering the views of the Panchayat Samiti, withdraw such control and management to itself subject to such conditions as it may specify.

### **111. Power Of Panchayat Samiti To Transfer Roads Or Properties To The State Government Or The Zilla Parishad Or A Gram Panchayat :-**

1 Power of Panchayat Samiti to transfer roads or properties to the State Government or the Zilla Parishad or a Gram Panchayat

A Panchayat Samiti may transfer to the State Government or to the Zilla Parishad 2 [or Mahakuma Parishad or Council] 3 [or to a Gram Panchayat] any road or part of a road or any other property, which is under its control or management, or which is vested in it, on such terms and conditions as may be agreed upon.

1. Inserted by s. 25(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Inserted by s. 12 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

3. Inserted by s. 25(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **112. Panchayat Samiti May Take Over Works :-**

A Panchayat Samiti may take over the maintenance and control of any road, bridge, tank, ghat, well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.

### **113. Power Of Panchayat Samiti To Divert, Discontinue Or Close Road :-**

A Panchayat Samiti may divert, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

### **114. Vesting Panchayat Samiti With Certain Powers :-**

(1) A Panchayat Samiti may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(2) A Panchayat Samiti shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871 (1 of 1871).

(3) A Panchayat Samiti shall exercise such other powers, perform

such other functions or discharge such other duties as the State Government may, by general or special order, direct.

#### **114A. Development Plan In Respect Of Any Area Of Panchayat Samiti :-**

1 [114A. Development Plan in respect of any area of Panchayat Samiti

(4) The State Government may, by order, authorise any officer to render advice, technical or otherwise, to the Panchayat Samiti on the performance of its functions and discharge of its duties under this section and, on receipt of such advice, the Panchayat Samiti shall give due consideration to such advice in a meeting specially convened for the purpose within a period of two months from the date of receipt of such advice.

(6) Without prejudice to the provisions of sub-section (5), whoever erects any new structure or constructs any new building or makes any addition to any structure or building in contravention of the provisions of sub-section (1), shall, on conviction by a Court, be punishable with fine not exceeding, in each case, one hundred rupees per square metre per month for the area comprising the unauthorised erection or construction or addition, as the case may be, for the period during which such contravention continues, subject to a maximum of two thousand rupees in each case.

(a) that any use of land should be discontinued, or

(b) that any conditions should be imposed on the continuance thereto, or

(c) that any building or works should be altered or removed, 6 [the Panchayat Samiti or the authority, person or persons as aforesaid may] by notice served on the owner--

(ii) impose such conditions as may be specified in the notice on the continuance thereof, or

(9) Any person aggrieved by any such notice may, within the period specified in the notice, apply to the authority for the cancellation or modification of the notice.

(11) If any person--

(12) After publication of Development Plan under sub-section (1) and subject to the provisions relating to the development charge and other provisions under this section, no development, institution or change of use of any land shall be undertaken or carried out in the area without obtaining a certificate from the Panchayat Samiti or its authorised officer certifying that the development charge as leviable under this section has been paid or that no such development charge is leviable:

Provided that the State Government may, by notification, exempt any development, institution or change of use of any land from the operation of the provisions of this sub-section.

(13) Any person or body (excluding a department of the Central or the State Government or any local authority) intending to carry any development on any land shall make an application in writing to the Panchayat Samiti or an officer authorised by it for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

(ii) granting permission, subject to such conditions as it may think fit; or

(iii) refusing permission:

Provided further that the concerned authority in dealing with the applications for permission shall have regard to the provisions of the Development Plan prepared, under preparation or to be prepared and any other material consideration:

Provided also that in the case of a department of the Central or the State Government or any local authority intending to carry out any development, other than operational construction (which shall always be outside the purview of the Panchayat Samiti), on any land, the concerned department or authority, as the case may be, shall notify in writing to the Panchayat Samiti of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as

may be directed by the State Government from time to time, at least, one month prior to the undertaking of such development.

(15) In accordance with the provisions of this section and the rules made thereunder and subject to such conditions as may be laid down by the Panchayat Samiti or the authority, person or persons empowered under subsection (1), a Panchayat Samiti shall levy a charge (hereinafter called the development charge) on the carrying out of any development or change of use of land, for which permission is required under this section, in the whole or any part of the area covered by the notification under sub-section (1) at a rate not exceeding those specified in the rules in this behalf by the State Government:

Provided that the rates may be different for different parts of the area under notification under sub-section (1):

Provided that no order of demolition shall be made unless such person has been given, by means of a notice served in such manner as may be prescribed, a reasonable opportunity of showing cause why such order shall not be made:

Provided also that any person aggrieved by such order of the Panchayat Samiti or its authorised officer may, within thirty days from the date of the order, prefer an appeal against the order to the Sub-divisional Officer having jurisdiction and when an appeal is preferred, the said Sub-divisional Officer may stay the enforcement of the order on such term as he may think fit:

Provided also that every order made by the Sub-divisional Officer on an appeal and, subject to such order, the order made by the Panchayat Samiti or its authorised officer shall be final and conclusive:

(18) The Panchayat Samiti or its authorised officer may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, by a written notice, specify any matter in respect of which such erection or execution is without or contrary to this section or is in contravention of any of the provisions of this section or the rules made thereunder and require the person at whose instance the building or the work has been commenced or is being carried on or the owner of such building or work either--

Provided further that if such person or such owner shows the cause as aforesaid, the Panchayat Samiti or its authorised officer shall, by an order, either cancel the notice issued or confirm the same subject to such modifications as he thinks fit.]

1. Inserted by s.19 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

2. Substituted by s. 29(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

Explanation.--The expression "Development Plan" has the same meaning as in the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979)."

3. Substituted by s. 29(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "the provisions of section 23". 7) Where the Panchayat Samiti, in exercise of its functions and powers with respect to any area under it, is required to have regard to the provisions of Development Plan before such Development Plan has become operative, the concerned Panchayat Samiti shall have regard to the provisions which, in its opinion, will be required to be included for securing the proper planning of the concerned area". Panchayat Samiti may".

### **115. Powers Of Supervision By Panchayat Samiti Over The Gram Panchayats, Etc. :-**

(b) inspect or examine, or depute an officer to inspect or examine, any department of a Gram Panchayat, or any service, work or thing under the control of the Gram Panchayat,



(d) require a Gram Panchayat, for the purpose of inspection or examination,--

(iii) to furnish or obtain any report or information.]

1. Original section renumbered as sub-section (1) by s. 26 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(1) Every Panchayat Samiti shall have a B) One-tenth of the total number of members shall form a quorum for a meeting of Block Sansad:

(4

(5) Every meeting of the Block Sansad, shall be considered in the meeting of the Panchayat Samiti as soon as possible within one month from the date of the meeting of the Block Sansad and the decision of the Panchayat Samiti along with the action taken report shall be placed in the next meeting of the Block Sansad.].

1. Inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

### **116. Powers To Prohibit Certain Offensive And Dangerous Trades Without Licence And To Levy Fee :-**

(1) No place within a Block shall [on conviction by a Magistrate,] be used for any trade or business declared by the State Government, by notification, to be offensive or dangerous, without a licence, which shall be renewable annually, granted by the Panchayat Samiti, subject to such terms and conditions as the Panchayat Samiti may think fit to impose.

(2) The Panchayat Samiti may levy in respect of any licence granted by it under sub-section (1) a fee subject to the maximum rate prescribed by the State Government under sub-section (1) of section 133.

(3) Whoever uses without a licence any place for the purpose of any trade or business declared under sub-section (1) to be offensive or dangerous, or fails to comply with any condition in respect of such licence, shall be punished with a fine, which may extend to one hundred rupees, and to a further fine, which may extend to twenty-five rupees for each day after conviction which he continues to do so.

(4) The Panchayat Samiti may, upon the conviction of any person for failure to comply with any condition of a licence granted under sub-section (1), suspend or cancel the licence granted in favour of such person.

1. Inserted by s. 27 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984 ).

**117. Power Of Panchayat Samiti To Grant Licence For Hat Or Market :-**

A Panchayat Samiti may require the owner or the lessee of a hat or market or an owner or a lessee of land intending to establish a hat or market thereon, to obtain a licence in this behalf from the Panchayat Samiti on such terms and conditions as may be prescribed and subject to the provisions of section 133, on payment of a fee for such licence.

CHAPTER 10

ESTABLISHMENT OF THE PANCHAYAT SAMITI

**118. Powers, Functions And Duties Of Sabhapati And Sahakari Sabhapati :-**

(1) The Sabhapati shall--

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

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

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

(2) The Sahakari Sabhapati shall--

1. Explanation inserted by s. 20 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

**119. Staff Of The Panchayat Samiti :-**

(1) There shall be an Executive Officer for every Panchayat Samiti and the Block Development Officer shall be the ex officio Executive Officer:

Provided that such Block Development Officer shall be recalled by the State Government if a resolution to that effect is passed by the Panchayat Samiti, at a meeting specially convened for the purpose,

by a majority of the total number of members holding office for the time being.

1 [(1B)] There shall be a Secretary for every Panchayat Samiti and the Extension Officer, Panchayats shall be the ex-officio Secretary.

3 [(3)] The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the Panchayat Samiti.]

## **120. Placing The Services Of State Government Officers At The Disposal Of The Panchayat Samiti :-**

The State Government may place at the disposal of the Panchayat Samiti the services of such officers or other employees serving under it<sup>1</sup> [and on such terms and conditions] as it may think fit:

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

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

1. Inserted by s. 30, of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

## **121. Control And Punishment Of The Staff Of The Panchayat Samiti :-**

(1) The Executive Officer shall exercise general control over all officers and employees of the Panchayat Samiti.

(3) The Executive Officer may recommend the dismissal, removal or reduction in rank of an officer or employee<sup>2</sup> [of a Panchayat Samiti] to the<sup>3</sup> [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti and such Samiti shall forward the case to the Panchayat Samiti with its own recommendation. The Panchayat Samiti may, if it is satisfied with such recommendation of the<sup>3</sup> [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti, dismiss, remove or reduce in rank such officer or employee.

(4) No officer or other employee<sup>4</sup> [of a Panchayat Samiti] shall be punished by the Panchayat Samiti except by a resolution of the Panchayat Samiti passed at a meeting.

2. Substituted by s. 31(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)., for the

words "holding a post carrying a monthly salary of less than rupees two hundred".

3. Substituted by s. 31(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)., for the words "Artha O Sanstha".

4. Substituted by s. 31(c), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)., for the words "holding a post carrying a monthly salary of two hundred rupees or more".

### **122. Appeal :-**

(1) An appeal shall lie to the Panchayat Samiti against an order of punishment awarded by the Executive Officer under sub-section (2) of section 121 within one month from the date of that order.

(2) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the Panchayat Samiti under sub-section (3) or (4) of section 121 within one month from the date of that order.

### **123. Exercise Of Powers, Etc., By The Officers And Employees :-**

Subject to the provisions of this Act, the rules framed thereunder and to any general or special directions given by the State Government in that behalf the officers and other employees employed by the Panchayat Samiti and the officers and other employees whose services have been placed at the disposal of the Panchayat Samiti shall exercise such powers, perform such functions and discharge such duties as the Panchayat Samiti may determine.

#### **CHAPTER 11**

#### **STHAYEE SAMITIS OF THE PANCHAYAT SAMITIS**

### **124. Sthayee Samitis :-**

(1) A Panchayat Samiti shall have the following Sthayee Samitis, namely:--

- (i) 1 [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti,
- (ii) Janasasthya 2 [O Paribesh] Sthayee Samiti,
- (iii) Purta Karya 2 [O Paribahan] Sthayee Samiti,
- (iv) Krishi Sech O Samabaya Sthayee Samiti,
- (v) 3 [Shiksha, Sanskriti, Tathya O Krira] Sthayee-Samiti.

(vi) 4 [Sishu O Nari Unnayan, Janakalyan O Tran] Sthayee Samiti,  
5 [(via) Bon O Bhumi Sanskar Sthayee Samiti,  
(vib) Matsya O Prani Sampad Bikash Sthayee Samiti.  
(vic) Khadya O Sarbaraha Sthayee Samiti.  
(vid) 6 [Khudra Shilpa, Bidyut O Achiracharit Shakti Sthayee  
Samiti.]

(vie) Such other Sthayee Samiti or Samitis as the Panchayat Samiti  
may, subject to the approval of the State Government constitute.

(2) A Sthayee Samiti shall consist of the following members,  
namely:--

(a) the Sabhapati 7 [and Sahakari Sabhapati] of the Panchayat  
Samiti, ex officio:

(b) 8 [without prejudice to the provisions in clause (ba)] not less  
than three and not more than five persons to be elected in the  
prescribed manner by the members of the Panchayat Samiti from  
among themselves;

9 [(ba) the Karmadhyaks has elected in other Sthayee Samitis as  
referred to in section 125 shall be ex officio members of the Artha  
Sanstha Unnayan O Parikalpana Sthayee Samiti referred to in sub-  
section (1) and no member shall be elected in the manner referred  
to in clause (b);

(bb) leader of the recognized political party in opposition having  
largest number of members in the Panchayat Samiti in comparison  
with other recognized political parties in opposition shall be a  
member of the Artha Sanstha Unnayan O Parikalpana Sthayee  
Samiti;

(bc) one member from each recognized political party in opposition  
shall be selected to be a member of each of the Sthayee Samitis  
other than the Artha Sanstha Unnayan O Parikalpana Sthayee  
Samiti:

Provided that the members selected from the recognized political  
party having larger number of members in the Panchayat Samiti  
shall be the member of Sthayee Samiti placed higher in the  
consecutive order in sub-section (1):

Provided further that if the number of recognised parties in  
opposition is less than the number of Sathayee Samitis, the  
independent candidates in opposition in Panchayat Samiti shall be  
members of the Sthayee Samitis for which no member of the  
recognized political parties are available and the member senior in  
age shall be placed as member in the Sthayee Samiti placed higher  
in the order of sub-section (1):

Provided also that if the number of recognized political parties

added with number of independent members falls short of the number of Sthayee Samitis, one additional member from each such political party in opposition in Panchayat Samiti, shall be chosen for membership in the Sthayee Samitis where no member in terms of this clause has been provided and the same sequential order shall be followed for placement of a member in a Sthayee Samiti and such process shall be repeated until all Sthayee Samitis have one member under this clause:

Provided also that a member in opposition may be a member of more than three Sthayee Samitis if in a term of general election, not more than three members in opposition are elected in the Panchayat Samiti:

Provided also that the members of the recognized political party shall jointly decide and intimate the Executive Officer of the Panchayat Samiti by a letter under signature of all such members, the name of the member or members, as the case may be, who shall represent the party as member or members of the Sthayee Samiti and in case of an independent member the Executive Officer shall determine the membership in each Sthayee Samiti:

Provided also that the Executive Officer shall place the entire matter of membership under this clause in a meeting of the Panchayat Samiti as early as possible in the next meeting;]

10 [(c) such number of persons being officers of the State Government or of any statutory body or corporation or being eminent persons having specialized knowledge as the State Government may think fit, appointed by the State Government:]

Provided that such officers shall not be eligible for election as Karmadhyaksha of the Sthayee Samiti and shall not have any right to vote.

(3) No person, other than the Sabhapati or the Sahakari Sabhapati, shall be a member of 11 [more than three Sthayee Samitis].

(4) An elected member of a Sthayee Samiti Shall hold office for a period of 12 [five years] or for so long as he continues to be a member of the Panchayat Samiti, whichever is earlier.

(5) The meeting of the Sthayee Samiti shall be held 13 [in the office of the Panchayat Samiti] at such time and in such manner as may be prescribed.

(6) A Sthayee Samiti shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the Panchayat Samiti.

(7) The State Government may make rules providing for the removal of members of a Sthayee Samiti including the

Karmadhyaksha and for filling up of a casual vacancy.

1. Substituted by s. 32(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "Artha O Sanshta".
2. Inserted by s. 20(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).
3. Substituted by s. 20(a), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992)., for "Shiksha."
- 4 . Substituted by s. 22(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), for the words "Khudra Silpa, Tran O Janakalyan".
5. Inserted by s. 20(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).
- 6 . Substituted by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), for the words "Bidyut O Achiracharit Shakti.
7. Inserted by s. 20(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).
8. Added by s. 8(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).
9. Inserted by s. 8(2), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).
10. Substituted by s. 20(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), which was earlier as follows:  
"(c) not more than five persons being officers of the State Government, appointed by the State Government:".
11. Substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1979 (West Ben. Act X of 1979), for the words "More than two Sthayee Samities".
12. Substituted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), for the words "four years"
- 13 . Inserted by s. 32(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **125. Karmadhyaksha And Secretary :-**

(1) The members of a Sthayee Samiti shall elect, in such manner as may be prescribed, a Chairman, to be called karmadhyaksha, from among themselves:

Provided that the Sabhapati of the Panchayat Samiti shall be the ex-officio Karmadhyaksha of the1[Artha, Sanstha, Unnayan O Parikalpana] Sthayee samiti:

Provided further that the member referred to in2[clauses (i) and (iii)] of sub-section (2) of section 94 shall not be eligible for such election.

3[ \* \* \* ]

4[(3) (a) The Extension Officer, Panchayats shall act as the Secretary to the5[Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti.

6[(b) The members referred to in clauses7[(a), (b), (ba), (bb) and (bc)] of sub-section (2) of section 124 of a Sthayee Samiti, other than the Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti, shall select, in such manner8[as may be determined by the Sthayee Samiti in conformity with such direction as may be issued by one or more orders, general or special, of the State Government], one of the members referred to in clause (c) of that sub-section to act as the Secretary to such Sthayee Samiti:

9[Provided that pending the selection of Secretary to a Sthayee Samiti under this clause or during the casual vacancy, if any, in the post of Secretary to a Sthayee Samiti, the Secretary of the Panchayat Samiti, shall act as the Secretary to such Sthayee Samiti.]

(c) The Secretary to each Sthayee Samiti shall, in consultation with the Karmadhyaksha, convene the meetings of that Sthayee Samiti.]

10[(4) Notwithstanding anything contained in section 118 or elsewhere in this Act, the Karmadhyaksha shall--

(a) be responsible for the financial and executive administration in respect of the schemes and programmes11[under the purview and control of the Sthayee Samiti within the budgetary provisions of the Panchayat Samiti;]

(b) be entitled, in respect of the work of the Sthayee Samiti, to call for any information, return, statement, account or report from the office of the Panchayat Samiti and to enter on and inspect any immovable property of the Panchayat Samiti or to inspect any work in progress and connected with the functions and duties of the Sthayee Samiti;

(c) be entitled, when authorised by the Sthayee Samiti, to require the attendance at its meeting of any officer of the Panchayat Samiti;

( d ) exercise such powers, perform such other functions and



discharge such other duties, as the Panchayat Samiti may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe].

1. Substituted by s. 33(a), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "Artha O Sanstha".
2. Substituted by s. 33(a), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for "Clause (iii)", which were earlier substituted by s. 4 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) for "sub-clause (iii) of clause (a)".
3. Omitted by s. 33(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).
4. Substituted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979).
5. Substituted by s. 33(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) for the words "Argho O Sanstha".
6. Substituted by s. 33(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).
7. Substituted by s. 9(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIM of 2003) for the word, letters and brackets "(a) and (b)".
8. Substituted by s. 9(2), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIM of 2003) for the word, for the words "as may be determined by the Karmadhyaksha".
9. Added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).
10. Inserted by s. 21 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).
11. Substituted by s. 9(3) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "under the purview and control of the Sthayee Samiti;".

## **126. Resignation :-**

The Karmadhyaksha or any other member of a Sthayee Samiti may resign his office by giving notice in writing to the Sabhapati and on such resignation being accepted by the Panchayat Samiti the Karmadhyaksha or such member shall be deemed to have vacated his office.

## **127. Casual Vacancy :-**

When a vacancy occurs in the office of a Karmadhyaksha or a member of a Sthayee Samiti by resignation, death or otherwise, the members of the Sthayee Samiti shall elect another Karmadhyaksha or<sup>1</sup>[the members of the Panchayat Samiti shall elect another] member, as the case may be, in the prescribed manner. The Karmadhyaksha or the member so elected shall hold office for the unexpired portion of the term of office the person in whose place he becomes a member.

1. Inserted by s. 34 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Chapter XIA - SAMANWAY SAMITI OF OFFICE BEARERS AND KARMADHYAKSHAS
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1. Chapter XIA containing section 127A inserted by s. 35, of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

**127A. Omitted :-**

1 [127A. \* \* \* ]

CHAPTER 12

PROPERTY AND FUND

**128. Power To Acquire, Hold And Dispose Of Property :-**

A Panchayat Samiti shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the Panchayat Samiti shall obtain the previous approval of the State Government.

**129. Works Constructed By A Panchayat Samiti To Vest In It :-**

All roads, buildings or other works constructed by a Panchayat Samiti with its own funds shall vest in it.

**130. Allocation Of Properties To Panchayat Samiti :-**

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

**131. Acquisition Of Land For Panchayat Samiti :-**

Where a Panchayat Samiti requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 (1 of 1984) and such land shall, on acquisition, vest in the Panchayat Samiti.

**132. Panchayat Samiti Fund :-**

(1) For every Panchayat Samiti there shall be constituted a Panchayat Samiti Fund bearing the name of the Panchayat Samiti and there shall be placed to the credit thereof--

(a) contributions and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the State Government;

(b) contributions and grants, if any, made by the Zilla Parishad<sup>1</sup>[or Mahakuma Parishad or Council] or any other local authority;

(c) loans, if any, granted by the Central or the State Government or raised by the Panchayat Samiti on security of its assets;

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

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

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

(g) such fines or penalties imposed and realized, under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed; and

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

2[Explanation.--A Panchayat Samiti shall not receive to the credit of his fund--

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

(b) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the Panchayat Samiti save and except in pursuance of a resolution adopted in a meeting of the Panchayat Samiti accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.]

(2) Every Panchayat Samiti shall set apart and apply annually such

sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.

(3) Every Panchayat Samiti shall have power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(4) The Panchayat Samiti Fund shall be vested in the Panchayat Samiti and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

(5) Subject to such general control as the Panchayat Samiti may exercise from time to time, all orders and cheques for payments from the Panchayat Samiti Fund<sup>3</sup> shall be signed by the Executive Officer, or if authorized by the Executive Officer, by the Joint Executive Officer, subject to such order as may be issued by the State Government in this behalf.]

1. Inserted by s. 14 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

2. Inserted Explanation by s. 23 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

3 . Substituted by s. 11 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "shall be signed by the Executive Officer."

### **133. Levy Of Tolls, Rates And Fees :-**

(1) Subject to such maximum rates as the State Government may prescribe, a Panchayat Samiti may--

(a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a kutchra road or any bridge vested in it or under its management,

(b) levy tolls in respect of any ferry established by it or under its management,

(c) levy the following fees and rates, namely:--

(i) fees on the registration of vehicles;

(ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and melas within its jurisdiction as may be specified by the State Government by notification;

(iii) a fee for licence referred to in sub-section (2) of section 116;

(iv) a fee for licence for a hat or market referred to in section 177;

(v) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Panchayat Samiti within its jurisdiction;

(vi) a lighting rate, where arrangement for lighting of public streets and places is made by the Panchayat Samiti within its jurisdiction.

(2) The Panchayat Samiti shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and melas within its jurisdiction or levy fee therefor if any such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

#### **134. Scales Of Tolls, Etc. To Be Provided By Bye-Laws :-**

(1) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws.

(2) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

#### **135. Panchayat Samiti May Raise Loans And Create Sinking Fund :-**

A Panchayat Samiti may subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

#### **135A. Panchayat Samiti May Borrow Money :-**

1[135A. Panchayat Samiti may borrow money

Notwithstanding anything contained in section 135, a Panchayat Samiti may borrow money from the State Government or2[ \* \* \* ] from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the Panchayat Samiti for the purpose.]

1. Inserted by s. 3 of the West Bengal Panchayat (Fourth Amendment) Act, 1978 (West Ben. Act XLII of 1978).

2. Omitted the words "with the previous sanction of the State Government," by s. 31 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

#### **136. Budget Of The Panchayat Samiti :-**

(1) Every Panchayat Samiti shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year1[ \* \* \* ].

2[(2) (a) The budget prepared under sub-section (1) shall be written in English and in vernacular of the district or the locality concerned and copies of the budget in both the languages shall be pasted in such prominent places within the Block as may be prescribed, inviting objections and suggestions from the electors of the Panchayat Samiti.

(b) Copies of the budget shall be forwarded to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, having jurisdiction over the area of the Block for views, if any.

(c) The Panchayat Samiti shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any.

(d) A copy of the budget approved under clause (c) shall be forwarded to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, having jurisdiction.]

1. Omitted the words "and submit the budget to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, having jurisdiction over the area of the Block" by s. 32 (1), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

2. Substituted by s. 32(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"(2) The Zilla Parishad or the Mahakuma Parishad, or the Council, as the case may be, may, within such time as may be prescribed, either approve the budget or return it to the Panchayat Samiti for such modifications as it may direct. On such modifications being made, the budget shall be resubmitted within such time as may be prescribed for approval of the Zilla Parishad or the Mahakuma Parishad, or the Council, as the case may be. If the approval of the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, is not received by the Panchayat Samiti by the last date of the year, the budget shall be deemed to be approved by the Zilla Parishad or the Mahakuma Parishad, or the Council, as the case may be."

### **137. Expenditure :-**

No expenditure shall be incurred unless the budget is approved<sup>1</sup>[under clause (c) of sub-section (2) of section 136.]

1. Substituted by s. 33 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994) for the words "by the Zilla Parishad or the Mahakuma Parishad or the Council."

### **138. Supplementary Budget :-**

1 [(1)] The PanchayatSamiti may prepare in each year a supplementary estimate providing for anymodification of its budget and 2 [may approve it in a meeting specially convenedfor the purpose and in the presence of at least half of the existing members]within such time and in such manner as may be prescribed.

3 [(2) A copy of the supplementary estimate asapproved under subsection (1) shall be forwarded to the Zilla Parishad or theMahakuma Parishad or the Council, as the case may be, having jurisdiction.]

1. Original section renumbered as sub-section (1)by s. 34, of the West Bengal Panchayat (Amendment) Act, 1994 (WestBen. Act XVIII of 1994).

2. Substituted by s. 34(1), of the West Bengal Panchayat (Amendment) Act, 1994 (WestBen. Act XVIII of 1994), for the words"may submit it to Zilla Parishad or the Mahakuma Parishad or the Council,as the case may be, for approval".

3. Inserted by s. 34(2), of the West Bengal Panchayat (Amendment) Act, 1994 (WestBen. Act XVIII of 1994).

### **139. Accounts :-**

A Panchayat Samiti shall keep such accounts and in such form as may be prescribed.

#### PART 4

#### ZILLA PARISHAD

#### CHAPTER 13

#### CONSTITUTION OF ZILLA PARISHAD

### **140. Zilla Parishad And Its Constitutions :-**

(1) Forevery district 1 [except the district of Darjeeling] the State Government shallconstitute a Zilla Parishad bearing the name of the district.

( 2 ) The Zilla Parishad shall consist of thefollowing members, namely:--

(i) Sabhapatis of the Panchayat Samiti within the district, ex-officio:  
(ii) 2 [such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided 3 [by the prescribed authority] for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll, pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government and in force on such date as the State Election Commissioner may declare for the purpose of an election.] by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:

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

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

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

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section 5 [ \* \* \* ], when the number of members to be elected to a Zilla Parishad is



determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a Zilla Parishad, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

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

6 [Provided also that such division into constituencies shall be made in such manner that the ratio between the total population of all the Blocks in a district and the number of constituencies in the Zilla Parishad shall, so far as practicable, be the same in any Zilla Parishad:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing 7 [, issue an order making fresh determination] of the number of members in a Zilla Parishad or fresh reservation on rotation of the number of constituencies in that Zilla Parishad and, on such order being issued by the State Election Commissioner, the determination of the number of members 8 [or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for 9 [the next] three successive general elections:

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

(iii) members of the 10 [House of the People and] the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;

(iv) members of the Council of States not being Ministers, 11 [registered as electors within the area of any Block within the district.]

(3) Every Zilla Parishad constituted under this section 12 [ \* \* \* ] shall be notified in the Official Gazette and shall come into office with effect from the date of its first meeting at which a quorum is present.

(4) Every Zilla Parishad shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

13 [(5) (a) Notwithstanding anything contained in the foregoing provisions of this section, when the area of a district (hereinafter referred to as the former district) is divided so as to constitute two or more districts, for each of the newly constituted districts the State Government shall by notification constitute a Zilla Parishad bearing the name of the district with the following members, namely:--

(i) Sabhapatis of the Panchayat Samitis within the newly constituted district, ex-officio;

(ii) the members elected to the Zilla Parishad of the former district under clause (ii) of sub-section (2) from the constituencies referred to therein comprised in the Blocks within the newly constituted district;

(iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the newly constituted district or any part thereof, not being Ministers;

(iv) members of the Council of States, not being Ministers, having a place of residence in the newly constituted district.

(b) Notwithstanding anything in this Act, every Zilla Parishad constituted under this sub-section shall be deemed to have been duly constituted in accordance with the provisions of this Act and shall come into office with effect from the date of its first meeting at which a quorum is present, and the Zilla Parishad of the former district shall, with effect from the date of coming into office of the newly constituted Zilla Parishad, cease to exist.

(c) The members of the newly constituted Zilla Parishad, other than the ex-officio members, shall, subject to the provisions of section 145, hold office with effect from the date of its first meeting at which a quorum is present for the unexpired portion of the term of office of the members of the Zilla Parishad of the former district.

(d) All rules, orders, bye-laws and notifications made or issued from time to time under any law for the time being in force, applicable to the Zilla Parishad of the former district and continuing in force immediately before the coming into office of the newly constituted Zilla Parishad under this sub-section, shall, after the coming into office of the newly constituted Zilla Parishads, continue in force in so far as they are not inconsistent with the provisions of this Act and shall be applicable to the newly constituted Zilla Parishads until they are repealed or amended.

(e) The properties, funds and liabilities of the Zilla Parishad of the former district shall vest in the newly constituted Zilla Parishads in

accordance with such allocation as may be determined by order inwriting by the prescribed authority, and such determination shall be final.]

(6) An order made 14 [under clause (e) of sub-section(5)] may contain such supplemental, incidental and consequential provision asmay be necessary to give effect to such reorganization.

1.Inserted by s. 18 of the West Bengal Pancyayat (Amendment) Act, 1988 (West Ben.Act XX of 1988).

2. Substituted by s. 35(1) of the West BengalPanchayat (Amendment) Act, 1994 (West Ben.Act XVIII of 1994), for the words"two persons, one from each of two such constituencies comprised in theBlock within the district as may be specified by notification, elected bysecret ballot, at such time and in such manner as may be prescribed, fromamongst the persons, whose names are included in the electoral roll of the WestBengal Legislative Assembly in force on the last date of nomination forPanchayat election pertaining to any Block within the district."

Earlier the words were "from amongst thepersons, whose names are included in the electrol roll of the West BengalLegislative Assembly in force on the last date of nomination for Panchayatelection pertaining to any Block within the district, by persons whose namesare included in such electoral roll pertaining to the constituency comprised insuch Block;" subs. by s. 22(a) of the West Bengal Panchayat (Amendment)Act. 1992 (West Ben. Act XVII of 1992), for the words "from amongstthemselves by persons whose names are included in the electrol roll of the WestBengal Legislative Assembly in force on the last date of nominations forPanchayat election pertaining to the constituency comprised in suchBlock;"

3. Inserted by s. 24 (a) of the West BengalPanchayat (Amendment) Act. 1997 (West Ben. Act XV of 1997),w.e.f. 8.8.1997.

4. Provisos inserted by s. 22(b) of the West BengalPanchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

5.Omitted the words "or elsewhere in this Act" by s. 24(b) of the WetBengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

6 . Provisos inserted by s. 35(1) of the West BengalPanchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

7.Substituted by s.24(c) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XVof1997), w.e.f. 8.8.1997, for the words "and by notification order

freshdetermination".

8. Substituted by s. 8 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997), w.e.f. 5.1.1998, for the words "and the reservation of the number of constituencies".

9. Inserted by s. 24(c) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

10. Substituted by the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978), with retrospective effect, for the words "House of the people or".

11. Substituted by s. 35(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "having a place of residence in the district".

12. Omitted the words and numbers "notwithstanding anything contained in section 210", by s. 35(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "having a place of residence in the district"., which were earlier inserted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978).

13. Substituted by s. 2(1) of the West Bengal Panchayat (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985).

14. Substituted by s. 2(2) of the West Bengal Panchayat (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985), for the words, brackets and numbers "under sub-section (5)".

#### **141. Term Of Office Of Members Of Zilla Parishad :-**

(1) The members of a Zilla Parishad, other than ex officio members, shall, subject to the provisions of sections 145 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

(2) There shall be held a general election for the constitution of a Zilla Parishad within a period not exceeding five years from the date of the previous general election held for such Zilla Parishad:

Provided that if the first meeting of the newly-formed Zilla Parishad cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint, any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Zilla Parishad under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly-formed Zilla

Parishad is held, whichever is earlier.]

1. Substituted by s. 36 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"141. Term of office of members of Zilla Parishad--(1) The members of a Zilla Parishad other than the ex-officio members, shall, subject to the provisions of sub-section (2) of this section and section 145, hold office for a period of five years from the date of poll in the general election for constitution of Zilla Parishads.

(2) The period of five years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said period and the date of the first meeting of the newly formed Zilla Parishad after a fresh election at which a quorum is present:

Provided that if such first meeting of the newly-formed Zilla Parishad cannot be held within three months of the expiry of the said period of five-years, the State Government may, by order terminate the term of office of the members of the Zilla Parishad continuing in office under this sub-section and appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Zilla Parishad under this Act or any other law for the time being in force until the date on which such first meeting of the newly-formed Zilla Parishad is held."

#### **141A. Omitted :-**

1. Omitted by s. 37," of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier ins. by s. 23 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992) which was as follows:

"141A. General election to Zilla Parishads--(1) There shall be held a general election for the constitution of a Zilla Parishad or Mahakuma Parishad, as the case may be, in accordance with the provisions of section 140 before the expiry of the term of office of the members thereof under section 141.

(2) Notwithstanding anything contained in sub-section (1); if the State Government is of opinion that circumstances exist under which it is not possible to hold election in the area or in any part of the area of a Zilla Parishad or Mahakuma Parishad, it may on the expiry of the term of office of the members of the Zilla Parishad or Mahakuma Parishad, as the case may be, under sub-section (1) of section 141, by an order published in the Official Gazette, extend such term of office for such period, not exceeding six months at a time, as may be specified in the order:

Provided that prior to the issue of any notification for such extension of the term of office beyond six months from the date of expiry of the term under sub-section (1) of section 141, such notification shall be laid before the State Legislature and shall be subject to such modification as the State Legislature may make."

#### **142. Disqualifications Of Members Of Zilla Parishad :-**

A person shall not be qualified to be a member of a Zilla Parishad, if--

- (a) he is a member<sup>1</sup>[ \* \* \* ] of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or
- 2[(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti or a Zilla Parishad; and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or]
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of the Zilla Parishad or a Gram Panchayat or a Panchayat Samiti within the district:  
Provided that no person shall be deemed to be disqualified for being elected a member of a Zilla Parishad by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956 (1 of 1956), which contracts with or is employed by a Gram Panchayat, or a Panchayat Samiti within the district or the Zilla Parishad of the district; or
- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government Company or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or
- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or
- (g) he being a discharged insolvent has not obtained from the court

a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

3[(h) (i) he has been convicted by a court--

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

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

(C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 (West Ben. Act X of 1952), and five years have not elapsed from the date of the expiration of the sentence; or

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

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

(j) he has been convicted under section 189 at any time during the last ten years; or

(k) he has been surcharged or charged under section 192 at any time during the last ten years; or

(l) he has been removed under section 213 at any time during the last five years.]

1. Omitted the words "of a Gram Panchayat or a Nyaya Panchayat or a Panchayat Samiti other than the Sabhapati, or" by s. 37(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985).

3 . Substituted by s. 25 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, which was earlier as follows:

"(h) he has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter IXA of the Indian Penal Code (45 of 1860) or section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 (West Ben. Act X of 1952), or Chapter III of Part VII of the Representation of the People Act, 1951 (43 of 1951) and five years have not elapsed form the date of the expiration of the sentence; or".

4 . Inserted by s. 38(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

### **143. Sabhadhipati And Sahakari Sabhadhipati :-**

(1) Every Zilla Parishad shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the Sabhadhipati and another member to be the Sahakari Sabhadhipati of the Zilla Parishad:

Provided that the members referred to in 1[clauses (i), (iii) and (iv)] of sub-section (2) of section 1402[shall neither participate in, nor be eligible for, such election.]

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

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

Provided also that the offices of the Sabhadhipati and the Sahakari Sabhadhipati in any Zilla Parishad having the Scheduled Castes and the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Blocks within the district, shall not be considered for allocation by rotation:

Provided also that in the event of the number of Zilla Parishad areas having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting more than five per cent of the total population, falling short of the number of offices of the Sabhadhipati and the Sahakari Sabhadhipati required for reservation in West Bengal, the State Election Commissioner, may, by order, include, for the purpose of reservation other such offices



of the Sabhadhipati and the Sahakari Sabhadhipati beginning from the district having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

Provided also that not less than one-third of the total number, of offices of the Sabhadhipati and the Sahakari Sabhadhipati reserved for the Scheduled Castes and the Scheduled Tribes in West Bengal, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided also that not less than one-third of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati in West Bengal including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:]

5[Provided also that determination of the offices of the Sabhadhipati within the State reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the Sahakari Sabhadhipati:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Sabhadhipati in a Zilla Parishad is reserved for any category of persons in accordance with the rules in force, the office of the Sahakari Sabhadhipati in that Zilla Parishad shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the Sahakari Sabhadhipati, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the Sahakari Sabhadhipati within the State in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

Provided also that when in any term of election, an office of the Sahakari Sabhadhipati is not reserved on the ground that the corresponding office of the Sabhadhipati is reserved in the manner prescribed, such office of the Sahakari Sabhadhipati not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:]

6[Provided also that notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under

this sub-section shall commence from the first election to be held after the coming into force of section 39 of the West Bengal Panchayat (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no women, for whom the offices are reserved under this subsection, shall, if eligible for the office of the Sabhadhipati or the Sahakari Sabhadhipati, be disqualified for election to any office not so reserved:

Provided also that the provisions for reservation of the offices of the Sabhadhipati and the Sahakari Sabhadhipati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in Article 334 of the Constitution of India.]

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

(3) The Sabhadhipati and the Sahakari Sabhadhipati shall, subject to the provisions of section 146 and to their continuing as members, hold office for a period of 7 [five years]:

8[\* \* \*]

(4) When--

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

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

the Sahakari Sabhadhipati shall exercise the powers, perform the functions and discharge the duties of the Sabhadhipati until a new Sabhadhipati is elected and assumes office or until the Sabhadhipati resumes his duties, as the case may be,

(5) When--

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

(b) when the Sahakari Sabhadhipati is, by reason of leave, illness or other cause, temporarily unable to act,

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

(6) When the offices of the Sabhadhipati and the Sahakari Sabhadhipati are both vacant or the Sabhadhipati and the Sahakari Sabhadhipati are temporarily unable to act, the prescribed authority may appoint<sup>9</sup>[for a period of thirty days at a time] a Sabhadhipati and a Sahakari Sabhadhipati from among the members of the Zilla Parishad to act as such until a Sabhadhipati or a Sahakari Sabhadhipati is elected and assumes office<sup>10</sup>[or until the Sabhadhipati or the Sahakari Sabhadhipati resumes his duties, as the case may be].

(7)<sup>11</sup>[\* \* \*]

(8) The Sabhadhipati and the Sahakari Sabhadhipati or a Zilla Parishad shall be paid out of the Zilla Parishad Fund such<sup>12</sup>[remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

<sup>13</sup>[(9) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a Sabhadhipati or a Sahakari Sabhadhipati from his office if, in its opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:

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

1. Substituted by s. 38(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) for the words, brackets and numbers "clauses (iii) and (iv)" which were earlier substituted by s. 6 of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978) with retrospective effect for "sub-clauses (iii) and (iv) of clause (a)".

2 . Substituted by s. 39(i) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "shall not be eligible for such election."

3. Proviso added by s. 24(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

4. Provisos inserted by s. 39(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

5. Provisos inserted by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997), w.e.f. 5.1.1998.

6. Provisos inserted by s. 39(1) of the West Bengal Panchayat

(Amendment) act, 1994 (West Ben. Act XVIII of 1994).

7. Substituted by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), for the words "four years".

8. Proviso omitted by s. 39(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"Provided that a Sabhadhipati or a Sahakari Sabhadhipati shall continue in office after the expiry of the said period until a new Sabhadhipati or Sahakari Sabhadhipati is elected and assumes office or until an authority or a person is or are appointed under the proviso to sub-section (2) of section 141."

9. Inserted by s. 39(3), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

10. Inserted by s. 38(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

11. Omitted by s. 38(c), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

12. Substituted by s. 24(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "honoraria".

13. Added by s. 24(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

#### **144. Resignation Of Sabhadhipati And Sahakari Sabhadhipati Or A Member :-**

(1) A Sabhadhipati or a Sahakari Sabhadhipati or a member of a Zilla Parishad may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Sabhadhipati, the Sahakari Sabhadhipati or the member shall be deemed to have vacated his office.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Zilla Parishad within thirty days of such acceptance.

#### **145. Removal Of Member Of Zilla Parishad :-**

(1) The prescribed authority may, after giving an opportunity to a member of a Zilla Parishad other than an ex-officio member to show cause against the action proposed to be taken against him, by order remove him from office--

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

(b) if he was disqualified to be a member of the Zilla Parishad at the time of his election; or

(c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 142 after his election as a member of the Zilla Parishad; or

(d) if, he is absent from three consecutive meetings of the Zilla Parishad without the leave of the Zilla Parishad<sup>1</sup>[ \* \* \* ]; or

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

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

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

2[\* \* \*]

1. Omitted the words "provided he is not an ex officio member of the Zilla Parishad" by s. 39(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Omitted by s. 39(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

#### **146. Removal Of Sabhadhipati And Sahakari Sabhadhipati :-**

1[Subject to the other provisions of this section, a Sabhadhipati or a Sahakari Sabhadhipati] of a Zilla Parishad may, at any time, be removed from office<sup>2</sup>[by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 140] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority: Provided that at any such meeting while any resolution for the removal of the Sabhadhipati from his office is under consideration,

the Sabhadhipati or while any resolution for the removal of the Sahakari Sabhadhipati from his office is under consideration, the Sahakari Sabhadhipati shall not, though he is present, preside, and the provisions of sub-section (2) of section 150 shall apply in relation to every such meeting as they apply in relation to a meeting from which the Sabhadhipati or, as the case may be, the Sahakari Sabhadhipati is absent.

3[Provided further that no meeting for the removal of the Sabhadhipati or the Sahakari Sabhadhipati under this section shall be convened within a period of one year from the date of election of the Sabhadhipati or the Sahakari Sabhadhipati:

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

1. Substituted by s. 40(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "A Sabhadhipati or a Sahakari Sabhadhipati".

2. Substituted by s. 40(b), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by a resolution of the Zilla Parishad carried by the majority of the existing members of the Zilla Parishad".

3. Provisos added by s. 40(c), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

4. Proviso substituted by s. 14 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), which was earlier as follows:

"Provided also that there shall not be more than one resolution for the removal of the Sabhadhipati or the Sabhadhipati within a period of six months."

#### **147. Filling Of Casual Vacancies In The Office Of sabhadhipati Or Sahakari Sabhadhipati :-**

In the event of removal of a Sabhadhipati or a Sahakari Sabhadhipati under section 146 or when a vacancy occurs in the office of a Sabhadhipati or a Sahakari Sabhadhipati by resignation, death or otherwise, the Zilla Parishad shall elect another Sabhadhipati, or Sahakari Sabhadhipati in the prescribed manner.

#### **148. Filling Of Casual Vacancy In The Place Of An Elected Member :-**

If the office of a member of a Zilla Parishad becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in the prescribed manner.

**149. Term Of Office Of Sabhadhipati, Sahakari Sabhadhipati Or Member Filling Casual Vacancy :-**

Every Sabhadhipati or Sahakari Sabhadhipati elected under section 147 and every member elected under section 148 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

**150. Meetings Of Zilla Parishad :-**

(1) Every Zilla Parishad shall hold a meeting<sup>1</sup>[in its office at least once in every three months on such date and at such hour as the Zilla Parishad may fix at the immediately preceding meeting]:

Provided that the first meeting of a newly-constituted Zilla Parishad shall be held at such time and at such place within the local limits of the district concerned, as the prescribed authority may fix:

Provided further that the Sabhadhipati when required in writing by one-fifth of the members of the Zilla Parishad to call a meeting<sup>2</sup>[shall do so fixing the date and hour of the meeting<sup>3</sup>[to be held] within fifteen days after giving intimation to the prescribed authority and seven days notice to the members of the Zilla Parishad,] failing which the members aforesaid may call a meeting<sup>4</sup>[to be held]<sup>5</sup>[within thirty-five days] after giving intimation to the prescribed authority and seven clear days notice to the Sabhadhipati and the other members of the Zilla Parishad. Such meeting shall be held at such place<sup>6</sup>[in the office of the Zilla Parishad on such date and at such hour] as the members calling the meeting may decide.<sup>7</sup>[The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

<sup>8</sup>[Provided also that for the purpose of convening a meeting under section 146, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 140 shall require the Sabhadhipati to convene the meeting:]

<sup>9</sup>[Provided also that if the Zilla Parishad does not fix at any

meeting the date and hour of its next meeting or if any meeting is not held on the date and hour fixed at the immediately preceding meeting, the Sabhadhipati shall call a meeting of Zilla Parishad on such date and at such hour as he thinks fit.]

(2) The Sabhadhipati or in his absence the Sahakari Sabhadhipati shall preside at the meeting of the Zilla Parishad and in the absence of both<sup>3</sup>[or in the refusal of any or both to preside at a meeting] the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members of the Zilla Parishad shall form a quorum for a meeting of a Zilla Parishad:

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

(4) All questions coming before a Zilla Parishad shall be decided by a majority of votes:

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

<sup>11</sup>[Provided further that in case of a requisitioned meeting for the removal of the Sabhadhipati or the Sahakari Sabhadhipati under section 140, the person presiding shall have no second or casting vote.]

(5)<sup>12</sup>[The Executive Officer and the Additional Executive Officer] of a Zilla Parishad shall attend meetings of the Zilla Parishad and shall participate in the deliberations thereof:

<sup>13</sup>[Provided that if for any reason the Executive Officer<sup>14</sup>[and the Additional Executive Officer] cannot attend any meeting of the Zilla Parishad<sup>15</sup>[the Executive Officer shall] depute the Secretary of the Zilla Parishad to attend such meeting.]

1. Substituted by s. 40(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Substituted by s. 40(1), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "shall do so within ten days".

3. Inserted by s. 26(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

4. Inserted by s. 26(b), of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

5. Inserted by s. 25 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

6 . Substituted by s. 40(1) of the West Bengal Panchayat



(Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) for the words "within the local limits of the district concerned".

7. Inserted by s. 40(1), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

8. Inserted by s. 15(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

9 . Inserted by s. 40(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

10. Inserted by s. 15(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

11. Inserted by s. 40(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

12 . Substituted by s. 40(3), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "The Executive Officer".

13. Added with retrospective effect by s. 3 of the West Bengal Panchayat (Amendment) Act, 1979 (West Ben. Act X of 1979).

14 . Inserted by s. 40(3) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

15. Substituted by s. 40(3), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "he shall".

### **151. List Of Business To Be Transacted At A Meeting :-**

A list of the business to be transacted at every meeting of a Zilla Parishad except at an adjourned meeting, shall be sent to each member of the Zilla Parishad in the manner prescribed, at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting: Provided that if the Sabhadhipati thinks that a situation has arisen for which an emergent meeting of the Zilla Parishad should be called, he may call such meeting after giving three days notice to the members:

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

### **152. Report On The Work Of Zilla Parishad :-**

The Zilla Parishad shall prepare and submit annually in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year to the prescribed authority within the prescribed time.

#### CHAPTER 14

#### POWERS, FUNCTIONS AND DUTIES OF ZILLA PARISHAD

### **153. Powers Of Zilla Parishad :-**

(1) 1 [A Zilla Parishad shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall prepare--

(i) a development plan for the five-year term of the office of the members, and

(ii) an annual plan for each year by the month of January of the preceding year,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to--]

(a) 2 [(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live-stock, khadi, cottage and small-scale industries, co-operative movement, rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment, and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, physical education and games and sports, welfare of students, social forestry and farm forestry including fuel and fodder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of general public utility.]

(ii) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority,

(iii) manage or maintain any work of public utility or any institution vested in it or under its control and management,

(iv) make grants in aid of any school, public library, public institution or public welfare organisation within the district,

(v) contribute such sums as may be agreed upon towards the cost

of maintenance of any institutions, situated outside the district, which are beneficial to, and habitually used by, the inhabitants of the district,

(vi) established scholarships or award stipends within the State for the furtherance of technical or other special forms of education,

(vii) acquire and maintain village huts and markets;

(b) make grants to the Panchayat Samitis or Gram Panchayats;

(c) contribute, with the approval of the State Government, such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by the commissioners of a municipality within the district;

(d) adopt measures for the relief of distress;

(e) co-ordinate and integrate the development plans and schemes prepared by Panchayat Samitis in the district; and

3 [\* \* \*]

(2) A Zilla Parishad shall have the power to advise the State Government on all matters relating to the development work among Gram Panchayats and Panchayat Samitis.

(3) Notwithstanding anything in sub-section (1), a Zilla Parishad shall not undertake or execute any scheme confined to a block unless the implementation of such a scheme is beyond the competence of the Panchayat Samiti concerned financially or otherwise. In the latter case the Zilla Parishad may execute the scheme itself or entrust its execution to the Panchayat Samiti and give it such assistance as may be required:

4 [Provided that a Zilla Parishad may undertake or execute any scheme referred to in sub-clause (ii) of clause (a) of sub-section (1) confined to an area over which a Panchayat Samiti has jurisdiction.]

(4) A Zilla Parishad may undertake or execute any scheme if it extends to more than one block.

1. Substituted by s. 41(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "Subject to any general or special directions of the State Government, a Zilla Parishad shall have the power to--".

2. Substituted by s. 41(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which, was earlier as follows:

"(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, livestock, industries, cooperative movement, rural credit, water supply, irrigation, public health and sanitation including establishment of dispensaries and hospitals, communications,

primary, secondary and adult education including welfare of students, social welfare and other objects of general public utility."

3. Omitted by s. 41 (3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"(f) examine and sanction the budget estimates of Panchayat Samitis in the district".

4. Proviso added by s. 41 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

#### **154. Zilla Parishad To Have Powers Of Magistrate In District To Which The Vaccination Act Extends :-**

In a district to which the Bengal Vaccination Act, 1880 (Ben. Act V of 1880), has been, or may hereafter be extended, the Zilla Parishad shall exercise all or any of the powers exercisable by the Magistrate of the district under section 25 of the said Act.

#### **155. State Government May Place Other Property Under Zilla Parishad :-**

The State Government may from time to time, with the consent of the Zilla Parishad, place any road, bridge, ferry, channel building or other property vested in the State Government and situated within the district under the control and management of the Zilla Parishad subject to such conditions as it may specify.

1[Provided that the State Government may, after considering the views of the Zilla Parishad, withdraw such control and management to itself subject to such conditions as it may specify.]

1. Proviso added by s. 42, of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

#### **156. Control And Maintenance Of Roads Which Run Through A Municipality :-**

The State Government may, notwithstanding anything contained in the Bengal Municipal Act, 1932 (West Ben. Act XV of 1932), direct, after consultation with the Commissioners of a municipality, that the control and maintenance of any road part of which runs through a municipality and is vested in the commissioners of such municipality shall be taken over by the Zilla Parishad and that the Commissioners of such municipality shall make such contribution for the maintenance of the road as may be agreed upon or as may be

fixed by the State Government in the absence of agreement. On such direction being given the Commissioners of the municipality shall cease to control and maintain such portion of the road as lies within such municipality.

**157. Zilla Parishad May Take Over Works :-**

A Zilla Parishad may take over the maintenance and control of any road, bridge, tank, ghat, well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.

**158. Power Of Zilla Parishad To Divert, Discontinue Or Close Road :-**

A Zilla Parishad may divert, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

**159. Power Of Zilla Parishad To Transfer Roads To The State Government Or Panchayat Samiti :-**

A Zilla Parishad may transfer to the State Government, the Commissioners of a municipality, a Panchayat Samiti or a Gram Panchayat any road or part of a road or any other property which is under its control or management or which is vested, in it, on such terms and conditions as may be agreed upon.

**160. Vesting Of Zilla Parishad With Certain Powers :-**

(1) A Zilla Parishad may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(2) A Zilla Parishad shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871 (1 of 1871).

(3) A Zilla Parishad shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

**161. Joint Execution Of Schemes By Two Or More Zilla Parishads :-**

The Zilla Parishads of two or more adjacent districts may jointly undertake and execute at common cost any development scheme or project or may jointly establish a common ferry on such terms and conditions as may be agreed upon, and in case of any difference as to the interpretation of such terms and conditions the matter shall be referred to the State Government whose decision shall be final.

**162. Power Of Zilla Parishad To Grant Licence For Fair Or Mela :-**

A Zilla Parishad may require the owner or the lessee of a fair or mela or an owner or a lessee of land intending to hold a fair or mela thereon to obtain a licence in this behalf from the Zilla Parishad on such terms and conditions as may be prescribed and on payment of a fee for such licence.

**163. Power Of Supervision By Zilla Parishad Over The Panchayat Samitis, Etc :-**

1 [(1)] A Zilla Parishad shall exercise general powers of supervision over Panchayat Samitis and Gram Panchayats in the district and it shall be the duty of these authorities to give effect to any directions of the Zilla Parishad 2 [\* \* \*].

3 [(2) A Zilla Parishad may--

(a) inspect, or cause to be inspected, any immovable property used or occupied by a Panchayat Samiti under it or any work in progress under the direction of the Panchayat Samiti,

(b) inspect or examine, or depute an officer to inspect or examine, any department of the Panchayat Samiti, or any service, work or thing under the control of the Panchayat Samiti,

(c) inspect or cause to be inspected utilisation of funds in respect of schemes or programmes assigned to the Panchayat Samiti by the State Government for execution either directly or through the Zilla Parishad,

(d) require a Panchayat Samiti, for the purpose of inspection or examination,--

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

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

(iii) to furnish or obtain any report or information.]

4 [(3) Notwithstanding anything contained in the foregoing

provisions of this section or elsewhere in this Act, a Zilla Parishad may--

(a) require a Panchayat Samiti or Gram Panchayat to take into consideration any objection which appears to it to exist to the doing of anything which is about to be done or is being done by such Panchayat Samiti or Gram Panchayat or any information which appears to it to necessitate the doing of anything by such Panchayat Samiti or Gram Panchayat within such period as it may fix;

(b) direct a Panchayat Samiti or Gram Panchayat to discharge any duty under this Act within a specified period if such Panchayat Samiti or Gram Panchayat fails to discharge such duty in accordance with the provisions of this Act and, if such duty is not discharged within the period aforesaid, appoint any person or persons or authority to discharge such duty and direct that the expenses thereof shall be paid by the Panchayat Samiti or the Gram Panchayat concerned within such period as it may fix:

Provided that such person or persons or authority shall, for the purpose of discharging the duty as aforesaid, exercise such of the powers under this Act as might have been exercised by the Panchayat Samiti or the Gram Panchayat concerned while discharging such duty;

(c) direct a Panchayat Samiti or Gram Panchayat to levy any tax, toll, fee or rate, if it fails to do so in accordance with the provisions of this Act;

(d) call for meetings of a Panchayat Samiti or any of its Sthayee Samitis or a Gram Panchayat if no meeting of such Panchayat Samiti or Sthayee Samiti or Gram Panchayat is held in accordance with the provisions of this Act or the rules made thereunder.

(4) When a Zilla Parishad takes any action or issues any direction in respect of any Gram Panchayat, such action may be taken and such direction may be issued through and with the assistance of the Panchayat Samiti having jurisdiction.

(5) A Panchayat Samiti or Gram Panchayat, as the case may be, may appeal to the State Government against any direction under clause (b) of sub-section (3) within thirty days from the date of such direction, and the decision of the State Government on such appeal shall be final.]

1. Original section renumbered as sub-section (1) of that section by s. 43(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

2. Omitted the words "on matters of policy of planning for development" by s. 43(1), of the West Bengal Panchayat

(Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

3. Sub-section (2) inserted by s. 43(2), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

4. Inserted by s. 26 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992).

### **163A. Zilla Sansad And Its Constitution :-**

1[163A. Zilla Sansad and its constitution

(1) Every Zilla Parishad shall have a Zilla Sansad consisting of the following members:

(a) Pradhans of all Gram-Panchayats,

(b) Sabhapatis, Sahakari Sabhapatis and Karmadhyakshas of all Panchayat Samitis comprising the Zilla Parishad,

(c) and all members of that Zilla Parishad.

(2) a Zilla Parishad shall hold an annual and a half-yearly meeting of such Sansad at such time and place in such manner, as may be prescribed.

(3) One-tenth of the total number of members shall form a quorum for a meeting of a Zilla Sansad:

Provided that if no quorum is available for such meeting, the meeting shall be adjourned to be held at the same time and place on the seventh day from the date of such meeting in the manner as may be prescribed.

(4) A meeting of the Zilla Sansad shall be presided over by the Sabhadhipati and in his absence by the Sahakari Sabhadhipati of the Zilla Parishad.

(5) The Zilla Sansad shall guide and advise the Zilla Parishad for all matters relating to development including preparation of annual plan and budget, implementation of development programmes, schemes or projects and undertaking such activities for economic development and for ensuring social justice as are undertaken or proposed to be undertaken by Zilla Parishad:

Provided that for such guidance and advice, any member of the Zilla Sansad on receipt of the notice for any such meeting, may demand in writing to the Executive Officer for placement of any document such as last report on inspection of accounts of the funds of the Zilla Parishad by the Audit team, budget, Annual Action Plan and on receipt of such demand the Executive Officer with the consent of the Sabhapati, shall place such documents in the meeting for deliberation:

Provided further that the deliberation, recommendations and observations passed in the meeting of the Zilla Sansad, shall be considered in the meeting of Zilla Parishad as soon as possible within one month from the date of meeting of the Zilla Sansad and the decision of the Zilla Parishad along with the action-taken report shall be placed in the next meeting of the Zilla Sansad.]

1. Inserted by s. 12 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

### **164. Exemption Of Sabhadhipati And Members Of Zilla Parishad From Attending Registration Office :-**

Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), or any rules made thereunder, the registering officer shall, on the requisition of the Sabhadhipati made in writing and under the common seal of the Zilla Parishad, register a document executed by the Sabhadhipati or a member of the Zilla Parishad on



behalf of the Zilla Parishad without requiring the presence of the Sabhadhipati or the member concerned at the registration office.

**165. Powers, Functions And Duties Of Sabhadhipati And Sahakari Sabhadhipati :-**

(1) The Sabhadhipati shall--

(a) be responsible for the maintenance of therecords of the Zilla Parishad;

(b) have general responsibility for the financialand executive administration of the Zilla Parishad;

(c) exercise administrative supervision and controlover all officers and other employees of the Zilla Parishad and the officersand employees whose services may be placed at the disposal of the ZillaParishad by the State Government;

(d) for the transaction of business connected withthis Act or for the purpose of making any order authorised thereby, exercisesuch powers, perform such functions and discharge such duties as may beexercised, performed or discharged by the Zilla Parishad under this Act or therules made thereunder:

Provided that the Sabhadhipati shall not exercisesuch powers, perform such functions or discharge such duties as may be requiredby the rules made under this Act to be exercised, performed or discharged bythe Zilla Parishad at a meeting;

(e) exercise such other powers, perform such otherfunctions and discharge such other duties as the Zilla Parishad may, by generalor special resolution, direct or as the State Government may, by rules made inthis behalf, prescribe.

1 [Explanation.--For the purpose of discharge ofresponsibilities and exercise of administrative supervision and control, theSabhadhipati shall rely on the Executive Officer referred to in section 166 andshall generally act through him.]

(2) The Sahakari Sabhadhipati shall--

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

Provided that the Sabhadhipati may, at any timewithdraw the power and functions delegated to the Sahakari Sabhadhipat;

(b) during the absence of the Sabhadhipati,exercise all the powers, perform all the function and discharge all the dutiesof the

Sabhadhipati;

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

1. Inserted by s. 27 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.9.1997.

2. Inserted by s. 44(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

#### CHAPTER 15

#### ESTABLISHMENT OF THE ZILLA PARISHAD

### **166. Staff Of The Zilla Parishad :-**

(1) There shall be an Executive Officer for a Zilla Parishad appointed by the State Government on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the Zilla Parishad to a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

1 [(1A) The State Government may appoint an Additional Executive Officer for a Zilla Parishad on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the Zilla Parishad, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

(1B) The Additional Executive Officer shall, subject to the provisions of this Act, exercise such powers, perform such functions, and discharge such duties, of the Executive Officer as the State Government may, from time to time, direct.]

2 [(2) The State Government may appoint a Secretary for a Zilla Parishad on such terms and conditions as may be prescribed.]

(3) 3 [Subject to such rules as may be made by the State Government, a Zilla Parishad] may appoint such other officers and employees as may be required by it and may fix the salaries to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Zilla Parishad

without the prior approval of the State Government.

4 [Provided further that subject to the decision of the Zilla Parishad, the orders relating to appointment and other service matters concerning any post under the Zilla Parishad shall be issued by or on behalf of the Executive Officer.]

5 [(4) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the Zilla Parishad.]

1. Inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1980 (West Ben. Act XXXIV of 1980).

2 . Substituted by s. 45(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) for original sub-section and proviso thereto.

3. Substituted by s. 45(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "A Zilla Parishad".

4. Proviso added by s. 28 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

5. Inserted by s. 45(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **167. Placing The Services Of State Government Officers At The Disposal Of The Zilla Parishad :-**

The State Government may place at the disposal of the Zilla Parishad the services of such officers or other employees serving under it<sup>1</sup> [and on such terms and conditions] as it may think fit:

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

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

1. Inserted by s. 46 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **168. Control And Punishment Of The Staff Of The Zilla Parishad :-**

(1) The Executive Officer shall exercise general control over all

officers and other employees of the Zilla Parishad.

(2) The Executive Officer may award any punishment other than dismissal, removal or reduction in rank to an officer or employee<sup>1</sup>[of a Zilla Parishad].

(3) The Executive Officer may recommend the dismissal, removal or reduction in rank of an officer or employee<sup>2</sup>[of a Zilla Parishad] to the<sup>3</sup>[Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti and such Samiti shall forward the case to the Zilla Parishad with its own recommendation. The Zilla Parishad may, if it is satisfied with such recommendation of the<sup>3</sup>[Artha, Sanstha, Unnayan O Parikalpana] Sathayee Samiti, dismiss, remove or reduce in rank any such officer or employee.

(4) No officer or other employee<sup>4</sup>[of a Zilla Parishad] shall be punished by the Zilla Parishad except by a resolution of the Zilla Parishad passed at a meeting.

1. Substituted by s. 47(a), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "holding a post carrying monthly salary of less than rupees three hundred".

2. Substituted by s. 47(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "holding a post carrying a monthly salary of less than rupees three hundred.".

3. Substituted by s. 47(b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "Artha O Sanstha".

4. Substituted by s. 47(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "holding a post carrying monthly salary of less than rupees three hundred or more".

### **169. Appeal :-**

(1) An appeal shall lie to the Zilla Parishad against an order of punishment awarded by the Executive Officer under sub-section (2) of section 168 within one month from the date of that order.

(2) An appeal shall lie to the State Government against an order of punishment awarded by the Zilla Parishad under sub-section (3) or (4) of section 168 within one month from the date of that order.

### **170. Exercise Of Powers, Etc., By The Officers And Employees :-**

Subject to the provisions of this Act and the rules framed thereunder and to any general or special directions given by the State Government in that behalf, the officers and other employees employed by the Zilla Parishad and the officers and other employees whose services have been placed at the disposal of the Zilla Parishad shall exercise such powers, perform such functions and discharge such duties as the Zilla Parishad may determine.

#### CHAPTER 16

#### STHAYEE SAMITIS OF THE ZILLA PARISHAD

### **171. Sthayee Samiti :-**

(1) A Zilla Parishad shall have the following Sthayee Samitis, namely:--

- (i)1[Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti;
- (ii)2[Janasasthya O Paribesh] Sthayee Samiti;
- (iii) Purta Karya3[O Paribahan] Sthayee Samiti;
- (iv) Krishi Sech O Samabaya Sthayee Samiti;
- (v)4[Shiksha, Sanskriti, Tathya O Krira] Sthayee Samiti;
- (vi)5[Sishu O Nari Unnayan, Janakalyan O Tran] Sthayee Samiti;
- 6[(via) Bon O Bhumi Sanskar Sthayee Samiti;
- (vib) Matsya O Prani Sampad Bikash Sthayee Samiti;
- (vic) Khadya O Sarbaraha Sthayee Samiti;
- (vid)7[Khudra Shilpa Bidyut O Achiracharit Shakti] Sthayee Samiti;
- (vii) such other Samiti or Samitis as the Zilla Parishad may, subject to the approval of the State Government, constitute.

(2) A Sthayee Samiti shall consist of the following members, namely--

- (a) the Sabhadhipati8[and Sahakari Sabhadhipati], ex officio;
- (b)9[without prejudice to the provisions in clause (ba)] not less than three and not more than five persons to be elected in the prescribed manner by the members of the Zilla Parishad from among themselves;
- 10[(ba) in Artha Sanstha Unnayan O Parikalpana Sthayee Samiti, Karmadhyakshas has elected in other Sthayee Samitis as referred to in sub-section (1), shall be members ex officio and no member shall be elected in the manner referred to in clause (b);
- (bb) Leader of the recognized political party in opposition having largest number of members in the Zilla Parishad in comparison with other recognized political parties in opposition, shall be a member of the Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti;
- (bc) one member from each recognized political party in opposition

shall be a member of the Sthayee Samiti other than the Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti:

Provided that the members selected from the recognized political party having larger number of members in the Zilla Parishad shall be the member of the Sthayee Samiti placed higher in the consecutive order in sub-section (1):

Provided further that if the number of recognized parties in opposition is less than the number of Sthayee Samitis, the independent candidates in opposition in Zilla Parishad shall be members of the Sthayee Samitis for which no member of the recognized political parties are available and the member senior in age shall be placed as member in the Sthayee Samiti placed higher in the order of sub-section (1):

Provided also that if the number of recognized political parties added with number of independent members falls short of the number of Sthayee Samitis, one additional member from each such political party in opposition in the Zilla Parishad, shall be chosen for membership in the Sthayee Samitis where no member in terms of this clause has been provided and the same sequential order shall be followed for placement of a member in a Sthayee Samiti and such process shall be repeated until all Sthayee Samitis have one member under this clause:

Provided also that a member in opposition may be a member of more than two Sthayee Samitis if in a term of general election, not more than four members in opposition, either representing a recognized political party or independent, are elected in the Zilla Parishad:

Provided also that the members of the recognized political party shall jointly decide and intimate the Executive Officer of the Zilla Parishad by a letter under signature of all such members, the name of the member or members who shall represent the party as member of the Sthayee Samiti and in case of an independent member the Executive Officer shall determine the membership in each Sthayee Samiti:

Provided also that the Executive Officer shall place the entire matter of membership under this clause in a meeting of the Zilla Parishad as early as possible in the next meeting.]

11[(c) such number of persons being officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge as the State Government may think fit, appointed by the State Government;]

Provided that such officers shall not be eligible for election as

Karmadhyaksha of the Sthayee Samiti and shall not have any right to vote.

(3) No person other than the Sabhadhipati or the Sahakari Sabhadhipati, shall be a member of more than two Sthayee Samitis.

(4) An elected member of a Sthayee Samiti shall hold office for a period of 12 [five years] or for so long as he continues to be a member of the Zilla Parishad, whichever is earlier.

(5) The meeting of the Sthayee Samiti shall be held 13 [in the Office of the Zilla Parishad] at such time and in such manner as may be prescribed.

(6) A Sthayee Samiti shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the Zilla Parishad.

(7) The State Government may make rules providing for the removal of members of a Sthayee Samiti including the Karmadhyaksha and for filling up of casual vacancy.

1. Substituted by s. 48(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "Artha O Sanstha".

2. Substituted by s. 27(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the word "Janasasthya".

3 . Inserted by s. 27(a), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

4. Substituted by s. 27(a), of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the word "Shiksha".

5. Substituted by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), for the words "Khudra Silpa, Tran O Janakalyan".

6 . Inserted by s. 27(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act, XVII of 1992).

7. Substituted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), for the words "Bidyut O Achiracharit Shakti".

8 . Inserted by s. 27(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

9. Added by s. 13(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

10 . Inserted by s. 13(2), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

11. Substituted by s. 27(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), which was earlier as follows:

"(c) not more than five persons, being officers of the State Government, appointed by the State Government."

12. Substituted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1982 (West Ben. Act XII of 1982), for the words "four years".

13. Inserted by s. 48(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

## **172. Karmadhyaksha And Secretary :-**

(1) The members of a Sthayee Samiti shall elect, in such manner as may be prescribed, a Chairman, to be called Karmadhyaksha, from among themselves:

Provided that the members referred to in<sup>1</sup>[clauses (i), (iii) and (iv)] of sub-section (2) of section 140 shall not be eligible for such election:

Provided further that the Sabhadhipati shall be the ex officio Karmadhyaksha of the<sup>2</sup>[Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti.

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

4[ \* \* \* ]

(3) The Secretary of the Zilla Parishad shall act as Secretary<sup>5</sup>[to the Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti].

<sup>6</sup>[Provided that the members referred to in clauses<sup>7</sup>[(a), (b), (ba), (bb) and (be)] of sub-section (2) of section 171 of a Sthayee Samiti may select, in such manner<sup>8</sup>[as may be determined by the Sthayee Samiti in conformity with such direction as may be issued, by one or more orders, general or special, of the State Government], one of the members referred to in clause (c) of that sub-section to act as the Secretary to such Sthayee Samiti:



9[Provided further that pending the selection of Secretary to a Sthayee Samiti under this clause or during any casual vacancy, in the post of the Secretary to a Sthayee Samiti, the Secretary of the Zilla Parishad shall act as Secretary to such Sthayee Samiti.]

10[(4) The Secretary to each Sthayee Samiti shall, in consultation with the Karmadhyaksha, convene the meetings of that Sthayee Samiti.]

11[(5) Notwithstanding anything contained in section 165 or elsewhere in this Act, the Karmadhyaksha shall--

(a) be responsible for the financial and executive administration in respect of the schemes and programmes<sup>12</sup>[under the purview and control of the Sthayee Samiti within the budgetary provisions of the Zilla Parishad;]

(b) be entitled, in respect of the work of the Sthayee Samiti, to call for any information, return, statement, account or report from the office of the Zilla Parishad and to enter on and inspect any immovable property of the Zilla Parishad or to inspect any work in progress and connected with the functions and duties of the Sthayee Samiti;

(c) be entitled, when authorised by the Sthayee Samiti, to require the attendance at its meeting of any officer of the Zilla Parishad;

(d) exercise such other powers, perform such other functions and discharge such other duties, as the Zilla Parishad may, by rules made in this behalf, prescribe.

(6) The Karmadhyaksha shall be paid out of the Zilla Parishad fund such remuneration and allowances, and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as the State Government may by order direct or may by rules made in this behalf, prescribe.

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

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

1. Substituted by s. 48(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words, brackets and numbers "clauses (iii) and (iv)", which were

earlier substituted by s. 7 of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978) for "sub-clauses (iii) and (iv) of clauses (a)" with retrospective effect.

2. Substituted by s. 48(a), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), for the words "Artha O Sanstha".

3. Proviso added by s. 28(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

4. Omitted by s. 48(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

5 . Substituted by s. 14(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words, "to all the Sthayee Samitis".

6. Added by s. 48(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

7 . Substituted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words, brackets and letter "(a) and (b)".

8. Substituted by s. 7(3), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003), for the words "as may be determined by the Karmadhyaksha":

9. Inserted by s. 7(4), of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

10. Inserted by s. 48(d) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVIII of 1984).

11. Inserted by s. 28(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

12. Substituted by s. 14(5) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "under the purview and control of the Sthayee Samiti;".

### **173. Resignation :-**

The Karmadhyaksha or any other member of a Sthayee Samiti may resign his office by giving notice in writing to the Sabhadhipati and on such resignation being accepted by the Zilla Parishad the Karmadhyaksha or such member shall be deemed to have vacated his office.

### **174. Casual Vacancy :-**

When a vacancy occurs in the office of a Karmadhyaksha or a member of a Sthayee Samiti by resignation, death or otherwise the

members of the Sthayee Samiti shall elect another Karmadhyaksha or<sup>1</sup>[the members of the Zilla Parishad shall elect another] member, as the case may be, in the prescribed manner. The Karmadhyaksha or the member so elected shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

1. Inserted by s. 50 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVIII of 1984).

Chapter XVIA - SAMANWAY SAMITI OF OFFICE BEARERS AND KARMADHYAKSHAS
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1CHAPTER XVIA Samanway Samiti of Office Bearers and Karmadhyakshas

1. Inserted by s. 51, of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVIII of 1984).

**174A. Omitted :-**

1[174A. [Omitted]  
[\* \* \*]]

1. Omitted by s. 15 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003), which was as follows:

"174A. Samanway Samiti--(1) There shall be Samanway Samiti for every Zilla Parishad consisting of the Sabhadhipati, the Sahakari Sabhadhipati, Karmadhyakshas of all Sthayee Samitis, the Executive Officers and the Additional Executive Officer of the Zilla Parishad.

(2) The Secretary of the Zilla Parishad shall be the Secretary to the Samanway Samiti.

(3) The meeting of the Samanway Samiti shall be held at least once in a month in the office of the Zilla Parishad in such manner as may be prescribed.

(4) The Samanway Samiti shall be responsible for co-ordinating the functions between a Sthayee Samiti and the Zilla Parishad and among the different Sthayee Samitis of the Zilla Parishad and for monitoring of activities of the Panchayat Samitis in respect of the schemes funds from which are allotted by the Zilla Parishad to the Panchayat Samitis for execution of such schemes.

(5) The Samanway Samiti shall exercise such other powers, perform such other functions and discharge such other duties as may be prescribed or as may be assigned to it by the Zilla Parishad at a meeting."

CHAPTER 17

PROPERTY AND FUND

**175. Power To Acquire, Hold And Dispose Of Property :-**

A Zilla Parishad shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the Zilla Parishad shall obtain the previous approval of the State Government.

**176. Works Constructed By A Zilla Parishad To Vest In It :-**

All roads, buildings or other works constructed by a Zilla Parishad with its own funds shall vest in it.

**177. Allocation Of Properties To Zilla Parishad :-**

The State Government may allocate to a Zilla Parishad any public property situated within its jurisdiction, and thereupon, such property shall vest in and come under the control of the Zilla Parishad.

**178. Acquisition Of Land For Zilla Parishad :-**

Where a Zilla Parishad requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land and the Collector may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 (1 of 1894) and such land shall, on acquisition, vest in the Zilla Parishad.

**179. Zilla Parishad Fund :-**

(1) For every Zilla Parishad there shall be constituted a Zilla Parishad Fund bearing the name of the Zilla Parishad and there shall be placed to the credit thereof--

(a) contributions and grants, if any, made by the Central or the State Government including such part of land revenue collected in the State as may be determined by the State Government;

(b) contributions and grants, if any, made by a Panchayat Samiti or any other local authority;

(c) loans, if any, granted by the Central or State Government or raised by the Zilla Parishad on security of its assets;

(d) the proceeds of road cess and public works cess levied in the district;

(e) all receipts on account of tolls, rates and fees levied by the Zilla Parishad;

(f) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of the Zilla Parishad,

(g) all sums received as gift or contribution and all income from any trust or endowment made in favour of the Zilla Parishad;

(h) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed;

(i) money, if any, lying to the credit of the district Chowkidar reward fund constituted under section 25 of the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919), the control over which vests with the District Magistrate, shall be credited by the District Magistrate to the Zilla Parishad Fund;

(j) all other sums received by or on behalf of the Zilla Parishad.

1[Explanation.--A Zilla Parishad shall not receive to the credit of its fund--

(a) any loan from any individual, severally or jointly, or any member or office bearer of the Zilla Parishad, and

(b) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the Zilla Parishad save and except in pursuance of a resolution adopted in a meeting of the Zilla Parishad accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.]

(2) Every Zilla Parishad shall--

(i) set apart and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Executive Officer,<sup>2</sup>[the Additional Executive Officer, the Secretary or the Deputy Secretary;]

(ii) allocate the money received under clause (i) of sub-section (1) among the Gram Panchayats of the district concerned.

(3) Every Zilla Parishad shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(4) The Zilla Parishad Fund shall be vested in the Zilla Parishad and the amount standing to the credit of the fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

(5) Subject to such general control as the Zilla Parishad may exercise, from time to time, all orders and cheques for payment from the Zilla Parishad Fund shall be<sup>3</sup>[signed by the Executive Officer, or if authorised by the Executive Officer<sup>4</sup>[by the Additional Executive Officer, the Secretary or the Deputy Secretary.]].

1. Explanation added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

2. Substituted by s. 16(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "the Additional Executive Officer and the Secretary;", which were

earlier substituted by s. 52(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) for the words "and the Additional Executive Officer;".

3. Substituted the words "signed by the Executive Officer, or if authorised by the Executive Officer by the Secretary", by s. 4 of the West Bengal Panchayat (Amendment) Act, 1979 (West Ben. Act X of 1979), for the words "signed by the Executive Officer" with retrospective effect.

4. Substituted by s. 16(2) of the West Bengal Panchayat Act, 2003 (West Ben. Act VIII of 2003) for the words "by the Additional Executive Officer or the Secretary;", which were earlier substituted by s. 52(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984) for the words "by the Secretary.".

### **180. Proceeds Of Road Cess And Public Works Cess To Be Credited To The Zilla Parishad Fund :-**

Notwithstanding anything to the contrary in the Cess Act, 1880 (Ben. Act IX of 1880), the proceeds of road cess and public works cess, if any, levied and realised in a district shall be credited to the Zilla Parishad Fund after payment of the expenses mentioned in section 109 of the said Act.

### **181. Levy Of Tolls, Fees And Rates :-**

(1) Subject to such maximum rates as the State Government may prescribe, a Zilla Parishad may--

(a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a Kutchha road or any bridge vested in it or under its management;

(b) levy tolls in respect of any ferry established by it or under its management;

(c) levy the following fees and rates, namely:--

(i) fees on the registration of boats or vehicles;

(ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and melas within its jurisdiction as may be specified by the State Government by notification;

(iii) a fee for licence referred to in section 162;

(iv) a water-rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Zilla Parishad within its jurisdiction;

(v) a lighting rate, where arrangement for lighting of public streets and places is made by the Zilla Parishad within its jurisdiction.

(2) The Zilla Parishad shall not undertake registration of any vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and melas within its jurisdiction or levy fee therefor if such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

(3) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws. Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

### **182. Zilla Parishad May Raise Loans And Create A Sinking Fund :-**

A Zilla Parishad may, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

### **182A. Zilla Parishad May Borrow Money :-**

1[182A. Zilla Parishad may borrow money

Notwithstanding anything contained in section 182, a Zilla Parishad may borrow money from the State Government or,2[ \* \* \* ] from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the Zilla Parishad for the purpose.]

1. Inserted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1978(West Ben. Act XLII of 1978) with retrospective effect.

2. Omitted the words "with the previous sanction of the State Government", by s. 42 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

### **183. Budget Of The Zilla Parishad :-**

(1) Every Zilla Parishad shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year1[\* \* \*].

2[(2) (a) The budget prepared under sub-section (1) shall be written in English and in vernacular of the district and copies of the budget in both the languages shall be posted in such prominent places within the district as may be prescribed, inviting objections and suggestions from the elections of the Zilla Parishad.

(b) Copies of the budget shall be forwarded to the State Government for views, if any.

(c) The Zilla Parishad shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any.

(d) A copy of the budget approved under clause (c) shall be forwarded to the State Government.]

(3) No expenditure shall be incurred unless the budget is approved<sup>3</sup>[under clause (c) of sub-section (2).]

1. Omitted the words "and submit it to the State Government" by s. 43(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

2. Substituted by s. 43(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"(2) The State Government may, within such time as may be prescribed, either approve the budget or return it to the Zilla Parishad for such modifications as it may direct. On such modifications being made the budget shall be resubmitted within such time as may be prescribed for approval of the State Government. If the approval of the State Government is not received by the Zilla Parishad, by the last date of the year, the budget shall be deemed to be approved by the State Government."

3. Substituted by s. 43(3), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "by the State Government".

#### **184. Supplementary Budget :-**

1 [(1) The Zilla Parishad may prepare in each year a supplementary estimate providing for any modification of its budget and 2 [may approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

3 [(2) A copy of the supplementary estimate as approved under subsection (1) shall be forwarded to the State Government.]

1. Original section renumbered as sub-section (1) of that section by s. 44(1), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

2. Substituted by s. 44(1), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the



words"may submit it to the State Government for approval".

3 . Inserted by s. 44(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

### **185. Accounts :-**

A Zilla Parishad shall keep such accounts and in such manner as may be prescribed.

Chapter XVIIIA - SPECIAL PROVISION FOR THE DISTRICT OF DARJEELING
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### **185A. Zilla Parishad For Darjeeling To Stand Dissolved And Consequences Of Dissolution :-**

(1) With effect from the date of coming into office of the Council, the Zilla Parishad for the district of Darjeeling constituted under this Act shall stand dissolved and the members of the Zilla Parishad shall be deemed to have vacated their offices forthwith.

(2) Upon such dissolution of the Zilla Parishad, the Council shall exercise all the powers, discharge all the duties and perform all the functions of the Zilla Parishad under this Act.

(3) Notwithstanding anything contained in sub-section (1) of this section or elsewhere in this Act,--

(a) anything done or any action taken by the Zilla Parishad under this Act prior to the coming into office of the Council, and

(b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957 (West Ben. Act 1 of 1957), or the West Bengal Zilla Parishad Act, 1963 (West Ben. Act XXXV of 1963), or this Act, applicable to the Zilla Parishad, and continuing in force immediately before the coming into office of the Council, shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of the Darjeeling Gorkha Hill Council Act, 1988 until they are repealed or amended.

(4) Notwithstanding anything contained in section 29 of the Darjeeling Gorkha Hill Council Act, 1988 (West Ben. Act XIII of 1988), the properties, funds and liabilities of the Zilla Parishad and the officers and employees of the Zilla Parishad holding office immediately before the coming into office of the Council, shall be determined and apportioned between the Council and the Mahakuma Parishad in such manner as may be prescribed, and such determination and apportionment shall be final.

(5) An order made under sub-section (4) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

1 (6) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,--

(a) no executive power referred to in section 24 of the Darjeeling Gorkha Hill Council Act, 1988, shall be exercised by a Gram Panchayat or Panchayat Samiti in the hill areas unless the Council assigns such power to such Gram Panchayat or Panchayat Samiti, as the case may be, on such terms and conditions as the Council may, by general or special direction, specify, and

(b) the State Government shall not assign any power, function or duty in relation to any matter, referred to in section 207B or in any other provision of this Act, to any Gram Panchayat or Panchayat Samiti in the hill areas without prior consultation with the Council and, on transfer of such power, function or duty, the Council shall have power and authority to issue any direction, and adopt any measure, for supervision and monitoring with respect to the exercise of such power, performance

of such function and discharge of such duty by the Gram Panchayat or the Panchayat Samiti, as the case may be.]

1. Inserted by s. 16 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

### **185B. Mahakuma Parishad :-**

(1) For the sub-division of Siliguri in the district of Darjeeling the State Government shall constitute a Mahakuma Parishad bearing the name of the sub-division.

(2) The Mahakuma Parishad shall comprise the areas of the Blocks within the sub-division excluding such mouzas of the sub-division as are comprised in the hill areas.

(3) The Mahakuma Parishad shall consist of the following members, namely:--

(i) Sabhapatis of the Panchayat Samitis within the sub-division, ex-officio;

(ii) 1[such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in each Block within the sub-division, the Block being divided 2[by the prescribed authority] for the purpose into constituencies in the prescribed manner,] elected by secret ballot, at such time and in such manner as may be prescribed, 3[from amongst the persons, whose names are included in the electoral roll 4[prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election,] pertaining to any Block within the area of the Mahakuma Parishad, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:]

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

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

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

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section 6[ \* \* \* ], when the number of members to be elected to the Mahakuma Parishad is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in the Mahakuma Parishad, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

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

7[Provided also that such division into constituencies shall be made in such manner that the ratio between the population of all the Blocks in the Mahakuma Parishad

and the number of constituencies in the Mahakuma Parishad shall, so far as practicable, be the same as in any Zilla Parishad:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing<sup>8</sup>[, issue an order making fresh determination], of the number of members in the Mahakuma Parishad or fresh reservation on rotation of the number of constituencies in the Mahakuma Parishad and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied<sup>9</sup>[the next] for three successive general election:

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

(iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereto (excluding the part comprised in the hill areas), not being Ministers;

(iv) members of the Council of States, not being Ministers<sup>10</sup>[registered as electors within the area of any Block] in the sub-division (excluding the place comprised in the hill areas).

(4) The Mahakuma Parishad constituted under this section shall be notified in the Official Gazette and shall come into office with effect from the date of its first meeting at which a quorum is present.

(5) The Mahakuma Parishad shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

(6) Notwithstanding anything contained in this Act,--

(a) anything done or any action taken by the Zilla Parishad under this Act prior to the coming into office of the Mahakuma Parishad, and

(b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957 (West Ben. Act 1 of 1957), or the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963), or this Act, applicable to the Zilla Parishad,

and continuing in force immediately before the coming into office of the Mahakuma Parishad under this Act, shall, after such coming into office be, applicable to the Mahakuma Parishad and shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

(7) (a) The Mahakuma Parishad shall have a Sthayee Samiti namely, Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti.

(b) The Mahakuma Parishad may have such other Sthayee Samiti or Samitis as it may, subject to the approval of the State Government, constitute.

(c) A Sthayee Samiti shall consist of the following members:--

(i) the Sabhadhipati<sup>11</sup>[and the Sahakari Sabhadhipati], ex officio;

(ii) three persons to be elected in the prescribed manner by the members of the Mahakuma Parishad from among themselves;

<sup>12</sup>[(iii) such number of persons, being Officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge, as the State Government may think fit, appointed by the State Government:]

Provided that such officers shall not be eligible for election as Karmadhyaksha of the Sthayee Samiti and shall not have any right to vote.

(d) No person, other than the Sabhadhipati or the Sahakari Sabhadhipati, shall be a member of more than two Sthayee Samitis.

(e) All the provisions of sub-sections (4) to (7) of section 171 and sections 172 to 174 shall apply mutatis mutandis to a Sthayee Samiti constituted under this section.

(8) All the provisions of sections 141 to 152, 153 to 165, 166 to 170, 175 to 185, 186 to 196, 196A, 196B, 197A, 197B, 198 to 202, 202A, 203 to 216, 220 to 221 and 223 shall apply to the Mahakuma Parishad mutatis mutandis.]

1. Substituted by s. 17 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994, for the words "two persons, one from each of two such constituencies comprised in the Block within the sub-division

as may be specified by notification."

2. Inserted by s. 31 (a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

3. Substituted by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "from among themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election pertaining to the constituency comprised in such Block;"

4. Substituted by s. 45(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat election,"

5. Provisos inserted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

6. Omitted the words "or elsewhere in this Act" by s. 31 (b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

7. Provisos inserted by s. 45(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

8. Substituted by s. 31 (c) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, for the words "and by notification, order fresh determination".

9. Inserted by s. 31(c), of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, for the words "and by notification, order fresh determination".

10. Substituted by s. 45(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "having a place of residence".

11. Inserted by s. 45(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

12. Substituted by s. 45(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

(iii) not more than five persons, being officers of the State Government, appointed by the State Government."

## PART 5

## PART 5

## CHAPTER 18

## AUDIT

### **186. Audit Of Accounts Of Fund :-**

(1) The accounts of the funds of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad shall be examined and audited by an auditor appointed in that behalf by the State Government at such time and place, to such extent and in such manner as the State Government may prescribe.

(2) An auditor appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

### **187. Submission Of Accounts To Audit :-**

The Pradhan, the Sabhapati or the Sabhadhipati, as the case may be, shall produce, or cause to be produced, to the auditor all such

accounts of the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned as may be required by the auditor.

### **188. Powers Of Auditors :-**

1 [(1)] For the purposes of an audit under this Act an auditor may--  
(i) require in writing the production before him of any document or the supply of any information which he considers to be necessary for the proper conduct of the audit;  
(ii) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such documents, or having, directly or indirectly and whether by himself or his partner, any share or interest in any contract made with, by or on behalf of, the members of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned; and  
(iii) require any person so appearing before him to make and sign declaration in respect of any such document or to answer any question or prepare and submit any statement.

2 [(2) If any person neglects or refuses to comply with the requisition made by the auditor under sub-section (1), the auditor may, at any time, refer the matter to the Sub-divisional Officer in, the case of a Gram Panchayat, or the District Magistrate in the case of a Panchayat Samiti, or the Divisional Commissioner in the case of a Zilla Parishad, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall become competent to issue such direction to the person neglecting or refusing to comply with the requisition made by the auditor as he may think fit, and such direction shall be binding on such person.]

1. Original section renumbered as sub-section (1) by s. 30 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

2. Inserted by s. 30 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

### **189. Penalty :-**

Any person who neglects or refuses to comply with the requisition made by the auditor under section 188, within such time as may be specified, shall, on conviction by a Court, be punishable with a fine which may extend to one hundred rupees in respect of each item included in the requisition.

### **190. Audit Report :-**

(1) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and shall send the report to the Pradhan, the Sabhapati or the Sabhadhipati, as the case may be, of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad and a copy thereof to the State Government.

(2) The auditor shall append to his report a statement showing--

(a) the grants-in-aid received by the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad and the expenditure incurred therefrom;

(b) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of the monies due to the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad or in the accounts of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad Fund;

(c) any loss or wastage of money or other property owned by or vested in the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad.

### **191. Action On Audit Report :-**

(1) Within two months from the receipt of the report referred to in section 190, the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned shall, at a meeting, remedy any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned shall also inform the auditor of the action taken by it. The Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned shall give reasons or explanations in case any defect or irregularity is not removed.

(2) If, within the period referred to in sub-section (1), no information is received by the auditor from the Gram Panchayat, the Panchayat Samiti, or the Zilla Parishad concerned or if the reasons or explanations given by it for not remedying any defect or irregularity as aforesaid is not considered sufficient by the auditor, the auditor shall, if he has not already exercised or does not propose to exercise the powers conferred upon him by section 192,1[refer the matter to the Sub-divisional Officer in the case of a Gram Panchayat, or the District Magistrate in the case of a Panchayat Samiti, or the Divisional Commissioner in the case of a Zilla Parishad, having jurisdiction, and thereupon the Sub-divisional

Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall issue such direction to the Gram Panchayat, Panchayat Samiti, or Zilla Parishad, as the case may be, as he may think fit.]

2[(2A) If, within thirty days from the date of issue of any direction under sub-section (1), no information is received from the Gram Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, or if the reasons or explanations given by it for not removing the defect or irregularity pointed out in the report referred to in section 190 are not considered sufficient, the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall--

(i) specially convene a meeting of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad, as the case may be, by giving seven days notice to the members for discussion of the report as aforesaid, and may appoint an observer for such meeting who shall submit a report on the proceedings of the meeting in writing, duly signed by him, within a week of such meeting; (ii) refer the matter to the State Government with his recommendation for appropriate action under section 192A, section 196B, section 213 or section 214, as the case may be:

Provided that the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, may make recommendations under all or any of the sections 192A, 196B, 213 and 214.]

(3) It shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 192 and 193, be final and the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned shall take action in accordance therewith.

(4) If the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned fails to comply with the order within the period specified therein, the State Government may appoint a person to carry out the order, and may determine the remuneration payable to such person, and may direct that such remuneration and any cost incurred in carrying out the order shall be paid from the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned.

(5) A person appointed under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the concerned Gram Panchayat, the Panchayat Samiti or Zilla Parishad.

1. Substituted by s. 31(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), for the words "refer the matter to the State Government within such time and in such manner as the State Government may prescribe."
2. Added by s. 31 (b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

**192. Power Of Auditor To Surcharge, Etc. :-**

(1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering any such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall, in every such case, certify the amount due from such person:

Provided that the auditor may in his discretion waive the surcharge or charge in cases where the amount involved does not exceed twenty-five rupees.

(2) For the purposes of this section any member of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad as the may be, or of a Sthayee Samiti of a Panchayat Samiti or a Zilla Parishad, who is present at a meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (1) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if his dissent is not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.

(3) The auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the Pradhan, the Sabhapati or the Sabhadhipati, as the case may be, and the State Government.

(4) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance surcharge or charge and any certificate in respect thereof made by the auditor.

**192A. Person Making Or Authorising Illegal Payment To Be**



## **Removed :-**

1[192A. Person making or authorising illegal payment to be removed

If any item of account contrary to law is surcharged on any person making or authorising the making of any illegal payment or if any person is charged against for being responsible for the amount of any loss incurred by the negligence or misconduct of that person, he shall, without prejudice to any other provisions of this Act, be liable to be removed under section 213; and upon such removal, such person may be disqualified by the State Government by an order in writing for being elected a member of a Gram Panchayat, the Panchayat Samiti or Zilla Parishad for such term as may be specified in the order:

Provided that the State Government shall, before making any order under this sub-section, give to the person concerned an opportunity of being heard:

Provided further that any order under this sub-section shall be published in the Official Gazette.]

1. Inserted by s. 32 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

## **193. Appeal :-**

(1) Any person from whom any sum has been certified by the auditor to be due under section 192 may, within two months of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.

(2) Where a person referred to in sub-section (2) of section 192, who has been surcharged as authorising an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

## **194. Payment Of Certified Sums :-**

(1) The sums certified by the auditor to be due from any person under section 192 or where an appeal is made under sub-section (1) of section 193, such sum as may be ordered by the State Government to be due from such person shall, within two months of the date of certification or order, as the case may be, be paid by such person to the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned which shall credit the sum to the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned.

(2) Any sum not paid in accordance with the provisions of sub-section (1) shall be recoverable as a public demand and the

Collector of the district shall, for the purposes of section 4 of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), be deemed to be the person to whom such demand is payable.

(3) The Collector of the district shall pay to the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned any sum recovered by him, under sub-section (2).

**195. Certain Costs And Expenses Payable Out Of Funds :-**

(1) All expenses incurred by the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned in complying with any requisition of the auditor under section 188 and in prosecuting an offender under section 189 shall be paid from the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned.

(2) All expenses incurred by the Collector of the district in connection with the proceedings for recovery of any sum under sub-section (2) of section 194 from a person, if not recovered from the person, shall be paid from the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned.

(3) If the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned fails to pay expenses referred to in sub-sections (1) and (2) within such period as may be determined by the State Government in this behalf, the State Government, may attach the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned or any portion thereof.

(4) After such attachment no person except an officer appointed in this behalf by the State Government shall in any way deal with the attached fund or portion thereof, but such officer may do all such acts in respect thereof, as the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned referred to in sub-section (1) might have done if the attachment had not taken place, and may apply the proceeds of the fund in satisfaction of the expenses due, the interest accruing in respect of such expenses and any additional expenses resulting from the attachment and any subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any charge or debt for which the fund attached was previously liable in accordance with law but all such prior charges and debt shall be paid out of the proceeds of the fund before any part of the proceeds of the fund is applied to the satisfaction of the costs and expenses payable to the State Government under this section.

**196. Certain Expenses Not Chargeable To Funds Without**

## **Previous Sanction :-**

The members of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned shall not, without the previous sanction of the State Government, incur any expenditure from the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned in connection with any appeal or proceedings against surcharge, in respect of which a certificate is issued by the auditor.

## **196A. Internal Audit Of Accounts :-**

1[196A. Internal audit of accounts

Notwithstanding anything contained in section 186, the accounts of the funds of a Gram Panchayat, the Panchayat Samiti or the Zilla Parishad shall be organised, examined and audited periodically by an officer appointed in this behalf by the State Government in such manner as the State Government may direct.

1. Inserted by s. 53 of the West Bengal Panchayat (Amendment) Act. 1984 (West Ben. Act, XXXVII of 1984).

## **196B. Special Audit Of Accounts :-**

Notwithstanding anything contained in sections 186 and 196A, the State Government may issue direction for special audit of the accounts of the funds of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad by such authority as the State Government may direct.]

PART 6

PART 6

CHAPTER 19

MISCELLANEOUS

## **197. Oath Or Affirmation :-**

Every member of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad other than a member referred to in 1[clauses (i) and (iii) of sub-section (2) of section 94 and clauses (i), (iii) and (iv) of sub-section (2) of section 140] shall before taking his seat make and subscribe before such authority as may be specified by the State Government in this behalf, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

1. Substituted by s. 8 of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978) with retrospective effect for the words, numbers and brackets "sub-clause (iii) of clause (a) of sub-section (2) of section 94 and sub-clauses (iii) and (iv) of clause (a) of sub-section (2) of section 140."

## **197A. Majority Of Members Elected To Function When In A**

## **Constituency Poll Is Countermanded Or Not Held :-**

1[197A. Majority of members elected to function when in a constituency poll is countermanded or not held

Notwithstanding anything to the contrary contained in this Act,--

(a) if at a general election members in Gram Panchayat, Panchayat Samiti or Zilla Parishad, poll in any constituency is countermanded or cannot be held, or, if held, the result of such election cannot be declared for any reason within such period as it considers reasonable, the State Government may, if it finds that at least two-thirds of total number of members for that Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be,2[ \* \* \* ] have been elected and are competent to assume office, notify the constitution of such Gram Panchayat, Panchayat Samiti or Zilla Parishad, in the manner provided in this Act and the Gram Panchayat, Panchayat Samiti or Zilla Parishads as the case may be, shall be deemed to have been constituted under section 4, section 94 or section 140, respectively;

(b) the name of any member of a Gram Panchayat, Panchayat Samiti or Zilla Parishad subsequently elected shall be notified in the Official Gazette and such member shall be entitled to assume office and remain a member for the unexpired period of3[five years] referred to in sub-section (1) of section 7, sub-section (1) of section 96 or sub-section (1) of section 141, respectively.].

1. Inserted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 1978 (West Ben. Act XXX of 1978).

2. Omitted the words "other than the member appointed under section 210," by s. 46 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

3. Substituted by s. 12 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), for the words "four years.".

## **197B. Cessation Of Membership On Inclusion Of A Constituency In Municipality Etc. :-**

1[197B. Cessation of membership on inclusion of a constituency in Municipality etc

(1) Notwithstanding the provisions contained in sections 7, 96 and 141, if at any time the whole of the area of a constituency of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad is included in a municipality,2[\* \* \*] or a Town Committee or a Cantonment, the member elected from such constituency to the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, shall, as from the date of such inclusion, cease to be a member of the Gram Panchayat, Panchayat Samiti or Zilla Parishad concerned.

(2) If for inclusion of whole of the area of a constituency or constituencies of a Gram Panchayat in a municipality3[ \* \* \* ] or a Town Committee or a Cantonment under sub-section (1), the number of members of a Gram Panchayat falls short of the number referred to in sub-section (2) of section 4, the Gram Panchayat shall continue to function in accordance with the direction of the State Government till its reconstitution or unification with another Gram Panchayat under clause (d) of sub-section (3) of section 3.]

1. Inserted by s. 54 of the West Bengal Panchayat (Amendment) Act. 1984 (West Ben. Act XXXVII of 1984).

2. Omitted the words "or a notified area, or a municipal corporation," by s. 32(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997) w.e.f. 8.8.1997.

3. Omitted the words "of a notified area, or a municipal corporation," by s. 32(b), ibid, w.e.f. 8.8.1997.

## **198. Validation :-**

No act or proceeding of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad, shall be deemed to be invalid merely by reason of the existence of any vacancy in the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, or any defect or irregularity in the constitution thereof.

**199. Members, Officers And Employees To Be Public Servants :-**

All members, officers and employees of the Gram Panchayat Samiti and Zilla Parishad shall be deemed, when acting or purporting to act in pursuance of the discharge of their duties, or in the exercise of their powers under this Act or under the rules or bye-laws made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**200. Indemnity :-**

No suit or other legal proceeding shall lie against a Gram Panchayat, a Panchayat Samiti, a Zilla Parishad or against any member thereof or any officer or employee for anything in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

**201. Reference Of Dispute :-**

(1) If any dispute arises between two or more Gram Panchayats within the jurisdiction of the same Panchayat Samiti, it shall be referred to the Panchayat Samiti by any party to the dispute and the decision of the Panchayat Samiti thereon shall be final.

(2) If any dispute arises between two or more Panchayat Samitis or between two or more Gram Panchayats within the jurisdiction of different Panchayat Samitis or between a Panchayat Samiti and a Gram Panchayat, within the jurisdiction of the same Zilla Parishad, it shall be referred to the Zilla Parishad by any party to the dispute and the decision of the Zilla Parishad thereon shall be final.

(3) If any dispute arises--

(a) between a Gram Panchayat or a Panchayat Samiti within a district on the one side and the Zilla Parishad of the same district on the other, or

(b) between two or more Zilla Parishads, or

(c) between one or more Gram Panchayats in one district on the one side and one or more Gram Panchayats in another district on

the other, or

(d) between one or more Panchayat Samitis in one district on the one side and one or more Panchayat Samitis in another district on the other, or

(e) between one or more Gram Panchayats in one district on the one side and one or more Panchayat Samitis in another district on the other, or

(f) between one or more Gram Panchayats in one district on the one side and the Zilla Parishad of another district on the other, or

(g) between one or more Panchayat Samitis in one district on the one side and the Zilla Parishad of another district on the other,

the dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.

## **202. Omitted :-**

1[\* \* \*]

1. Omitted by s. 17 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

## **202A. Bar To Simultaneous Membership :-**

1[202A. Bar to simultaneous membership

A member--

(a) of a Gram Panchayat on being elected a member of a Panchayat Samiti or a Zilla Parishad

(b) of a Panchayat Samiti on being elected a member of a Gram Panchayat or a Zilla Parishad.

(c) of a Zilla Parishad on being elected a member of a Gram Panchayat or a Panchayat Samiti.

(d) of a Nyaya Panchayat on being elected a member of a Gram Panchayat or a Panchayat Samiti or a Zilla Parishad.

shall cease to be the member of the Gram Panchayat or the Nyaya Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, with effect from the date on which he is declared elected to the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, and shall continue to be a member of the Gram Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, to which he is elected.]

1. Inserted by s. 55 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act. XXXVII of 1984).

## **203. Omitted :-**

1[\* \* \*]

1. Omitted by s. 18 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003)

## **204. Omitted :-**

1[\* \* \*]

1. Omitted by s. 19 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

**205. Inspection :-**

(1) The State Government shall appoint a Director of Panchayats and such other officers as it may consider necessary for the purpose of inspecting or superintending the work of all, or any class of, Gram Panchayats, Panchayat Samitis or Zilla Parishads.

(2) An officer appointed to inspect or superintend the work of a Gram Panchayat, Panchayat Samiti or Zilla Parishad may at anytime--

(a) inspect or cause to be inspected any immovable property used or occupied by the Gram Panchayat, Panchayat Samiti or Zilla Parishad or any work in progress under the direction of the Gram Panchayat, Panchayat Samiti or Zilla Parishad;

(b) inspect or examine, or depute any other officer of the Government to inspect or examine, any department of the Gram Panchayat, Panchayat Samiti or Zilla Parishad or any service, work or thing under the control of the Gram Panchayat, Panchayat Samiti or Zilla Parishad;

(c) require, for the purposes of inspection or examination, the Gram Panchayat, Panchayat Samiti or Zilla Parishad--

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

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

(iii) to furnish or obtain any report or information,

(3) The Divisional Commissioner or any other officer not below the rank of a 1 [Joint Block Development Officer of the Block], when authorised by the State Government in this behalf, may exercise all or any of the powers conferred on an inspecting officer under sub-section (2).

(4) When an inspection of a Gram Panchayat, Panchayat Samiti or Zilla Parishad is undertaken by any officer referred to in sub-section (3), a report of such inspection shall be submitted by such officer to the State Government.

1. Substituted by s. 20 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "Deputy Collector."

## **206. Delegation :-**

The State Government may, by notification, delegate, subject to such conditions as it may specify, all or any of its powers under this Act except the powers mentioned in section 224 to any person or authority subordinate to it.

## **206A. Finance Commission :-**

(1) [As soon as may be after the commencement of the West Bengal Panchayat (Amendment) Act 1994, and thereafter at the expiry of every five years, there shall be a Finance Commission constituted by the Governor, by notification, under clause (1) of Article 243-1 of the Constitution of India which shall consist of not more than five members including the Chairman, selected from amongst the jurists, economists, administrators and social and political workers of eminence.]

(2) The Finance Commission shall review the financial position of the [Panchayats] and shall make recommendations as to--

(a) the principles which should govern--

(i) the distribution between the State and the [Panchayats] or net proceeds of taxes, duties, tolls and fees leviable by the State, which may be divided between them, and the allocation between the [Panchayats] at all levels of their respective shares of such proceeds;

(ii) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriated by the [Panchayats];

(iii) the grants-in-aid to the [Panchayats] from the Consolidated Fund of the State;

(b) any other matter referred to the Finance Commission by the [Governor] in the interest of sound finance of the [Panchayats].

(3) The Chairman and the other members of the Finance Commission shall hold office for one year and [the term of office may be extended for six months at a time by the State Government by notification, and they shall be paid such fees and allowances as the State Government may, by order, determine.]

(4) The Chairman or any other member of the Finance Commission may resign his office by writing under his hand addressed to the Chief Secretary to the Government of West Bengal, but he shall continue in office until his resignation is accepted by the State Government.

[5] The Finance Commission shall, in the performance of its functions, determine its own procedure, and exercise such powers, summon such persons and examine such records as may be prescribed.]

[6] The Governor, on receipt of the recommendations of the Finance Commission, shall take such actions as may be considered necessary, and the recommendations of the Finance Commission together with an explanatory memorandum of actions taken thereon, shall be laid for not less than fourteen days before the State Legislature as soon as possible after such recommendations are received and shall be accepted with such modifications as the State Legislature may make during the session in which they are so laid.]

(7) The State Government may appoint a Secretary for the Finance Commission and such other officers and employees as that Government may think necessary, and may determine the salaries of the Secretary and the other officers and employees.

1. Inserted by s 33 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

2. Substituted by s. 49 (1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994), which was earlier as follows:

"(1) The State Government may, from time to time, by notification constitute a Finance Commission comprising not more than five members, including a Chairman, selected from amongst the jurists, economists, administrators, and



social and political workers of eminence."

3. Substituted by s. 49(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act, XVIII of 1994), for the words "Gram Panchayats, Panchayat Samitis and Zilla Parishads".

4. Substituted by s. 49(2), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act, XVIII of 1994), for the words "State Government".

5. Substituted by s. 49(3), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act, XVIII of 1994), for the words "the term of office may be extended for six months by the State Government by notification."

6. Substituted by s. 49(4), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act, XVIII of 1994), which was earlier as follows:

"(5) The Finance Commission shall, in the performance of its functions, exercise such powers, summon such persons, examine such records, and adopt such procedures as may be prescribed."

7. Substituted by s. 49(5), of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), which was earlier as follows:

"(6) The recommendations of the Finance Commission shall, on acceptance by the State Government with such modifications as the Government may deem necessary, be notified in the Official Gazette, and upon such notification, the recommendations shall come into effect from such date as may be specified in the notification."

## **207. Transfer Of Institution :-**

(1) The State Government may transfer any institution under its management or control to a Zilla Parishad or a Panchayat Samiti or a Gram Panchayat subject to such conditions, limitations and restrictions as may be agreed upon.

(2) When any institution is transferred under sub-section (1), persons employed by the State Government shall with effect from the date of such transfer be deemed to be employed by the Zilla Parishad or Panchayat Samiti or Gram Panchayat to which such institution is transferred, on terms and conditions, not being less advantageous than they were entitled to immediately before such transfer.

## **207A. State Government To Place Officers And Employees At The Disposal Of Gram Panchayat, Panchayat Samiti And Zilla Parishad :-**

1[207A. State Government to place officers and employees at the disposal of Gram Panchayat, Panchayat Samiti and Zilla Parishad

(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,--

(a) upon the issue of any direction to any Gram Panchayat, Panchayat Samiti or Zilla Parishad to exercise any power or perform any function or discharge any duty, or

(b) upon the transfer to any Gram Panchayat, Panchayat Samiti or Zilla Parishad of any function, or control and management of any property, under any provisions of this Act, the State Government shall, subject to such conditions as it may deem fit to impose, place at the disposal of the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, the services of

such officers and employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

(2) The officers and employees whose services are so placed at the disposal of the Gram Panchayat, Panchayat Samiti or Zilla Parishad, shall continue to be the employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or employee, the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, shall make a reference to the State Government for appropriate action.

(3) Where any power or function or duty is conferred or imposed on any Gram Panchayat, Panchayat Samiti or Zilla Parishad by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.]

1. Inserted by s. 34 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XV of 1992).

## **207B. Transfer Of Powers, Functions And Duties :-**

1 [207B. Transfer of powers, functions and duties

(1) Without prejudice to the generality of the provisions contained in section 207 or elsewhere in this Act, the State Government may, by order published in the Official Gazette, transfer, under such terms and conditions as may be specified in the order, to a Panchayat such powers, functions and duties as are exercised, performed and discharged by the State Government under any law made by the State Legislature or otherwise under the executive power of the State in relation to any or all of the following matters:--

(i) agriculture including agricultural extension, agricultural marketing and food processing;

(ii) irrigation, minor irrigation and water management;

(iii) animal resources development;

(iv) health and family welfare;

(v) public health engineering and rural water supply;

(vi) social welfare, women and child development, welfare of handicapped, mentally retarded and weaker sections of people;

(vii) land and land reforms, land improvement and soil conservation;

(viii) co-operation;

(ix) khadi, and cottage and small scale industries;

(x) rural housing;

(xi) public works and communications;

(xii) education including primary and secondary schools, technical training, vocational education, libraries and cultural activities;

(xiii) fisheries;

(xiv) social forestry, farm forestry and minor forest-produce;

(xv) rural electrification including distribution of power and non-conventional energy sources;

(xvi) poverty alleviation programme;

(xvii) public distribution system.

(2) Upon the transfer of any powers, functions or duties under sub-section (1), the State Government shall not allot to the Panchayat such fund and personnel as may be necessary to enable that Panchayat to exercise the powers, perform the functions or discharge the duties so transferred.

(3) Where any powers, functions or duties conferred by or under any other law for the time being in force, are transferred or delegated to a Panchayat, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.]

1. Inserted by s. 50 of the West Bengal Panchayat (Amendment) Act, 1994 (West

### **208. Period Of Limitation For Suits :-**

Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963), the period of limitation for the institution of any suit by or on behalf of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad for the possession of any immovable property vested in such Gram Panchayat, Panchayat Samiti or Zilla Parishad from which it has been disposed or of which it has ceased to have possession shall be sixty years from the date of dispossession or discontinuance.

### **209. Power Of State Government To Rescind Or Suspend Resolution Of A Gram Panchayat, Panchayat Samiti Or Zilla Parishad :-**

(1) The State Government may, by order in writing, rescind any resolution passed by a Gram Panchayat, Panchayat Samiti or Zilla Parishad, if in its opinion such resolution--

(a) has not been legally passed or

(b) is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder.

(2) The State Government shall, before taking any action under subsection (1), give the Gram Panchayat, Panchayat Samiti or Zilla Parishad concerned an opportunity of making any representation against the proposed order.

(3) The prescribed authority may, by order, in writing suspend the execution of any resolution or order of a Gram Panchayat, Panchayat Samiti or Zilla Parishad or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this Act or any rules made thereunder, if in his opinion the resolution, or order or act is in excess<sup>1</sup>[or an abuse] of the powers conferred by or under this Act or any rules made thereunder, or the execution of the resolution or order, or the doing of the act, if likely to lead to serious breach of the peace or to cause serious injury or annoyance to the public, or to any body of persons.

(4) When the prescribed authority makes an order under subsection (3), he shall forthwith forward a copy thereof, with a statement of his reason for making it, to the State Government, who may thereupon rescind the order or direct that it shall continue in force with or without modification, permanently or for such

period as it thinks fit.

1. Inserted by s. 57 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

### **210. Omitted :-**

1[\* \* \*]

1. Omitted by s 35 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992), which was earlier as follows:

"210. Appointment of members by State Government--(1) The State Government may appoint two members of the Scheduled Castes or Scheduled Tribes and two women to be members of any Gram Panchayat, Panchayat Samiti or Zilla Parishad:

Provided that--

(a) no such appointment shall be made if two or more members of the Scheduled Castes or Scheduled Tribes or two women have been elected to such Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, under the provisions of this Act; and

(b) one such appointment shall be made if only member of the Scheduled Tribe or one woman has been elected to such Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, under the provisions of this Act:

Provided further that the appointment by the State Government under this section shall be from such persons as the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, may recommend.

(2) The members appointed under sub-section (1) shall hold office for so long as the term of office of the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, for which they are appointed, continues."

### **211. Power Of State Planning Board And The District Planning Committee :-**

The State Planning Board and the District Planning Committee shall have power to supervise and evaluate the works of any Gram Panchayat, Panchayat Samiti or Zilla Parishad.

### **212. Directions By State Government :-**

In the discharge of their functions the Gram Panchayat, Panchayat Samiti or Zilla Parishad shall be guided by such instructions or

directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

**213. Power To Remove Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati And Sahakari Sabhadhipati :-**

(1) The State Government may, notwithstanding anything contained in<sup>1</sup>[sub-section (3), of section 9], sub-section (3) of section 93 and sub-section (3) of section 143, by an order in writing, remove with effect from a date to be specified in the order any Pradhan or Upa-Pradhan, any Sabhapati or Sahakari Sabhapati or any Sabhadhipati or Sahakari Sabhadhipati from his office if in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.<sup>H</sup>

(2) The State Government shall, before making any order under subsection (1) give to the person concerned an opportunity of making a representation against the proposed order.

1. Substituted by s. 59 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. XXXVII of 1984), for the words "sub-section (3) of section 12".

**213A. Disqualification On Change Of Political Party By Members Of Panchayats :-**

<sup>1</sup>[213A. Disqualification on change of political party by Members of Panchayats

(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such Panchayat as may be specified by notification in this behalf, may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a member of such Panchayat to be disqualified for being a member thereof, if--

(a) he is an elected member set up by a recognised political party and has--

(i) voluntarily given up his membership of such recognised political party, or

(ii) exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in such Panchayat, or

(b) he is an elected member not set up by any recognised political party and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the prescribed authority shall not declare any member to be disqualified under this section without giving to such member a reasonable opportunity to represent his case and to be heard in person:

Provided further that an elected member referred to in sub-clause (ii) of clause (a) shall not, on the prescribed authority being satisfied in this behalf, be declared to be disqualified, if--

(a) the action of such member was taken on obtaining prior permission of, or was condoned by, such recognised political party, or

(b) such member claims that he and any other members of such recognised political party in the Panchayat constitute a group representing a faction consisting

of not less than one-third of the total number of members set up by such recognised political party in the Panchayat and that all the members of such group have voluntarily given up their membership of such recognised political party, or  
(c) the former recognised political party of the member merges with another recognised political party, and he claims that he and other members of his former recognised political party, or

(i) have become member of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or

(ii) have not accepted the merger, and from the time of such merger, he and such other members constituting not less than one-third of the total number of members set up by the former recognised political party in the Panchayat, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a member shall, subject to the provisions of sub-section (12), stand removed from the Panchayat from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of a Panchayat or within one month from the date on which this section comes into force, as the case may be, elected members set up by the recognised political parties shall, by adopting a resolution, select one member from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the prescribed authority referred to in sub-section (1)--

(i) a copy of the resolution,

(ii) a signed statement containing the names, addresses and constituencies of himself and other members set up by such recognised political party, and

(iii) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of the Leader:

2[Provided further that the prescribed authority referred to in sub-section (1) shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was not adopted within one month from the date of the first meeting of the Panchayat or within one month from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.]

(4) Where there is only one elected member set up by a recognised political party in Panchayat, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the Panchayat was held or this section came into force, as the case may be, on the date of which such increase took place:

(5) A member not belonging to any recognised political party shall furnish a statement to that effect to the prescribed authority referred to in sub-section (1) within one month from the date of the first meeting of the Panchayat.

(6) In the event of any change of the information furnished under subsection (3), sub-section (4) or sub-section (5), the Leader or the member, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the prescribed authority referred to in sub-section (1).

(7) The Leader of any recognised political party referred to in sub-section (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, of the district unit of such recognised political party to the prescribed authority referred to in sub-section (1), stating that--

(a) one or more members of such recognised political party have--

(i) voluntarily given up his or their membership of such recognised political party, or

(ii) have exercised the voting right contrary to the manner of voting of the

majority members set up by such recognised political party in the Panchayat, or  
(b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or  
(c) the member referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election, and that such member or members should be declared to be disqualified under sub-section (1) and should be removed from the Panchayat.

(8) Every petition referred to in sub-section (7)--

(a) shall contain a concise statement of the material facts on which the petitioner relies, and

(b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and, where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the prescribed authority referred to in sub-section (1) shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to--

(a) the common decision in regard to the manner of voting to be exercised by the majority members set up by the recognised political party, and

(b) whether the member or members against whom such petition is filed, exercised the voting right, in a meeting of the Panchayat contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9), the prescribed authority may summon such members of the recognised political party or other persons, and require such signed statements from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the prescribed authority shall, in consideration of the facts and the documents and the records before it,--

(a) reject the petition, or

(b) admit the petition wholly or in part and declare any member or members to be disqualified under sub-section (1) for being members of the Panchayat.

(12) Any member of a Panchayat declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the prescribed authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and<sup>3</sup>[after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any member or members to be disqualified in the manner referred to in sub-section (1) and, upon such declaration, the member or members shall stand removed from the Panchayat.]

(13) The order passed by the authority appointed under sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a member being declared to be disqualified under sub-section (1) for being a member of the Panchayat.

(15) The State Government may, by notification, make rules for carrying out the purposes of this section.

Explanation.--For the purposes of this section, an elected member shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the prescribed authority referred to in sub-section (1) before the

expiry of six months from the date of election.]

1. Inserted by s. 51 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

2. Proviso inserted by s. 19(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1994.

3. Substituted by s. 19(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995), w.r.e.f. 28.12.1995, for the words, brackets and number "after giving the appellant an opportunity of being heard, set aside or confirm the order or declare under sub-section (1) any member or members to be disqualified for being member or members of the Panchayat".

### **213B. Suspension Of Members Of Panchayats :-**

(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such Panchayat as may be specified by notification, may, after giving an office-bearer or member of such Panchayat an opportunity to show-cause against such action as may be proposed to be taken against him, place such office-bearer or member under suspension, if he--

(i) has, prima facie, been found to be guilty of criminal breach of trust or criminal negligence or gross financial irregularity or impropriety in an inspection report on audit of accounts and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

(ii) has, in an inspection held by a competent authority, prima facie, been found guilty of criminal breach of trust, financial irregularity, misuse or abuse of power for wrongful gain or gross negligence of duty requiring penal action by a competent authority and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

2[(iii) has been implicated in a proceeding commenced against him on any criminal charge referred to in clause (h) of section 8, section 97 or section 142, as the case may be, and in pursuance of such proceeding, either he has been detained in custody for a period exceeding forty-eight hours or a charge in the precise formulation of the specific accusation within the concept and meaning of the Code of Criminal Procedure, 1973 (2 of 1974), has been framed against him in a competent court of law:

Provided that the prescribed authority immediately after placing the office-bearer under suspension, shall proceed to cause a full enquiry into the accusations made against such office-bearer and on completion of such enquiry, may--

(a) institute a proceeding against him on a criminal charge under any law for the time being in force,

(b) furnish a proposal to a competent authority recommending such legal measures against him under the Act or any rule thereunder as deemed appropriate, or

(c) revoke the order for suspension and reinstate him in his office with such direction as may be deemed fit, if the prescribed authority is of the opinion that there is reasonable ground to believe that there has been an irregularity committed without proof of any criminal intent and without any wrongful gain to him or any wrongful loss to the Panchayat and on such reinstatement, such office-bearer shall be deemed to hold the charge of his office without any interruption because of suspension.]

3[(2) When an office-bearer in a Panchayat is placed under suspension under sub-section (1),--

(a) subject to the provisions under clause (b), the other office-bearer in such Panchayat shall exercise the powers, perform the functions and discharge the duties of the office-bearer under suspension, under sub-section (4) or sub-section (5) of section 9, section 98 or section 143, as the case may be,

(b) notwithstanding the provision under clause (a), such Panchayat may, by majority decision of the existing members directly elected to that Panchayat, in a meeting specially convened for the purpose, select a person from among them not



being an office-bearer, to act temporarily in place of the office-bearer under suspension and on being so selected, be shall exercise the powers, perform the functions and discharge the duties of such office-bearer until the office-bearer placed under suspension is reinstated in his office or is subsequently removed or vacates the office by resignation or otherwise in conformity with the provisions of the Act and the rules made thereunder:

Provided that the notice of such meeting shall be given by the office-bearer holding the charge with an intimation to the prescribed authority referred to in first proviso to sub-section (1) of section 16, section 105 or section 150, as the case may, and such prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing within a week of the meeting on the proceedings of the meeting.]

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

(4) The order passed by the authority as aforesaid on such appeal shall be final.]

1. Inserted by s. 51 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

2. Added by s. 33(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997.

3. Substituted by s. 33(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997), w.e.f. 8.8.1997, which was earlier as follows:

"(2) When an office-bearer is placed under suspension under sub-section (1), the Panchayat shall elect another office-bearer in his place to exercise the powers, perform the functions and discharge the duties of such office-bearer during the period for which such suspension continues."

## **214. Powers Of State Government To Supersede A Gram Panchayat, Panchayat Samiti Or Zilla Parishad :-**

(1) If, in the opinion of the State Government, any Gram Panchayat, Panchayat Samiti or Zilla Parishad--

(i) has shown its incompetence to perform or has persistently made default in the performance of the duties imposed on it by or under this Act or any other law, or

(ii) has exceeded or abused its powers, the State Government may, by order, to be published in the Official Gazette stating the reasons therefor supersede the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, and direct that it be reconstituted 1 [within such period not exceeding six months] as may be specified in the order:

2 [Provided that the members of the Gram Panchayat, Panchayat Samiti or Zilla Parishad as reconstituted shall hold office for the unexpired portion of the period for which the members of the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, not been superseded.]

(2) The State Government shall, before making any order under

subsection (1), give the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, an opportunity of making a representation against the proposed order.

1. Substituted by s. 52 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), for the words "within such period not exceeding two years".

2. Proviso added by s. 36 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act, XVII of 1992).

#### **214A. District Council :-**

(1) There shall be a District Council for Panchayats in each district consisting of the following members:--

(i) Adhyaksha or the Chairperson -- the Leader of the recognised political party in opposition having largest number of members directly elected with the reserved symbol of such recognised political party in the Zilla Parishad or the Mahakuma Parishad:

Provided that if in a term of general election, no member in opposition is elected with the reserved symbol of a recognised political party in a Zilla Parishad or Mahakuma Parishad, the Adhyaksha for that term shall be elected from amongst the members, not being Sabhadhipati Sahakari Sabhadhipati or Karmadhyaksha, by the members of the Zilla Parishad or the Mahakuma Parishad, as the case may be, on majority vote in a meeting:

(ii) Upadhyaksha or the Vice-Chairperson--to be elected from amongst the members, not being the Sabhadhipati, Sahakari Sabhadhipati or Karmadhyaksha, by the members of the Zilla Parishad or the Mahakuma Parishad, as the case may be, on majority vote in a meeting;

(iii) five members elected by the members of the Zilla Parishad or the Mahakuma Parishad, as the case may be, from amongst themselves;

(iv) three members, being officers of the State Government or of any statutory body or corporation and having such specialised knowledge as the State Government may think fit, nominated by the State Government;

(v) Additional Executive Officer of the Zilla Parishad or the Mahakuma Parishad--Member-Secretary,

(2) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the functions of the District Council shall be as follows:--

(a) to examine the accounts of the Panchayats within its territorial jurisdiction, in relation to the budget approved by the Panchayats concerned for the expenditure to be incurred by such Panchayats, the annual report of such Panchayats and such other accounts of such Panchayats as the District Council may think fit;

(b) to satisfy itself, while scrutinising the accounts of the Panchayats, that--

(i) the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied,

(ii) the expenditure conforms to the rules governing such expenditure and also the financial proprieties of such expenditure, and

(iii) every re-appropriation has been made in accordance with such rules as are applicable;

(c) to consider the inspection reports on the annual audit of accounts of any Panchayats within its jurisdiction, conducted by the auditors appointed under section 186, and to examine the replies thereto furnished by the respective Panchayats;

(d) to examine the accounts of stores and stocks maintained by the Panchayats within the area of their respective jurisdictions;

(e) to pursue the matters relating to the unsettled objections raised in any

inspection report on audit of accounts of such Panchayats and refer such matters to the authorities concerned suggesting corrective actions;

(f) to suggest ways and means to remove the difficulties, if any, experienced by the Panchayats in giving effect to any provision of this Act or the rules made thereunder within their respective jurisdictions.

(3) The term of office of the members of the District Council shall be for the entire period of the term of office of the members of the Zilla Parishad, unless a member of the District Council is restrained by any other provision of this Act from continuing as a member of the Zilla Parishad.

(4) The District Council shall determine its own procedure and shall have the right to obtain a copy of every inspection report on audit of accounts of any Panchayat within the area of its jurisdiction and may call for any record of any Panchayat within such area to be produced for its inspection.

(5) Without prejudice to the generality of the provisions in sub-section (4), the State Government may, by general or special order, provide for--

(a) the procedure for convening of the meetings of the District Council and the procedure for the meetings,

(b) the powers and duties of the Secretary of the District Council,

(c) the terms of office of different members of the District Council and the travelling allowances admissible to such members.

(6) Any elected or nominated member of the District Council may resign his office as such member by tendering his resignation in writing to the Sabhadhipati of the Zilla Parishad or the Mahakuma Parishad, as the case may be, and such resignation shall take effect from the date on which it is accepted by the Sabhadhipati.

(7) Any casual vacancy in the office of any member of the District Council shall be filled in such manner as may be prescribed and the member elected or nominated to fill such casual vacancy shall hold office for the unexpired portion of the term of the Zilla Parishad].

1. Inserted by s. 53 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act, XVIII of 1994).

## **215. Consequences Of Supersession :-**

(1) When an order of supersession has been passed under section 214 then with effect from the date of the order--

(a) all the members of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad, as the case may be, and all the members of the Sthayee Samitis thereof shall vacate their offices;

(b) all the powers, duties and functions which, under the provisions of this Act or any rule or bye-law made thereunder or any law for the time being in force, may be exercised, discharged or performed by the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad, as the case may be, or any Sthayee Samiti thereof shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf;

(c) all properties vested in the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad, as the case may be, shall remain vested in the State Government until the reconstitution of such Gram Panchayat, the Panchayat Samiti or the Zilla Parishad.

(2) On the reconstitution of the Gram Panchayat, Panchayat Samiti

or Zilla Parishad, as the case may be, the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his functions.

### **216. Special Provisions In Case Of Prohibitory Orders From Courts :-**

Where by reason of an order of a competent court a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad is unable to exercise or perform the powers, duties or functions conferred or imposed on it by or under any law, the State Government may appoint any authority, person or persons to exercise or perform, as the case may be, during the period of such inability, any or all of such powers, duties and functions in such manner and under such conditions as the State Government may direct.

### **217. Transitory Provisions :-**

(1) After the coming into force of this Act in any area, the State Government may appoint any authority, person or persons for any Gram Panchayat or Anchal Panchayat constituted in that area under the West Bengal Panchayat Act, 1957 (West Ben. Act 1 of 1957), or any Anchalik Parishad or Zilla Parishad established in that area under the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963), and the authority, person or persons so appointed shall exercise, perform and discharge all the powers, functions and duties of such Gram Panchayat, Anchal Panchayat, Anchalik Parishad or Zilla Parishad, as the case may be.

(2) with the appointment of the authority, person or persons referred to in sub-section (1), all the members of the Gram Panchayat, Anchal Panchayat, Anchalik Parishad or Zilla Parishad, as the case may be, in respect of which such authority, person or persons, as the case may be, has been so appointed shall vacate their offices as such members.

### **218. Repeal :-**

(1) With effect from the date of the coming into office of a Gram Panchayat under sub-section (4) of section 4, the provisions of the West Bengal Panchayat Act, 1957,<sup>1</sup> relating to Gram Sabha, Gram Panchayat, Anchal Panchayat and Nyaya Panchayat shall stand repealed within the territorial limits of the Gram and the Union Board constituted under the Bengal Village Self-Government Act,

1919 (Ben. Act V of 1919), shall cease to function].

(2) With effect from the date of the coming into office of a Panchayat Samiti under sub-section (3) of section 94,2[ \* \* \* ] the provisions of the West Bengal Zilla Parishads Act, 1963, relating to Anchalik Parishads shall stand repealed within the territorial limits of the Block.

(3) With effect from the date of the coming into office of a Zilla Parishad under sub-section (3) of section 140, the provisions of the West Bengal Zilla Parishads Act, 1963, relating to Zilla Parishads shall stand repealed in the district.

1. Substituted by s. 9(a) of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978) with retrospective effect for "relating to Gram Panchayat shall stand repealed within the territorial limits of the Gram".

2. Omitted with retrospective effect the words and numbers "the provisions of the West Bengal Panchayat Act, 1957 relating to Anchal Panchayat and" by s. 9(b), of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978) with retrospective effect for "relating to Gram Panchayat shall stand repealed within the territorial limits of the Gram".

### **219. Vesting :-**

When in consequence of the repeal of the enactments referred to in section 218 any Gram Panchayat, Nyaya Panchayat or Anchal Panchayat constituted under the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957), or any Anchalik Parishad or Zilla Parishad established under the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963), ceases to exist<sup>1</sup>[or when the Union Board constituted under the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919) ceases to function] in any area--

(a) the authority, person or persons, if any appointed under section 217 in respect of such Gram Panchayat, Anchal Panchayat, Anchalik Parishad, Zilla Parishad, as the case may be, shall cease to exercise all functions;

(b) all properties, movable or immovable and all assets--

(i) vested in such Gram Panchayat shall vest in the Gram Panchayat or Gram Panchayats constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(ii) vested in such Anchal Panchayat shall vest in such Gram Panchayat or Gram Panchayats constituted under this Act in such

area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

2[(iia) vested in such Union Board shall vest in such Gram Panchayat or Gram Panchayats constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,]

(iii) vested in such Anchalik Parishad shall vest in such Panchayat Samiti or Panchayat Samitis constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(iv) vested in such Zilla Parishad shall vest in the Zilla Parishad constituted under this Act;

(c) all rights acquired, all debts and obligations incurred, all matters and things engaged to be done--

(i) by such Gram Panchayat shall be deemed to have been acquired, incurred or engaged to be done by the Gram Panchayat or Gram Panchayats constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (i) of clause (b),

(ii) by such Anchali Panchayat shall be deemed to have been acquired, incurred or engaged to be done by the Gram Panchayat or Gram Panchayats constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (ii) of clause (b),

3[(iia) by such Union Boards shall be deemed to have been acquired, incurred or engaged to be done by the Gram Panchayat or Gram Panchayats constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iia) of clause (b),]

(iii) by such Anchalik Parishad shall be deemed to have been acquired, incurred or engaged to be done by the Panchayat Samiti or Panchayat Samitis constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iii) of clause (b);

(iv) by such Zilla Parishad shall be deemed to have been acquired, incurred or engaged to be done by the Zilla Parishad constituted under this Act;

(d) all suits or other legal proceedings instituted or which but for the coming into office of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad constituted under this Act, might have been instituted by or against<sup>4</sup>[the Union Board constituted under the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919), or]

the Gram Panchayat or Anchal Panchayat, constituted under the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957), or the Anchalik Parishad or Zilla Parishad Established under the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963), may be continued or instituted by or against the Gram Panchayat or Panchayat Samiti, as determined by the prescribed authority under sub-clauses (i), (ii), 4[(iia), (iii) of clause (b), or the Zilla Parishad as the case may be, and in all such suits or other legal proceedings pending immediately before such constitution or establishment, such Gram Panchayat, Panchayat Samiti or Zilla Parishad constituted under this Act, shall stand substituted;

(e) all suits and cases pending before a Nyaya Panchayat constituted under the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957), shall be deemed to have been transferred to such Nyaya Panchayat constituted under this Act as may be determined by the prescribed authority;

(f) persons employed by--

(i) such Gram Panchayat and continuing in office immediately before the coming into office of the Gram Panchayat constituted under this Act for such area shall be deemed to be employed by such Gram Panchayat or Gram Panchayats constituted under this Act, as may be determined by the prescribed authority,

(ii) such Anchal Panchayat and continuing in office immediately before the coming into office of the Gram Panchayat or Gram Panchayats constituted under this Act for such area shall be deemed to be employed by such Gram Panchayat or Gram Panchayats constituted under this Act, as may be determined by the prescribed authority,

5[(iia) such Union Board and continuing in office immediately before the coming into office of the Gram Panchayat or Gram Panchayats constituted under this Act for such area shall be deemed to be employed by such Gram Panchayat or Gram Panchayats constituted under this Act, as may be determined by the prescribed authority,

(iii) such Anchalik Parishad and continuing in office immediately before the coming into office of the Panchayat Samiti or Panchayat Samitis constituted under this Act for such area shall be deemed to be employed by such Panchayat Samiti or Panchayat Samitis constituted under this Act, as may be determined by the prescribed authority,

6[(iv) such Zilla Parishad and continuing in office immediately before the coming into office of the Zilla Parishad, constituted

under this Act, shall be deemed to be employed by such Zilla Parishad:

Provided that the terms and conditions of such persons shall not be less advantageous than those enjoyed by them immediately before the coming into office of such Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be;

(g) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the Bengal Local Self-Government Act, 1885 (Ben. Act III of 1885), applicable to the District Board.<sup>8</sup>[or the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919), applicable to the Union Board,] or the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957), or the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963), applicable to the Gram Panchayat, Anchal Panchayat, Anchalik Parishad and Zilla Parishad and continuing in force immediately before the coming into office of the Gram Panchayat, Panchayat Samiti and Zilla Parishad under this Act shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

1. Inserted with retrospective effect by s. 10(a), of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978) with retrospective effect for "relating to Gram Panchayat shall stand repealed within the territorial limits of the Gram".

2. Inserted with retrospective effect by s. 10(b) of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVII of 1978).

3. Inserted with retrospective effect by s. 10(c), of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVII of 1978).

4. Inserted with retrospective effect by s. 10(d) of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act XVII of 1978).

5. Inserted with retrospective effect by s. 10(e), of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act XVII of 1978).

6. Substituted by s. 60 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

7. Inserted by s. 10(f) of the West Bengal Panchayat (Third Amendment) Act, 1978 (West Ben. Act LVIII of 1978).



## **220. Prosecution :-**

Prosecution in a court under this Act for breach of bye-laws may be instituted by a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad or by any person authorised by such Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, in this behalf.

## **221. Recovery Of Arrears :-**

1 [All arrears of taxes,tolls, rates, fees and cess] leviable by a Gram Panchayat, Panchayat Samiti and Zilla Parishad under this Act shall, without prejudice to any other mode of recovery, be recoverable as public demands.

1. Substituted by s. 21 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "All arrears of taxes, tolls, rates and fees".

## **222. Omitted :-**

1[ \* \* \* ]

1. Omitted by s. 61 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

## **223. Bye-Laws :-**

(1) A Gram Panchayat, a Panchayat Samiti or a Zilla Parishad<sup>1</sup>[shall make bye-laws,]<sup>2</sup>[or amend bye-laws], not inconsistent with the provisions of this Act or the rules made thereunder, for enabling it to discharge its functions under this Act.

3[(1A) The bye-laws made or amended under sub-section (1) shall be published by the Gram Panchayat, or the Panchayat Samiti or the Zilla Parishad, as the case may be, in the manner prescribed.]

(2) The State Government may, by notification, rescind any bye-law and thereupon such bye-law shall cease to have effect.

(3) In making a bye-law under sub-section (1), a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad may provide that a breach of the same shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing breach with a further fine which may extend to ten rupees for every day during which the breach continues after the offender has been convicted of such breach.

1. Substituted by s. 22 of the West Bengal Panchayat

(Amendment) Act, 2003 (West Ben. Act VIII of 2003) for the words "may make bye-laws," which were amended by West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).  
2 . Inserted by s 62 (a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).  
3. Inserted by s. 62 (b), of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

## **224. Power To Make Rules :-**

- (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provision of this Act. are required to be prescribed or to be provided for by rules.
- (3) All rules made this Act shall be published in the Official Gazette, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.
- (4) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the Official Gazette, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

### **SCHEDULE 1**

#### **FIRST SCHEDULE**

##### **OFFENCES TO BE REPORTED BY A CHOWKIDAR AND A DAFADAR**

[See section 39]

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

### **SCHEDULE 2**

#### **Second Schedule**

##### **OFFENCES TRIABLE BY A NYAYA PANCHAYAT**

[See sections 51 and 52]

#### **PART A**

1. Offences under sections 26 and 27 of the Cattle Trespass Act, 1871 (1 of 1871).

2. Offences under enactments (other than the Indian Penal Code (45 of 1860) and this Act) or any rules or bye-laws made thereunder which are punishable with fine only up to a limit of fifty rupees.
3. Offences under section 34 of the Police Act, 1861 (5 of 1861).
4. Offences under the Bengal Ferries Act, 1885 (Ben. 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, 341, 352, 358, 426, 447, 448, 504 and 510 and when the value of the property in the opinion of the Nyaya Panchayat is not over two hundred rupees, section 379 and 441.

#### PART B

Offences under the following sections of the Indian Penal Code, namely, sections 283, 428, 430, 431, 506 and 509; and when the value of the property in the opinion of the Magistrate is not over two hundred rupees, section 403.

### SCHEDULE 3

#### THIRD SCHEDULE

Form of oath or affirmation to be made by a member of a Gram Panchayat, a Panchayat Samiti,<sup>2</sup>[a Zilla Parishad or Mahakuma Parishad]

1. A. B.,<sup>3</sup>[\* \* \*] having been elected / appointed a member of the . . . . . Gram Panchayat / Panchayat Samiti / Zilla Parishad<sup>4</sup>[ /Mahakuma Parishad] do swear in the name of God/Solemnly affirm that I will bear true faith and solemnly affirm allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter]

1. Substituted by s. 6 of the West Bengal Panchayat (Fourth Amendment) Act, 1978 (West Ben. Act XLII of 1978)

2. Substituted by s. 20 (a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988), for the words "or a Zilla Parishad."

3. Omitted the words "being an ex officio member or" by s. 63 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

4. Inserted by s. 20(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).