

## **GUJARAT PANCHAYATS ACT, 1961**

**6 of 1962**

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## **GUJARAT PANCHAYATS ACT, 1961**

**6 of 1962**

**[ ]**

An Act to consolidate and amend the law relating to village panchayats and district local boards in the State of Gujarat with a

view to recognise the administration pertaining to local Government in furtherance of the object of the democratic decentralisation of powers in favour of different classes of panchayats. It is hereby enacted in the Twelfth Year of the Republic of India as follows:

## CHAPTER 1

### Preliminary

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

(1) This Act may be called the Gujarat Panchayats Act, 1961.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and all or any of the remaining provisions of this Act shall come into force -[in respect of such class of Panchayats, in such district and on such dates] as the State Government may, by notification in the Official Gazette, appoints; and different dates may be appointed in respect of different districts and different provisions.

#### **2. Definitions :-**

In this Act, unless the context otherwise requires-

(1) "building" includes a hut, shed or other enclosure, whether used as a human dwelling or for other purpose whatsoever and also includes walls, verandahs, fixed platforms, plinths, doorsteps and the like;

(2) "case" means with reference to any judicial proceedings a criminal proceeding in respect of any offence triable by a Nyaya Panchayats;

(3) "cattle" means and includes bulls, bullocks, heifers, cows and their young, elephants, camels, buffaloes, [horses], mares, geldings, ponies colts, fillies, mules, asses, swine, sheep, ewes, rams, lambs, goats and kids;

(4) "City" means a city as defined in the Bombay Provincial Municipal Corporations Act, 1949, (Bom. LIX of 1949);

(5) "competent authority" means such Government Officer, Panchayat or authority as the State Government may, by notification in the Official Gazette, appoint to perform the functions of a competent authority under such provisions of this Act and in respect of such panchayat as may be specified in the said notification;

[Explanation-For the purposes of clause (5), a Government Officer includes a Government Officer posted under a panchayat under section 122, 142 or 207];

(6) "district" means a District formed under the Act;

(7) District Development Officer" means such officer as the State Government may appoint to be a District Development Officer for the purpose of this Act; (1) "District panchayat" means a district panchayat, constituted under this Act;

(8A) "Election Authority" means:-

(a) in the case of an election to a gram panchayat, the Deputy Collector or such officer not lower in rank than that of a Deputy Collector and not posted under a panchayat, as the State Government may, by general or special order, appoint in this behalf;

(b) in the case of an election to a nagar panchayat, the Collector;

(C) in the case of an election to a taluka panchayat'or a district panchayat, the Chief Electoral Officer for the State of Gujarat;]

(9) "factory" means a factory as defined in the Factories Act, 1948; (LXIII of 1948).

(10) "general election" means the election held under this Act for the constitution or the reconstitution of a panchayat after the expiry of its term or otherwise;

(11) "gram" means a gram formed under this Act;

(12) "gram panchayat" means and gram panchayat constituted or deemed to be constituted under this Act;.

(13) "gram sabha" means a gram sabha deemed to be constituted under this Act;

(14) "land" includes land which is built upon, or covered with water;

(15) "Land Revenue Code" means-

(a) in the Bombay and Saurashtra areas of the State of Gujarat the Bombay Land Revenue Code, 1879, and (Bom .V of 1879).

(b) in the Kutch area of the State ofGujarat the said Code applied to that area;



[(16) "list of voters" means a list of voters prepared and maintained in accordance with the provisions of sections 21 to 21 E for on electoral division within the meaning of that expression in sub,section (6) of section]

(17) "nagar" means a nagar formed under this Act;

(18) "nagar Panchayat" means a nagar panchayat constituted under this Act;

(19) "Nyaya Panchayat" means a Nyaya Panchayat constituted or deemed to have been constituted under this Act for the purpose of the trial of suits and cases; . . . .

(20) "octroi or octroi duty" means a tax on the entry of goods into a gram or nagar, for consumption, use or sale therein;

(21) "panchayat" means a gram panchayat, nagar panchayat. taluka panchayat or district panchayat;

(22) "Panchayat Function List" means the list of matters enumerated in Schedules I,II and III; :

(23) "population" in relation to gram, nagar, taluka or district means the population thereof as ascertained at the last preceding census

\* \*

(24) "prescribed" means prescribed by rules;

[(24AA) "public street" means any street-

(a) over which the public have a right of way, or

(b) heretofore levelled, paved, metalled, channelled, served or repaired out of a panchayat fund or other public fund, or

(c) which under the provisions of this Act is declared by a panchayat to be or which under the provisions of this Act becomes a public street;]

[(24A) "revenue district" or "revenue taluka" means a district or as the case may be, a taluka or mahal constituted under the Land Revenue Code;]

(25) "rules" means rules made, or deemed to have been made under this Act;

(26) "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 Gujarat under article 341 of the Constitution of India;

(27) "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 Gujarat under article 342 of the Constitution of India;

(28) "Secretary" means a secretary of a panchayat appointed or deemed to be appointed under this Act;

(29) "street" means any road, square, court, alley or passage accessible whether permanently or temporarily to the public, whether a thoroughfare or not;

(30) "suit" means a civil suit triable by a Nyaya Panchayat under this Act;

(31) "taluka" means a taluka formed under this Act;

(32) "Taluka Development Officer" means such officer as the State Government may appoint to be a Taluka Development Officer for the purposes of this Act;

(33) "taluka panchayat" means a taluka panchayat constituted under this Act;

(34) "tax" means a tax, cess rate or other impost leviable under this Act but does not include a fee;

[(34A) "vehicle" includes a bicycle, motor car and every wheeled conveyance which is used or capable of being used on a public street;]

(35) "ward" means an area into which a gram or as the case may be, nagar is divided under section 20;

(36) "year" except in the case of the term of a panchayat, means the year commencing on the 1st day of April unless another date is specified by the State Government by notification in the Official Gazette.-

## CHAPTER 2

Establishment of Panchayats of Different Tiers

### **3. Establishment of panchayats of different tiers :-**

For the purposes of this Act, there shall be in each district-

- (1) a gram panchayat for each gram,
- (2) a nagar panchayat for each nagar,
- (3) a taluka panchayat for each taluka, and
- (4) a district panchayat for the district.

#### **4. Establishment of Nyaya Panchayats :-**

(1) For the purpose of the administration of civil and criminal justice as provided in this Act, there shall be a Nyaya Panchayat-

(a) for each nagar to be known by the name specified by the State Government; and

(b) for each group of such grams not being less than five in number as the State Government may, by notification in the Official Gazette, determine to be known by the name specified in the notification.

(2) The grams comprising a group shall, as far as possible, be contiguous.

#### **5. Conciliation panch :-**

For settling disputes between parties, by conciliation under this Act there shall be a conciliation panch for each gram and for each nagar for which a Nyaya Panchayat has been constituted.

#### **6. Gram sabha :-**

There shall be a gram sabha for a gram for performing such as are provided in this Act and such other functions as may be prescribed.

#### **7. Incorporation of Panchayats of different classes :-**

(1) A gram panchayat shall be a body corporate by the name of "The.....Gram Panchayat".

(2) A nagar panchayat shall be a body corporate by the name of "The.....Nagar Panchayat."

(3) A taluka panchayat shall be a body corporate by the name of "The.....Taluka Panchayat".

(4) A district panchayat shall be a body corporate by the name of "The.....District Panchayat".

(5) Every panchayat mentioned in sub-section (1), (2), (3) or (4) shall have perpetual succession and a common seal and may sue

and be sued in its corporate name, and subject to the provisions of this Act, shall be competent to acquire and hold property, both movable and immovable, whether within or without the limits of the area over which it has authority to lease, sell or otherwise transfer any movable or immovable property which may have become vested in it, [or have been acquired or constructed by it], to raise loans upon the security of its fund in the manner and subject to the limits and other things including guarantees prescribed by rules, and to contract and do all other things necessary for the purposes of this Act.

[Explanation.- Where a panchayat constructs any building or other work by way of remunerative assets, such construction shall be deemed to be for the purpose of this Act.]

## **8. Subordination of panchayats amongst themselves and their powers, functions and duties :-**

(1) A gram panchayat [\* \* \*] subject to the authority of the taluka panchayat and the district panchayat [and a nagar panchayat subject to the authority of the district panchayat shall], have authority for the purposes of this Act over the area for which it is constituted.

(2) A district panchayat and subject to the authority of the district panchayat a taluka panchayat, shall have authority for the purposes of this Act over the area for which it is constituted, except that portion of the area which for the time being is within the limits of a city, municipal borough, municipal district, notified area or cantonment under any law for the time being in force;

[Provided that a district panchayat or, as the case may be, a taluka panchayat shall have also authority over such area outside the area for which it is constituted for such purposes as the State Government may by notification in the Official Gazette specify ]

(3) Subject to the control of the State Government and the competent authority-

(a) a gram [\* \* \*] shall be subordinate to the taluka panchayat and the district panchayat, and

(b) [a nagar panchayat or a taluka panchayat] shall be subordinate to the district panchayat.

(4) [Subject to the control of the State Government and the

competent authority, a district panchayat], a taluka panchayat, a nagar panchayat and a gram panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by or under this Act or any other law for the time being in force.

## **9. Declaration of nagar and gram :-**

(1) After making such inquiries as may be prescribed, the State Government may, by notification in the Official Gazette, declare any local area, comprising a revenue village, or group of revenue villages or hamlets forming part of a revenue village, or such other administrative unit or part thereof-

(a) to be a nagar, if the population of such local area exceeds 10,000 but does not exceed [25,002], and

(b) to be a gram, if the population of such local area does not exceed 10,000;

["Provided that if in the case of a local area which is eligible for being declared as a nagar under clause (a), the State Government, having

Provided further that if in the case of a local area, which is eligible for being declared as a gram under clause (b), the State Government having regard to the geography, extent of urban development and such other factors in relation to that area as may be prescribed and after consulting the local authority, if any, constituted for such local area. is of the opinion that the local area should be declared to be a nagar. the State Government may by a like notification declare the local area to be a nagar "]

["(1A) Notwithstanding anything contained in sub-section (1) and section 4 of the Gujarat Municipalities Act, 1963, (Guj. 34 of 1964) if the State Government having regard to the geography, extent of urban development and such other factors in relation to a municipal borough as may be prescribed, and after consulting the municipality constituted for such municipal borough, is of the opinion that the area comprised in the municipal borough be declared to be a gram or nagar, the State Government may, by notification in the Official Gazette, declare the area comprised in the municipal borough and specified in the notification to be a gram or nagar."]

(2) After consultation with the taluka panchayat, the district panchayat and the nagar or gram panchayat concerned (if already constituted) the State Government may, by like notification, at any time-

(a) include within, or exclude from, any nagar or gram, any local area or otherwise alter the limits of any nagar or gram;

(b) declare that any local area shall cease to be a nagar or gram;  
[or]

[(c) having regard to clauses (a) and (b) of sub-section (8), declare the whole area comprised in a gram or the part thereof to be a nagar or two or more grams or the whole area comprised in a nagar [to be a gram or split up the area comprised in the nagar into a nagar and a gram or into two or more grams;] and thereupon the local area shall be so included or excluded, or the limits of the nagar or gram so altered [or the local area shall cease to be a nagar or gram or, as the case may be, this area declared to be a nagar or gram shall be a nagar, or gram as the case may be.]

#### **10. Formation of districts and taluk as of this Act :-**

For the purposes of this Act-

(i) a district as constituted from time to time under the Land Revenue Code [except the area over which a district panchayat has no authority under section 8] shall be a district; and

(ii) a taluka or mahal as constituted from time to time under the Land Revenue Code [except the area over which a taluka panchayat has no authority under section 8] shall be a taluka.

#### **11. Panchayat Organisation and the exercise of control over panchayats by State Government :-**

(1) The gram panchayats, nagar panchayats, taluka panchayats, district panchayats, gram sabhas, Nyaya Panchayats and conciliation panchayats shall constitute the Panchayat Organisation of the State of Gujarat.

(2) The State Government shall exercise its control over the panchayats either directly or through such officer or officers as it may, by general or special order appoint for the purpose]"

#### **12. Constitution of gram panchayats :-**

(1) A gram panchayat shall subject to the provisions of sub-section

(5), consist of such number of member or members (including the Sarpanch) not less than 7 and not more than 15, as the competent authority may, subject to the general order made by the State Government in regard to the allocation of number of seats to different grams having regard to the varying extent of population therein, determine, and such members shall be elected from amongst the qualified voters of the gram.

(2) A gram panchayat shall have a Sarpanch and an Upa-Sarpanch.

(3) The Sarpanch shall be elected by ballot by the qualified voters of the gram from amongst themselves.

(4) The Upa-Sarpanch shall be elected by the members of the gram panchayat from amongst themselves.

(5) Out of the total number of seats of members determined under sub-section (1) there shall be reserved-

(a) \*[for women, two seats];

(b) for Scheduled Castes, one seat or if in the case of any gram, the State Government having regard to the population of Scheduled Tribes therein specifies more seats in this behalf, the seats so specified;

(c) for Scheduled Tribes, one seat or if in the case of any gram, the State Government having regard to the population of Scheduled Tribes therein specifies more seats in this behalf, the seats so specified:

Provided that nothing in clause (b) or (c) shall apply where there is no population of Scheduled Castes, or as the case may be, of Scheduled Tribes in any gram:

Provided further that where the State Government finds that there is in any gram population of Scheduled Castes or Scheduled Tribes, notwithstanding that the relevant figures of the last preceding census show that there is no such population in that gram, it shall be lawful for the State Government. to ascertain such population in that gram after making or causing to be made such inquiry as it thinks fit and to specify the number of seats under clause (b), or as the case may be, clause (c), having regard to the;population of Scheduled Castes, or as the case may be, Scheduled Tribes' in that gram as so ascertained:

Provided further that the reserved seats may be allotted by rotation to different wards in a gram in the prescribed manner:

Provided also that where in the case of any gram panchayat the number of seats which the State Government thinks fit to specify under clause (b) or (c) is in its opinion fairly large in relation to the total number of members of that panchayat the State Government may allocate out of the seats so thought fit to be specified, such number of seats to women as it deems fit, and the rest to Scheduled Castes, or as the case may be, to Scheduled Tribes.]

### **13. Constitution of nagar Panchayats :-**

(1) A nagar panchayat shall, subject to the provisions of sub-section(3), consist of such number of members, not less than 15 and not more than 20, as the competent authority may, subject to the general order made by the State Government in regard to the allocation of number of seats to different nagar having regard to the varying extent of population therein, determine, and such members shall be elected from amongst the qualified voters of the nagar

.

(2) A nagar panchayat shall have a Chairman and a Vice-Chairman elected by its members from amongst themselves.

(3) Out of the total number of seats of members determined under sub-section (1) there shall be reserved-

\*[(a) for women, two seats];

(b) for Scheduled Castes, one seat or if in the case of any nagar the State Government having regard to the population of the Scheduled Castes therein specifies more seats in this behalf, the seats so specified;

(c) for Scheduled Tribes, one seat or if in the case of any nagar the State Government having regard to the population of the Scheduled Tribes therein specifies more seats in this behalf, the seats so specified:

Provided that nothing in clause (b) or (c) shall apply where there is no population of Scheduled Castes, or as the case may be, Scheduled Tribes in any nagar:

Provided further that where the State Government finds that there



is in any nagar population of Scheduled Castes or Scheduled Tribes, notwithstanding that the relevant figures of the last preceding census show that there is no such population in that nagar, it shall be lawful for the State Government to ascertain such population in that nagar after making or causing to be made Such inquiry as it think fit and to specify the number of seats Under clause (b), or as the case may be, clause (c), having regards to the population of Scheduled Castes, or as the may be, Scheduled Tribes, in that nagar as so ascertained:

Provided further that the reserved seats may beallotted by rotation to different wards in a nagar in the prescribed manner:

Provided also that where in the case of any nagar panchayat the number of seats which the State Government think fit . to specify: under clause (b), or (c) is in its opinion fairly large in relation to the total number of members of that panchayat, the State-Government may allocate.. out of the seats so thought fit to be specified, such number of seats to women as it deems fit and the rest to Scheduled Castes, or as the case may be, to Scheduled Tribes.]

#### **14. Constitution of taluka panchayats :-**

(-

(1) A taluka panchayat shall Consist of elected and associate members.

[ (2) A taluka panchayat shall have a President and a Vice-President elected by its elected members from amongst themselves.]

(3) The number of elected members of a taluka panchayat having population as specified in column 1 of the table hereunder shall be such as is specified respectively against it in column 2 of the said table and such members shall be elected from amongst the qualified voters of the taluka concerned.

TABLE	
1	2
Population not exceeding sixty thousand.	15
Population exceeding slity thousand but	
not exceeding one lakh.	19
Population exceeding one lakh but not	
exceeding one and a half lakhs.	23
Population exceeding one and a half lakhs but	

not exceeding two lakhs.	27
Population exceeding two lakhs.	31

[(4) Out of the total number of seats specified in sub-section (3), there shall be reserved:-

(a) for Scheduled Castes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Castes in the taluka bears to the total population of the taluk;

(b) for Scheduled Tribes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Tribes in the taluka bears to the total population of the taluka;

[(c) for women,-

(i) two seats, where the total number of seats is either fifteen or, as the case may be, nineteen;

(ii) three seats in any other case):

Provided that out of the seats reserved for women under clause (c) there shall be allotted-

(i) to the women belonging to the Scheduled Castes such number of seats, as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Castes under clause (a) bears to the total number of seats specified in subsection (3);

(ii) to the women belonging to the Scheduled Tribes such number of seats, as may be determined by the State Government so however that the number of seats so determined bears as nearly as may be the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Tribes under clause (b), bears to the total number of seats specified in subsection (3);

Provided further that,-

(i) where under the first proviso, any seats are allotted to women belonging to the Scheduled Castes, the number of seats reserved for the Scheduled Castes under clause (a) shall be deemed to be inclusive of the number of seats so allotted to women belonging to the Scheduled Castes, and

(ii) Where under the first proviso any seats are allotted to women belonging to the Scheduled Tribes, the number of seats reserved for the Scheduled Tribes under clause (b) shall be deemed to be inclusive of the number of seats so allotted to the women belonging to the Scheduled Tribes:

[Provided further that-

(i) the seats reserved for the Scheduled Castes and the Scheduled Tribes may be allotted to different constituencies in a taluka in the manner specified in Part I of Schedule IA, and

(ii) the seats reserved for women may be allotted by rotation to different constituencies in a taluka in the manner specified in Part II in the Schedule.]

Provided also that where in determining any seats to be reserved or allotted under this sub-section, any difficulty arises on account of a fraction in any number it shall be lawful for the State Government to round off such number in such manner as it considers necessary to secure the object of this sub-section].

(5) The following shall be the associate members of taluka panchayat namely:-

(i) members of the Gujarat Legislative Assembly elected from any constituency in the taluka or part thereof;

[(ia) the Mamlatdar or, as the case may be, the Mahalkari, of the revenue taluka;][ x xx]

[(iia) Chairman of all [nagar panchayats within the taluka, and where an officer has been appointed under sub-section (?) of section 45 to carry on the current duties of the officer of Chairman, such officer, or] where a person has been appointed under clause (a) of subsection 297 to exercise the powers and perform the duties of any such nagar panchayat, such person, or where an officer has been empowered under section 303C to exercise the powers and

perform the duties of the Chairman of any such nagar panchayat;

[(iib) Sarpanchas of all gram panchayats within the taluka and where an officer has been appointed under sub-section (2) of section (2) of section 45 to carry on the current duties of the office of Sarpanch such officer, or where a person has been appointed under clause (a) of subsection (4) of section 297 to exercise the powers and perform the duties of any such gram panchayat, such person, or where an officer empowered under section 303C to exercise the powers and perform the duties of the Sarpanch of any such gram panchayat, such officer]

[ xxx]

[(5A) where any elected member of a taluka panchayat is elected as a member of the Gujarat Legislative Assembly and thereby becomes an associate member of the taluka panchayat under sub-section (5), he shall cease to be elected member of the panchayat but shall continue as an associate member of the panchayat]-

(6) An associate member of the panchayat shall have the right to speak or otherwise take part in the proceedings of the panchayat or of such committee of the panchayat as may be prescribed but he shall not be entitled to vote in any such proceedings [nor shall he be eligible to be the Chairman of any such committee].

[Provided that associate members referred to in clauses (iia) and (iib) of sub-section (5) shall not be entitled to be members of any committee of the panchayat].

### **15. Constitution of district panchayats :-**

] -

(1) A district panchayat shall consist of elected and associate members.]

[(2) A district panchayat shall have a President and a Vice-President elected by its elected members from amongst themselves.

(3) The number of elected members of a district panchayat having population as specified in column 1 of the table hereunder shall be such as is specified respectively against it in column 2 of the said table and such members shall be elected from amongst the qualified voters of the district concerned. \

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TABLE	
1	2
Population not exceeding ten lakhs.	31
Population exceeding ten lakhs but not exceeding twelve lakhs.	35
1	2
Population exceeding twelve lakhs but not exceeding fourteen lakhs.	39
Population exceeding fourteen lakhs but not exceeding sixteen lakhs.	43
Population exceeding sixteen lakhs but not exceeding eighteen lakhs.	47
Population exceeding eighteen lakhs.	51

[(4) Out of the total number of seats specified in sub-section (3). there shall be reserved,-

(a) for Scheduled Castes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Castes in the district bears to the total population of the district;

(b) for Scheduled Tribes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3), as the population of the Scheduled Tribes in the district bears to the total population of the district;

[(c) for women,-

(i) three seats where the total number of seats is either thirty one or, as the case may be, thirty five;

(ii) four seats where the total number of seats is either thirty nine or, as the case may be, forty three;

(iii) five seats where the total number of seats is either forty seven or, as the case may be, fifty one;]

(iv) nine seats where the total number of seats is forty three.

(v) ten seats where the total number of seats is either forty seven, or as the case may be, fifty one :

Provided that out of the seats reserved for women under clause (c) there shall be allotted,-

(i) to the women belonging to the Scheduled Castes such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Castes under clause (a) bears to the total number of seats specified in sub-section (3);

(ii) to the women belonging to the Scheduled Tribes such number of seats, as may be determined by the State Government so however that the number of seats so determined bears as nearly as may be the same proportion to the total number of seats reserved for women under clause (c) as

Provided further that,-

(i) where under the first proviso, any seats are allotted to women belonging to the Scheduled Castes, the number of seats reserved for the Scheduled, Castes under clause (a) shall be deemed to be inclusive of the number of seats so allotted to women-belonging to the Scheduled Castes, and

(ii) where under the first proviso any seats are allotted to women belonging to the Scheduled Tribes, the number of seats reserved for the Scheduled Tribes under clause (b) shall be deemed to be inclusive of the number of seats so allotted to the women belonging to the Scheduled tribes:

[Provided further that-

(i) the seats reserved for the Scheduled Castes and the Scheduled Tribes may be allotted to different constituencies in a district in the manner specified in Part I of Schedule IA, and

(ii) the seats reserved for women may be allotted by rotation to different constituencies in a district in the manner specified in Part II in the said Schedule.]

Provided also that wherein determining any seats to be reserved or allotted under this sub-section, any difficulty arises on account of a fraction in any number, it shall be lawful for the State Government to round off such number in such manner as it considers necessary to secure the object of this sub-section.]

(5) The following shall be the associate members of a district panchayat, namely :-

(i) members of the House of the People elected from the areas within the jurisdiction of the district panchayat or part thereof;

(ii) members of the Council of States residing in the revenue district; :

(iii) members of the Gujarat Legislative Assembly elected from the area within the jurisdiction of the district Panchayat or part thereof;

(iv) the Collector of the revenue district ;

[(v) The Presidents of all taluka panchayats within the district, and where an officer has been appointed under sub-section (2) of section 57 to carry on the current duties of the office of the President, such officer, or where a person has been appointed under clause (a) of sub-section (4) of section 297 to exercise the powers and perform the duties of any such taluka panchayat, such person, or where an officer is empowered under section 303-C to exercise the powers and perform the duties of the President of any such taluka panchayat, such officer;]

[(5A) Where any elected member of a district panchayat is elected as a member of the House of the People, the Council of States or the

(6) An associate member of the panchayat shall have the right to speak or otherwise to take part in the proceedings of the panchayat or of such committee of the panchayat as may be prescribed but he shall not be entitled to vote in any such proceedings, [nor shall he be eligible to the chairman of any such committee.]

**15A. Constitution of interim district panchayat and consequential provisions :-**

Deleted by Guj. 9 of 1973, s 7.

**15B. Location of headquarters of district"or taluka :-**

(1) Save as expressly authorised by the State Government-

(i) the headquarters of a district shall be located within the limits of the City, municipal borough, gram or ragar in which the headquarters of the corresponding revenue district are located, and

(ii) the headquarters of a taluka shall be located within the limits of the City, municipal borough, gram or nagar in which the headquarters of the corresponding revenue are located.

(2) Where the headquarters of a district or taluka are located in a City or municipal borough, the provisions of this section shall have effect notwithstanding that the area within the limits of such City or municipal borough is not included in the district or, as the case may be, taluka and it shall be lawful for the district panchayat of the district or, as the case may be, the taluka panchayat of the taluka to hold property in such City or, as the case may be, municipal borough.]

**16. Constitution of gram sabha :-**

All persons whose names are included in the list of voters maintained for a gram shall be deemed to constitute the gram sabha of the gram.

**17. Term of Panchayat and reconstitution thereof on expiry of term :-**

(1) The term of a panchayat as constituted at its first meeting shall, save as otherwise provided in this Act, be [five years] from the date of such meeting.

(2) The State Government may by order in writing and for reasons recorded therein extend the said term for a period not exceeding in the aggregate one year.

(3) On the expiry of the term under sub-section (1) or sub-section (2), as the case may be, the panchayat shall be reconstituted.

(4) Sub-sections (1) and (2) shall apply mutatis mutandis to a panchayat so reconstituted.

**CHAPTER 3**

Election, appointment or co-option of members of Panchayats, election Disputes, etc

**17A. Definitions :-**

In this Chapter, [unless the context otherwise requires,-

(a) "Assembly" means the Gujarat Legislative Assembly;

(b) "Central law" means the Representation of the People Act, 1950; (43 of 1950).



(c) "qualifying date" means the 1st day of January of the year in which the list of voters for the purposes of the general election of members for reconstituting a panchayat is prepared under section 21 A or: as the case may be, is revised under the proviso to section 21F.]

### **18. Election :-**

(1) The election of members to a panchayat shall be held on such date as '[the Election Authority] may appoint in that behalf:

Provided that in the case, of the reconstitution of a panchayat on account of the expiry of its term such date shall not be earlier than two months or later than fifteen days before the expiry of the term [except with the sanction of the State Government in that behalf :]

[Provided further that any such sanction may be given so as to have retrospective effect.]

(2) Such election shall be conducted in the prescribed manner.

(3) The names of the elected members shall be published [in the prescribed manner[by the Election Authority].

[(4) Nothing in the proviso to sub-section (1) shall apply to the first reconstitution of a gram panchayat constituted under section 321 unless the term of such gram panchayat expires after the 31st March 1964.]

### **19. Circumstances in which members shall be appointed in lieu of elected members :-**

(1) If for any reason an election does not result in the return of the required number of qualified persons willing to take office, then-

(a) in the case of a gram panchayat, \*[ornagarpanchayat], the district panchayat, or the competent authority until, the district panchayat is duly constituted for the first time]

(b) [in the case of a taluka panchayat or district panchayat] the competent authority, shall as soon as possible appoint, from persons qualified to be elected, such persons as are necessary to make up the required number and the persons so appointed shall be deemed to have been duly elected to the relevant panchayat. The names of the numbers so appointed shall be published by the appointing authority in the prescribed manner.

[(1A) Nothing in sub-section

(1) shall be deemed to authorise the competent authority to appoint a Sarpanch in a case where the elected Sarpanch is not willing to take office or where there has been failure to elect a Sarpanch].

(2) Notwithstanding anything contained in sub-section (1), where two thirds or more of the total number of members required to be elected are elected, failure to elect the remaining members shall not affect the constitution of the relevant panchayat.

## **20. Electoral divisions :-**

(1) For the purposes of elections of members other than the Sarpanch to a gram panchayat a gram shall be divided by the competent authority into as many single member wards as the total number of seats determined in respect of the gram panchayat of that gram under sub-section (1) of section 12, reduced by one and in such manner that as far as practicable the population of all the wards is the same; and one member shall be elected from each ward.

(2) For the purposes of elections of members to a nagar panchayat, a nagar shall be divided by the competent authority into as many single member wards as the total number of seats determined in respect of the nagar panchayat of that nagar under sub-section (1) of section 13 and in such manner that, as far as practicable, the population of all the wards is the same; and one member shall be elected from each ward.

(3) For the purposes of elections of members to a taluka panchayat, a taluka shall be divided by the State Government into as many single member territorial constituencies as the total number of elected members specified in respect of the taluka panchayat of that taluka under sub-section (3) of section 14, and in such manner that the population of all the territorial constituencies is, as far as practicable, the same and each territorial constituency is so delimited as to include therein as far as practicable whole wards of a gram or a nagar; and one member shall be elected from each such constituency.

(4) For the purposes of elections of members to a district panchayat a district shall be divided by the State Government. into as many single member territorial constituencies as the total

number of seats' of elected members specified in respect of the district panchayat of that district under sub-section (3) of section 15 and in such manner that the population of all the territorial constituencies is as far as practicable the same and each territorial constituency is so delimited as to include therein as far as practicable whole territorial constituencies of a taluka; and one member shall be elected from each such constituency.

(5)[At any time not later than four months' before the date of the expiry of the term of a panchayat under section 17 and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its term under section 17, at any such time before it is to be constituted or, as the case may be reconstituted as the State Government may by order published in the official Gazette notify], it shall be lawful for-

(a) the competent authority to alter for reasons to be recorded in writing the limits of any ward of the concerned gram or nagar. [for the purpose of general election] in relation to a gram or nagar panchayat.

(b) the State Government to alter, for reason to be recorded in writing the limits of any territorial constituency of the concerned taluka or district, [for the purpose general election in relation to a taluka or district panchayat.

(6) Each ward constituted under sub-sections (1) and (2) and each territorial constituency constituted under sub-sections (3); and (4) shall be an electoral division.

(7) [ xxx]

## **21. List of voters for every electoral division :-**

For every electoral division, there shall be a list of voters which shall be prepared and maintained by the competent authority in accordance with the provisions of sections 21 A to 21 E.

### **21A. Preparation of list of voters :-**

At any time not later than two months before the expiry of the term of office of panchayat under section 17. and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its term under section 17, at any such time as the State Government may, by order published in the official Gazette, direct, the competent authority shall, for the purpose of the general election of members

for constituting or, as the case may be, reconstituting such panchayat, prepare list of voters for every electoral division in respect of such panchayat as determined under section 20 and in force at the time when such list is prepared.

**21B. Persons qualified to be registered as voters :-**

Subject to the provisions of sections 21A to 21E, every person who is not less than eighteen years of age on the qualifying date and who would be entitled to be registered as a voter in the electoral roll for a constituency for the purpose of elections to the Assembly under Part III of the Central law if under the said law persons less than twenty one years of age on the qualifying date had been entitled to be so registered shall be entitled to be registered as a voter in the list of voters for any electoral division, to be prepared under section 21A.

**21C. Form of list of voters, etc :-**

(1) The list of voters for any electoral division to be prepared and maintained under the foregoing provisions shall consist of two parts as follows.-

(A) Part of the list shall contain the names of all voters included in the electoral roll of the Assembly prepared under the provisions of the Central law for the time being in force for such part of the constituency of the Assembly as is included in the relevant electoral division, subject to any amendment, deletion or addition of names under sub-section (2) or the inclusion of any name under sub-section (4) made therein:

(B) Part II of the list shall contain the names of all persons other than the voters whose names are included, or are eligible for being included in Part I of whose list, who are not less than eighteen years of age on the qualifying date and who would be entitled to be registered as voters in the electoral roll of the Assembly prepared under the provisions of the Central law for such part of the constituency of the Assembly as is included in the relevant electoral division if under the said law persons less than twenty-one years of age on the qualifying date had been entitled to be so registered.

(2) If on an application made to it in this behalf or on its own motion, the competent authority is satisfied that Part I of the list of voters is at variance with the relevant part of the electoral roll of the Assembly on account of any mistake in the said Part 1, he shall

amend the same so as to bring it in conformity with the said electoral roll and for that purpose may amend, delete or add any entry in the said Part 1.

(3) Any person who may have become entitled to be registered in the relevant part of the electoral roll of the Assembly under the Central law after the 1st day of January of the year in which the electoral roll for the concerned constituency was last prepared or revised, as the case may be, may apply to the competent authority for inclusion of his name in Part I of the list of voters.

(4) When the competent authority, after making such inquiry as it may consider necessary, is satisfied that the applicant is entitled to be registered in the relevant part of the electoral roll of the Assembly under the Central law, it shall direct the name of the applicant to be included in Part I of the list of voters.

(5) No amendment, deletion or addition of any entry in the list of voters for an electoral division shall be made under sub-section (2) and no direction for inclusion of a name in that list shall be given under subsection (4) during the period between such date as the State Government may, by general or special order, notify in this behalf and the date of the completion of any concerned election in the electoral division.

(6) Part II of the list of votes for any electoral division shall be prepared in the prescribed manner and for such purpose the State Government shall after consulting the Chief Electoral Officer for the State of Gujarat, by notification in the Official Gazette, make rules to provide for all or any of the following matters, namely.-

(a) the particulars to be entered in this Part of the list of voters;

(b) the procedure by which the competent authority may call for or collect the names and other particulars of the persons entitled to be included as voters in this Part or by which such names and particulars may be furnished or sent to such authority;

(c) the preliminary publication of the names of voters to be included in this Part of the list of voters;

(d) the manner in which and the time within which claims and objections as to the inclusion of such names in such Part may be preferred;

(e) the manner in which notices of such claims or objections shall

be published;

(f) the place, date and time at which claims or objections shall be heard and disposed of;

(g) inspection of such Part of the list of voters by, and the delivery of its copy to, any person on payment of such reasonable fee as may be prescribed;

(h) the revision and correction of such Part of the list of voters by amendment, deletion or addition of any entry or by taking any other remedial action if it appears that, through mistake, inadvertence or otherwise any entry in the list is made erroneously or defectively in any particular or any entry is required to be excluded from the list as a result of any person having ceased to be a voter on account of death or otherwise.

(i) any other matter for which rules may require to be made for carrying out the purposes aforesaid,

(7) The list of voters, consisting of both its parts shall, after it is finally prepared under this section, be published by the competent authority in the prescribed manner and shall come into operation immediately upon its final publication in accordance with the rules prescribed for the purpose. @1[x x x]

**21D. Name of person not to be included in list of voters for more than one electoral division :-**

No person shall be entitled to have his name included in the list of voters for more than one electoral division of the same panchayat.

**21E. Name of person not to be included in the list of voters for more than once :-**

No person shall be entitled to have his name included in the list of voters of any electoral division more than once.

**21F. Period for which a list of voters shall remain inoperation :-**

The list of voters for any electoral division which has been published and has come into operation under sub-section (7) of section 21C shall, subject to any revision made under the proviso to this section, remain in operation until a new list of voters for that electoral division is prepared, published and comes into operation:

Provided that, the State Government may, for reasons to be recorded in writing, direct that such list for any electoral division

may be revised in the prescribed manner by reference to the qualifying date, before any bye-election to fill a casual vacancy in a seat allotted to that electoral division.

**21G. Staff of panchayat to be made available :-**

Every panchayat shall make available to the competent authority such staff as it may require for the performance of any duties in connection with the preparation and revision of a list of voters for an electoral division in respect of that panchayat.

**21H. Jurisdiction of civil courts barred :-**

No civil court shall have jurisdiction-

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to have his name included in a list of voters; or

(b) to question the legality of any action taken by or under the authority of a competent authority or of any decision given by any other authority appointed under this Act for the revision of any such list.

**21I. Making false declarations :-**

If any person makes in connection with-

(a) the preparation, revision or correction of a list of voters, or

(b) the inclusion or exclusion of any entry in or from a list of voters,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**21J. Breach of official duty in connection with the preparation, etc. of list of voters :-**

(1) if the competent authority or any other person required by or under this Act to perform any official duty in connection

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint made by order of, or under authority from, the State Government, the Election Authority or the Chief Electoral Officer of the State of Gujarat.

## **22. Persons qualified to vote and be elected :-**

(1) Every person whose name is in the list of voters shall, unless disqualified under this Act or any other law for the time being in force, be qualified to vote at the election of a member for the electoral division to which such list pertains.

(2) Every person whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected from any electoral division. No person whose name is not entered in the list of voters for the gram or nagar shall be qualified to be elected from any electoral division thereof.

(3) Every person qualified to be elected shall be qualified to be appointed or co-opted as a member of a panchayat.

(4) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether any person is or is not qualified to vote or as the case may be, to be elected at any election.

## **22A. Restriction on simultaneous or double membership :-**

(1) No person shall, save as expressly authorised by this Act, be a member of two or more panchayats.

(2) No person while holding office in a panchayat in capacity @2[as elected or co-opted] member, shall, save as expressly authorised by this Act, be eligible for holding office in the same panchayat in a capacity other than the capacity in which he is already holding office,

[(2A) Where a person while being a member of one panchayat intends to stand as candidate for membership of another panchayat or while holding office in a panchayat @2[ as elected or co-opted member] intends to stand as a candidate for membership in the same panchayat in a capacity other than the capacity in which he is already holding office, he may stand as a candidate for such membership, notwithstanding anything contained in sub-section (1) or (2):

Provided that if he is chosen for the seat for which he stood as a candidate the seat already held by him shall become vacant on the date on which he is so chosen @3[unless the seat so held is in another panchayat and the term of that panchayat is to expire



within a period of four months from the date on which he is so chosen.]

(3) If any person is simultaneously chosen as a member of two or more panchayats or as a member in different capacities in the same panchayat, then unless such membership is expressly authorised by this Act, the person shall within ten days from the date or the later of the dates on which he is so chosen intimate to the competent authority one on the panchayats in which or, as the case may be one of the capacities in wishes to serve and thereupon bis seat in the panchayat or, as the Case may be, the capacity other than the one in which wishes to serve shall become vacant.

(4) Any intimation given under sub-section (3) shall be final and irrevocable.

(5) In default of such intimation within the aforesaid period the competent authority shall determine the seat which he shall retain and thereupon the remaining seats from which he was chosen shall become vacant.

(6)

(a) Any person who holds on the date of the commencement of the Gujarat Panchayats (Second Amendment) Act, 1963 (GujLIII of 1963) more offices than one simultaneously and the holding of such offices is not consistent with sub-section (1) such person shall within a period of thirty days from the said date intimate to the competent authority one of the panchayats in which or, as the case may be, one of the capacities in which, he wishes to serve and thereupon his set in the panchayat or, as the case may be, the capacity other than the one which he wishes to serve shall become vacant.

(b) Any intimation given under clause (a) shall be final and irrevocable.

(c) In default of such intimation within the aforesaid period the competent authority shall determine the seat which he shall retain and thereupon the remaining seats from which he was chosen shall become vacant.

[ \* \* \* \* ]

### **23. Disqnalifications :-**

No person shall be a member of a panchayat or continue as such

who-

(a) has whether before or after the commencement of this Act, been convicted-

(i) of an offence under the Untouchability (Offences) Act, 1955, (XXII of 1955) or under the Bombay Prohibition Act, 1949, (Bom. XX of 1949) or any law corresponding thereto in force in any part of the State, @2[or under the Gujarat Obsequial Dinners (Control) Act, 1963], (Guj. 8 of 1964) unless a period of four years or such lesser period as the State Government may allow in any particular case has elapsed since his conviction; or

(ii) of any other offence and been sentenced to imprisonment for not less than six months unless a period of four years or such lesser period as the State Government may allow in any particular case has elapsed since his release; or

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

(c) has been adjudicated an insolvent and has not obtained his discharge; or

(d) has been removed' from any office held by him in any panchayat under any provision of this Act or in any panchayat municipality or district local board before the commencement of this Act, under any law for the time being in force; and a period of four years has not elapsed from the date of such removal, unless he has, by an order of the State Government notified in the Official Gazette, been relieved from the disqualification arising on account of such removal from office; or

(e) has been disqualified from holding office under any provision of this Act and the period for which he was so disqualified has not elapsed; or

(f) holds any salary office or place of profit in the gift or disposal of any panchayat other than an office of President or Vice-President of a panchayat or of a Chairman of an Education Committee of a panchayat, while holding such office or place; or

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of @3[the panchayat] or in any contract with, by or on behalf of, or employment with or @4[under the panchayat [ \* \* \* ]]; or

(h) has directly or indirectly, by himself or, his partner any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of any panchayat; or

[(i) fails to pay any arrears, of any kind due by him to the panchayat or any panchayat subordinate thereto or any sum recoverable from him in accordance with Chapter VI of this Act, within three months after a special notice in accordance with the rules made in this behalf has been served upon him; or]

(j) is a servant of the Government or a servant of any local authority; or

(k) has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State; or

(L) is disqualified under any other provision of this Act, and the period for which he was so disqualified has not elapsed.

Explanation I- A person shall not be disqualified under clause(g) for membership of a panchayat by reason only of such person-

(a) having share in any joint stock company or a share or interest in any society registered under any law for the time being in force which shall contract with or be employed by or on behalf of any panchayat; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of any panchayat may be inserted; or

(c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of any panchayat; or

(d) being professionally engaged on behalf of any panchayat as a legal practitioner; @2[or]

[(e) having any share or interest in any lease of immovable property in which the amount of rent has been approved by the taluka panchayat in the case of a gram panchayat, by the district panchayat in the case of a nagar panchayat or taluka panchayat or by the district panchayat in its own case or in any sale or purchase of immovable property or in any agreement for such lease, sale or purchase; or

(f) having a share or interest in the occasional sale to the

panchayat of any article in which he regularly trades or in the purchase from the panchayat of any article, to a value in either case not exceeding in any year one thousand rupees; or

(g) merely being a relative of a person in employment with or under or by or on behalf of the panchayat.]

Explanation 2-POT the purpose of clause (i)-

(i) a person shall not be deemed to be disqualified if he has paid [the arrears or the sum referred to in clause (i) of this sub-section] prior to the day prescribed for the nomination of candidates;

(ii) failure to pay 2[the arrears or the sum referred to in clause (i) of this sub-section] to the panchayat by a member of an undivided Hindu family or by a person belonging to a group or unit, the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such undivided Hindu family or as the case may be, all the members of such group or unit.

Explanation 3-For the purpose of clause (j) an officiating revenue or police patel or revenue or police patel who is an officiator under the Bombay Hereditary Offices Act. 1874, (Bom. III of 1874) or any other corresponding law for the time being in force, shall be deemed to be a servant of the Government.

[\* \* \* \* \*]

## **24. Determination of validity of elections, enquiry by Judge and procedure :-**

(1) If the validity of any election of a member of a panchayat is @1[brought in question by any person contesting the election or by any person] qualified to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the results of the election, apply to the Civil Judge (Junior Division), and if there be no Civil Judge (Junior Division), then to the Civil Judge (Senior Division), (hereinafter referred to as "the Judge") having ordinary jurisdiction in the area within which the election has been or should have been held for the determination of such question.

[(1A) An applicant shall not join as respondents to his application persons except those mentioned in the following clauses, namely :-

(a) where the applicant in addition to challenging the validity of the election of all or any of the returned candidates, claims a further relief that he himself or any other candidate has been duly elected, all the contesting candidates other than the applicant and where no such further relief is claimed, all the returned candidates, and

(b) any other candidate against whom allegations of any corrupt practice are made in the application.]

(2) An enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purpose of the said enquiry the said Judge may exercise all the powers of a civil court, and his decision shall be conclusive.

[(2A) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the \*[rules made under sub-section (6) of section 21C or any other rules made under section 323] or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.-The expression "error" in this subsection does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected;]

(3) All applications received under sub-section (1)-

(a) in which the validity of the election of members to represent the same electoral division is in question, shall be heard by the same Judge, and

(b) in which the validity of the election of the same member elected to represent the same electoral division is in question, shall be heard together.

(4) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), the Judge shall not permit-

(a) any application to be compromised or withdrawn, or

(b) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is bona fide and not

collusive.

(5)

(a) If on the holding of such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (6) he shall declare the candidate disqualified for the purpose of that election and of such fresh election may be held under section 26 and shall set aside the election of such candidate if he has been elected.

(b) If, in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation, no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown, in giving obtaining it :

Provided further that after such computation if any equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.

[(5A). An application raising the question of validity of an election of a member shall be determined as expeditiously as possible and endeavour shall be made to determine the question within six months from the date on which the application is presented to the Civil Judge for his determination.]

(6) A person shall be deemed to have committed a corrupt practice-

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise individual profit, or holds out any threat or injury to any person, or

(b) who, with a view to inducing any person to stand or not to

stand or to withdraw or not to withdraw from being a candidate at an election, offers or gives any money or valuable consideration or holds out any promise of individual profit or holds out any threat or injury to any person, or

(c) who hires or procures whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter (other than the person himself, the members of his family or his agent) to and from any polling station:

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical powers :

Provided further that the use of any public transport vehicle or vessel or any tram, car or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation 1.-A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2- "A promise of individual profit" does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Explanation 3- The expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

## **25. Disability from continuing as members :-**

(1) If any member of a panchayat,-

(a) who is @1[elected, appointed or co-opted] as such, was subject to any of the disqualifications mentioned in section 23 at the time of his [election , appointment or co-operation, as the case may be].

(b) during the term for which he has been @1[elected, appointed or co-opted] incurs any of the disqualifications, mentioned in section 23, he shall be disabled from continuing to be a member, and his office shall become vacant.

(2) In every case, the question whether a vacancy has arisen, shall be decided by the competent authority. The competent authority may give its decision either on an application made to it by any person, or on its own motion. Until the competent authority decides that the vacancy has arisen, the members shall not be disabled under sub-section (1) from continuing to be a member. Any person aggrieved by the decision of the competent authority may, within a period of fifteen days from the date of such decision appeal to the State Government and the orders passed by the State Government in such appeal shall be final :

provided that no order shall be passed under this sub-section by the competent authority against any member without giving him a reasonable opportunity of being heard.

[(3) The provisions of this section shall apply to a co-opted member of the Education Committee of a district panchayat as if such members were a member of the district panchayat]

## **26. Fresh election if election or appointment is invalid :-**

If the election of any member is set aside under section 24 or if his office becomes vacant under section 25 a fresh election \*{OT co-option] for the vacancy so caused, shall, as soon as may be, be held in accordance with the provision of this Act.

## **26A. Power of Election Authority to require services of panchayat staff for election :-**

Every panchayat shall make available to the Election Authority such members of its (staff as such Authority may require for the performance of any duties in connection with an election and every such member shall carry out such directions as may be issued to him by such Authority or any competent officer in relation to such election;]

## **26B. Application of Chapter to certain general elections :-**

"In relation to general elections to taluka panchayats and district panchayats to be held in the year 1981, this Chapter shall apply subject to the following modifications namely:-

(1) In section 20 in sub-section (5), for the words "At any time not



later than four months" the words "At any time not later than two months" shall be substituted

(2) After section 21C, the following section shall be inserted, namely:-

21CC. Final list of voters to be altered in certain circumstances.- (1) Where the limits of any territorial constituency of the concerned taluka or district for the purpose of general election in relation to a taluka panc- hayat or, as the case may be, district panchayat are altered under subsection (5) of section 20, after the list of voter for the constituency existing before such alteration of its limits has been finally published under subsection (7) of section 21C, such list of voters may be altered by the competent authority so as to make it consistent with the limits of the territorial constituency as so altered.

(2) The list of voters as altered under sub-section (1) shall be published in the same manner as provided under sub-section (7) of section 21C"]

## **27. Prohibition of canvassing in or near polling station :-**

(1) No person shall, on the date or dates on which a poll taken in any polling station commit any of the following acts within the polling station, or in any public or private place within a distance of one hundred yards of the polling station, namely:-

(a) canvassing for votes;

(b) soliciting the vote of any voter ; or

(c) persuading any voter not to vote at the election ; or

(d) persuading any voter not to vote for any particular candidate; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

## **28. Penalty for disorderly conduct in or near polling election :-**

(

1) No person shall, on the date or dates on which a poll is taken at any polling station,-

(a) use or operate, within or at the entrance of the polling or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section he may direct any police officer to arrest such person and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

## **29. Penalty for misconduct at polling station :-**

(1) Any person who during the hours fixed for the poll at any polling station, misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding

officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(4) An offence punishable under sub-section (3) shall be cognizable.

### **30. Maintenance of secrecy of voting :-**

(1) Where an election is held by ballot, every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

### **31. Officers, etc., at elections not to act for candidates or in influence voting :-**

(1) No person who is a returning officer, or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct of the management of the election do any act (other than the giving of his vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour-

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

### **32. Breaches of official duty in connection with election :-**

(1) If any person to whom this section applies is without reasonable

cause of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to perform any duty in connection with the maintenance of the list of voters, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

### **33. Removal of ballot papers from polling stations to be offence :-**

(1) Any person who, at any election, fraudulently takes or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding or when the search is made by a police officer, shall be kept by such officer, in safe custody.

(4) An offence punishable under sub-section shall be cognizable.

### **34. Other offences and penalties therefor :-**

(1) A person shall be guilty of an offence, if, at any election he-

(a) fraudlently defaces or fraudulently destroys any nomination paper; or

(b) fraudlently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudlently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper, or

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,-

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, on conviction, he punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under clause (b) of sub-section (2) shall

be cognizable.

**35. Prosecution in certain offences :-**

No court shall take cognizance of an offence punishable under section 31 or under section 32 or under clause (a) of sub-section (2) of section 34 except on a complaint made by an order of, or under authority from '[the State Government]'. Requisitioning of premises for the purposes of election

**36. Requisitioning of premises, vehicle, etc. for election purposes :-**

(1) If it appears to an officers authorised by the State Government for conduct of elections under this Act (hereinafter referred to as "the requisitioning authority") that in connection with an election under this Act-

(a) any premises are needed or likely to be needed for being used as a polling station, or for the storage of ballot boxes after a poll has taken, or These words were substituted for the words "the competent authority" by Guj. I of 1968, and, 17.

(b) any vehicle, vessel or animal is needed or likely to be need for the purpose of transport of ballot boxes to or from any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election, the requisitioning authority may by order in writing requisition such premises, or as the case may be, such vehicle, vessel or animal and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

Provided that, no vehicle, vessel or animal which is being lawfully used by candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section, until, the completion of the poll at such election.

(2) These question shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner prescribed by rules made by the State Government under this Act, on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this section-

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise.

### **37. Payment of competition :-**

(1) Whenever in pursuance of section 36 the requisitioning authority requisitions any premises, the panchayat shall pay to the persons interested compensation the amount of which, shall be determined by the requisitioning authority by taking into consideration the following factors, that is to say.

(i) the rent payable, in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of premises, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that, where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that, where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation~In this sub-section, the expression "person interested"

means the person who was in actual possession of the premises requisitioned under section 36 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 36, the requisition authority requisition any vehicle, vessel or animal, the panchayat shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that, where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the time prescribed by rules made by the State Government to the requisitioning authority for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisition authority may determine:

Provided further that, where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator or appointed by the requisitioning authority in this behalf may decide.

### **38. Power to obtain information :-**

The requisitioning authority may, with a view to requisition any property under sec 36 or determining compensation payable under section 37 by order, require any person to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

### **39. Power of entry into and inspection of premises, etc :-**

(1) Any person authorized in this behalf by the requisitioning authority may enter into any premises into and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so, in what manner, an order under section 36 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any



order made under that section.

(2) In this section, the expression, 'premises' and 'vehicle' have the same meaning as in section 36.

#### **40. Eviction from requisitioned premises :-**

(1) Any person remaining in possession of any requisitioned premises in contravention of an order made under section 36 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

#### **41. Release of premises from requisition :-**

(1) When any premises requisitioned under section 36 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any right in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 36 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the requisitioning authority or the

panchayat shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

**42. Penalty for contravention of any order regarding requisit ion :-**

If any person contravenes any order made under section 36 or section 38, he shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

**43. 43 :-**

Deleted

CHAPTER 4

Provisions Relating to Presiding Officers of Panchayats and Members of Panchayats

**44. First meeting of panchayat and election of Upa-Sarpanch or Chairman and Vice-Chairman :-**

(1) On the constitution of a gram panchayat or a nagar panchayat or on its reconstitution under section 17 or under any other provision of this Act, there shall be called the first meeting thereof for the election of Upa-Sarpanch or, as the case may be, Chairman and Vice-Chairman.]

(2) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the general election are published under section 18 as may be fixed by the competent authority:

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or an officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority as the case may be, may specify.

[(3) The first meeting of a nagar panchayat, and in the case of a gram panchayat where the elected Sarpanch is not willing to take office or where there has been a failure to elect a Sarpanch, the first meeting of such gram panchayat, shall be, presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall have such powers and follow such procedure as may be prescribed but shall not have the right to vote.]

[(4) At the first meeting of the gram panchayat or the nagar

panchayat no business other than the election of the Upa-Sarpanch or, as the case may be, of the Chairman and the Vice Chairman shall be transacted.]

...

(5) If at the election under this section there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(6) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election] to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

**45. Term of office of members of gram and nagar panchayat and of Sarpanch, Chairman, etc., thereof :-**

(1) Save as otherwise provided in this Act, the term of office of-

(a) the members of a gram panchayat or nagar panchayat;

(b) the Sarpanch and Upa-Sarpanch of a gram panchayat, and

(d) the Chairman and Vice-Chairman of nagar panchayat. shall be co-extensive with the term of the panchayat.

[(2) On the expiry of the term of the panchayat, the current duties of the office of the Sarpanch or the Chairman of the panchayat shall be carried on by such officer of the State Government as it may be ordered specify in that behalf, until such time as a new Sarpanch or Chairman is elected and takes charge of his office.]

**46. Resignation of members, Sarpanch Chairman etc :-**

(1) The Sarpanch, or as the case may be, the Chairman may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The Upa-Sarpanch or as the case may be, the Vice-Chairman may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat may resign from his office by tendering his resignation to the Sarpanch or, as the case may be, the Chairman and the resignation shall take effect on the date on which it is received by the Sarpanch or the Chairman.

[(4) If any dispute regarding any resignation arises, it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final: Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation took effect.]

**47. Executive functions of Sarpanch, Chairman, Upa-Sarpanch or as the case may be, Vice-Chairman :-**

(1) Save as otherwise expressly provided by or under this Act, the executive power, for the purpose of carrying out the provisions of this Act and the resolutions passed by a gram panchayat or nagar panchayat vests in the Sarpanch or, as the case may be, the Chairman thereof who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the Sarpanch or as the case maybe, the Chairman his powers and duties shall, save as may be otherwise prescribed by rules, be exercised and performed by the Upa-Sarpanch or as the case may be, the Vice-Chairman.

(2) Without prejudice to the generality of the foregoing provisions :-

(i) in the case of a gram panchayat, its Sarpanch and in the case of a nagar panchayat, its Chairman shall-

(a) preside over and regulate the meetings of the panchayat;

(b) exercise supervision and control over the acts done and action taken by all officers and servants of the panchayat;

(c) incur contingent expenditure upto @1[fifty rupees] at any one occasion;

(d) operate on the fund of the panchayat including authorisation of payment, issue of cheques and refunds;

(e) be responsible for the safe custody of the fund of the Panchayat;

(f) cause to be prepared all statements and reports required by or

under this Act;

(g) exercise such other powers and discharge such other functions as may be conferred or imposed upon him by this Act or rules made thereunder.

(ii) The Upa-Sarpanch or the Vice-Chairman shall-

(a) in the absence of the Sarpanch or Chairman preside over and regulate the meetings of the panchayat;

(b) exercise such of the powers and perform such of the duties of the Sarpanch or Chairman as the Sarpanch or Chairman may, from time to time, delegate to him;

(c) pending the election of the Sarpanch or the Chairman or in case the Sarpanch or Chairman has been continuously absent from the gram or as the case may be, nagar for more than fifteen days or is incapacitated, exercise the powers and perform the duties of the Sarpanch or as the case may be, the Chairman.

(3) In the absence of both the Sarpanch and the Upa-Sarpanch or as the case may be, the Chairman and the Vice-Chairman, every meeting of the panchayat shall be presided over by such one of the members present as may be chosen by the meeting to be Chairman for the occasion.

[(4) Notwithstanding anything contained in clause (d) of subsection (2), no money shall be withdrawn from the fund of the panchayat except with the signature of the Sarpanch or, as the case may be, the Chairman and any one of the two other members of the panchayat authorised in that behalf by the panchayat.]

#### **48. Motion of no confidence :-**

(1) Any member who intends to move a motion of no confidence against the Sarpanch or Upa-Sarpanch or, as the case may be, the Chairman or Vice-Chairman may give notice thereof in the prescribed form to the panchayat concerned. If the notice is supported by one half of the total number of members of the panchayat concerned, the motion may be moved.

(2)

(a) Where in the case of the Sarpanch the motion is carried by a majority of not less than two-thirds of the total number of members of the panchayat and on such motion being thereafter

presented to the gram sabha. it is also carried by a majority of the total number of members of the gram sabha, the Sarpanch shall cease to hold office after a period of three days from the date on which the motion is carried by the gram sabha unless he has resigned and the resignation has become effective earlier; and thereupon the office held by him shall be deemed to have become vacant :

Provided that the manner of voting in respect of such motion by the gram sabha shall be such as may be prescribed.

(b) Where in the case of the Upa-Sarpanch, the Chairman or, as the case may be, the Vice-Chairman, the motion is carried by a majority of not less than two-thirds of the total number of the members of the panchayat, the Upa-Sarpanch, Chairman or Vice-Chairman, as the case may be, shall cease to hold office after a period of three days from the date on which the motion is carried unless he has resigned and the resignation has become effective earlier; and thereupon the office held by him shall be deemed to have become vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a Sarpanch, Upa Sarpanch, Chairman or Vice-Chairman, as the case may be, shall not preside over a meeting in which a motion of no confidence is discussed against him; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) When in the case of a gram panchayat the offices of both the Sarpanch and Upa-Sarpanch and in the case of a nagar panchayat, the offices of both the Chairman and Vice-Chairman become vacant simultaneously, such officer as the Taluka 'Development Officer in the case of a gram panchayat and such officer as the District Development Officer in the case of a nagar panchayat, may authorise in this behalf shall pending the election of the Sarpanch or, as the case may be, Chairman, exercise all (he powers and perform all the functions and duties of Sarpanch or, as the case may be, Chairman but he shall not have the right to vote in any meetings of the panchayat.

(5)

(a) Notwithstanding anything contained in section W, 83 or 85 a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of

fifteen days from the date on which the notice of such motion is received by the panchayat and a meeting of the gram sabha for dealing with such motion shall be called within a period of fifteen days from the date on which the motion is carried by the gram panchayat.

(b) If the Sarpanch or, as the case may be, the Chairman fails to call such meeting the Secretary of the panchayat shall forthwith make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat or gram sabha within a period of fifteen days from the date of the receipt of the report ]

#### **49. Removal from office :-**

(1) The competent authority may remove from office any-member of a panchayat or the Sarpanch, the Upa-Sarpanch, the Chairman or as the case may be, the Vice-Chairman thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman, as the case may be, has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or '[abuses his powers or make persistant default in the performance of his duties and functions under this Act or has become] incapable of performing his duties under this Act. The Sarpanch, Upa- Sarpanch, Chairman or as the case may bs, Vice-Chairman so removed may at the discretion of the competent authority also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1) disqualify for a period not exceeding four years, any person who has resigned his office as a member, Sarpanch Upa- Sarpanch, Chairman or Vice-Chairman or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1) or has been incapable of performing his duties :

Provided (hat an action shall be taken within six months from the date on which the person resigns or ceases to hold any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may within a period of thirty days from the date of the communication of such order, appeal to the State

Govern- ment.

**50. Leave or absence :-**

(1) Any member of a gram panchayat or nagar panchayat who, during his term of office-

(a) is absent for more than three consecutive months from the gram or as the case may be, nagar unless leave not exceeding four months so to absent himself has been granted by the panchayat; or

(b) absents himself for four consecutive months from the meetings of the panchayat without the leave of the said panchayat; shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final : Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy.

(3) Whenever leave is granted under sub-section (1) to a member who is an Upa-Sarpanch or Vice-Chairman, another member shall, subject to the conditions to which the election of the Sarpanch or Vice-Chairman so absenting himself was subject, be elected to perform all the duties and exercise all the powers of an Upa Sarpanch or Vice-Chairman during the period for which such leave is granted.

**51. Suspension of Sarpanch Upa.Sarpanch, Chairman or Vice- Chairman :-**

(1) The District Development Officer may suspend from office the Sarpanch or Upa-Sarpanch of a gram panchayat or as the case may be, the Chairman or Vice-Chairman of a nagar panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him for continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention



for the time being in force].

(2) Where any Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman has been suspended under sub-section (1) another member of the gram panchayat or as the case may be, nagar panchayat shall subject to the conditions to which the election of the Sarpanch, Upa-Sarpanch, Chairman or, as the case may be, Vice-Chairman so suspended was subject, be elected to perform all the duties and exercise all the powers of a Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

**52. Eligibility of certain members for re-election :-**

A member of a gram panchayat or nagar panchayat whose office has become vacant under section 25 or under section SO shall, if his disqualification or disability has ceased, be eligible for re-election.

**53. Filing up of vacancies :-**

(1) [Any vacancy in the office of a Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman or member of a panchayat of which notice has been given to the competent authority in the prescribed manner] shall be filled by the election of a Sarpanch; Upa-Sarpanch, Chairman or Vice-Chairman or member, as the case may be, who shall hold office so long only as the Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman or member, in whose place he has been elected, would have held office if the vacancy had not occurred : Provided that if no member is so elected within two months from the date on which notice of the vacancy is given to the competent authority, the competent authority shall, as soon as possible, appoint a person who is qualified to be elected, and the person so appointed shall be deemed to have been duly elected under this subsection :

(2) The meeting for the election of the [\* \*] Upa-Sarpanch of a gram panchayat or of the Chairman or Vice-Chairman of a nagar panchayat under sub-section (1) shall be convened by the competent authority on such date as it may fix [and the election shall be held in the same manner in which the election of [\* \* \*] Upa-Sarpanch or Chairman or Vice-Chairman is held under section

44 and the provisions of that section shall, so far as may be, apply in respect of such election]

(3) When the offices of both the Sarpanch and Upa-Sarpanch and of the Chairman and Vice-Chairman as the case may be, become vacant simultaneously, [such officer as the Taluka Development Officer in the case of a grampanchayat], may authorise in this behalf shall, pending the election of the Sarpanch or as the case may be, Chairman exercise all the powers and perform all the functions and duties of Sarpanch or as the case may be, Chairman but shall not have the right to vote in any meeting of the panchayat.

**54. Acts preceding of panchayat and committee not vitiated by qualification etc. Members thereof :-**

(1) No disqualification of or defect in the election or appointment of any person acting as member or as the Sarpanch or Chairman or presiding authority of a general meeting or as

(2) Until the contrary is proved, every meeting of a panchayat or of a committee appointed under this Act, in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(3) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred ]

**55. First meeting of panchayat and election of President and Vice- President :-**

(1) On the constitution of a taluka panchayat or in its reconstitution under section 17 or under any other provisions of this Act, there shall be called the first meeting thereof for the election of its President and Vice- President.

(2) The meeting shall be held on such day within four weeks from the date i(on which the names of members elected at the general election are published under section 18] as may be fixed by the competent authority : Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall

report the State Government or an officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify.

(3) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall, have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(4) No business other than the election of (he President and Vice-President shall be transacted at the meeting.

(5) If at the election under this section, there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(6) In the event of a dispute arising as the validity of an election under the foregoing provisions of this section, the dispute shall be referred [within a period of thirty days from the date of the declaration of the result

**55A. Duty of retiring President etc., to hand over charge of office :-**

(1) [On the appointment of an officer under sub-section (2) of section 57, or, as the case may be, on the election of a new President or Vice-President], it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and deliver to him the record and property belonging to the Panchayat and in his custody.

(2) The provisions of sub-section (1) shall apply mutatis mutandis to a retiring member in the matter of handing over charge of his office.]

**56. Honorarium, allowances, etc., to President and Vice-President and Travelling allowances to members :-**

(1) Subject to the provisions of this Act, the taluka panchayat] shall pay to its President an honorarium of Rs. [400] per month.

(2)

(a) The President shall be entitled without payment of rent to the use of 5(a residence in the head quarters of the panchayat or with

the previous sanction of the State Government at any other place in the taluka] throughout his term of office and for a period of fifteen days immediately thereafter, or in lieu of such residence a house allowance at such rate as the State Government may determine by a general or special order.

(b) No charge shall fall on the President personally in respect of the maintenance of any residence provided under this sub section.

(3) During the leave or absence of the President, the Vice-President shall be paid such honorarium and allowance as may be prescribed.

(4) The President [Vice-President, members of the Panchayat [\* \* \* \*]] shall be entitled to travelling allowances while touring on public business at such rates and upon such conditions, as may be determined by rules [made either prospectively or retrospectively.]

**56A. Payment of honorarium to President during leave or absence :-**

(1) Subject to the provisions of sub-section (2), where the President of a taluka panchayat remains absent or on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub-section (1) of section 56 for such period.

(2) Where the President remains absent on ground of illness certified by such medical authority as the State Government may by general or special order specify, the President shall be entitled to an honorarium under sub-section (1) of section 56 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing in sub-section (1) shall apply to the absence of the President on account of his touring on public business.]

**57. Term of office of member. President and Vice-President :-**

(1) Save as otherwise provided in this Act, this term of office of members, President and Vice-President of a taluka panchayat shall be co-extensive with the term of the panchayat : [-\* \* \*]

[(2) On the expiry of the term of panchayat, the current duties of the officer of the President of the Panchayat shall be carried on by such officer of the State Government, as it may, by order specify in that behalf, until such time as a new President is elected and takes

charge of his office." ]

### **58. Resignation :-**

(1) The President may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The Vice-President may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat [\* \* \*] may resign by

[(4) If any dispute regarding and resignation arises it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final: Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation took effect.]

### **59. Powers and functions of President and Vice-President :-**

(1)

(a) The President shall-

(i) convene, preside at, and conduct meetings of the taluka panchayat;

(ii) have access to the records of the panchayat;

(iii) discharge all duties imposed and exercise all the powers conferred on him by or under this Act;

(iv) watch over the financial and executive administration of the panchayat and submit to the panchayat all questions connected therewith which shall appear to him to require its orders; and

(v) exercise administrative supervision over the Taluka Development Officer for securing implementation of resolutions or decisions of the panchayat or of any committee thereof.

(b) The President may in cases of emergency direct the execution or suspension or stoppage of any work or the doing of any act which requires the sanction of the panchayat or any authority thereof, and immediate execution or doing of which is, in his

opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the Taluka Fund: Provided that he shall report forthwith the action taken under this sub-section, and the full reasons therefor, to the Executive Committee, or any appropriate Standing Committee at its next meetings.

(2) The Vice-President shall-

(a) in the absence of the President, preside at the meetings of the panchayat;

(b) exercise such of the powers and perform such of the duties of the President as the President from time to time may, subject to the rules made by the State Government in this behalf, delegate to him by an order in writing; and

(c) pending the election of President, or during the absence of the President, exercise the powers and perform the duties of the President.

**60. Motion of no confidence :-**

(1)[Any member (other than an associate member)] who intends to move a motion of no confidence against the President or Vice-President may give a notice thereof in the prescribed form to the Panchayat. If the notice is supported by s(such number of

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat @1[other than associate members], the President or the Vice-President, as the case may be, shall cease to hold office after a period of three days from the date on which the motion was carried, unless he has resigned earlier; and thereupon the office held by such President or Vice-President shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a President or Vice President shall not preside over a meeting in which a motion of no confidence is discussed against him but; he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) When the offices of both the President and Vice-President become vacant simultaneously, the District Development Officer or

such other officer as he may authorise in this behalf shall, pending the election of the President, exercise all the powers and perform all the functions and duties of the President but shall not have the right to vote in any meeting of the panchayat.

[(5)

(a) Notwithstanding anything contained in section 110, a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat.

(b) If the President of the panchayat fails to call such meeting, the Secretary of the panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report.]

#### **61. Removal from office :-**

(1) The competent authority may remove from office any member of a panchayat except an associate member or any President and Vice-President thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member. President or Vice- President has been guilty of misconduct in the discharge of his duties or any disgraceful conduct or s[abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become] incapable of performing his duties under this Act. The President or as the case may be, the Vice-President so removed may at the discretion of the competent authority also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding four years, any person who has resigned bis office as a member. President or Vice- President or otherwise ceased to hold any such office and has been guilty of

Provided that an action shall be taken within six months from the date on which the person resigns, or ceases to hold, any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may within a period of thirty days from

the date of the communication of such order appeal to the prescribed authority.

**62. Leave of absence :-**

(1) [Any member (other than an 2[\* \*] associate member) of a panchayat] who, during his term of office-

(a) is absent for more than three consecutive months from the taluka unless leave not exceeding four months so to absent himself has been granted by the Panchayat, or

(b) absent himself [from four consecutive meetings] of the Panchayat without the leave of the said panchayat, shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final : [Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (I) the member as to the vacancy.]

(3) Whenever leave is granted under sub-section (1) to a member who is Vice-President another member subject to the conditions to which the election of the Vice-President so absenting himself was subject, be elected to perform all the duties and exercise all the powers of a Vice-President during the period for which such leave is granted.

**63. Suspension of President or Vice-President :-**

(1) The competent authority may suspend from office any President or Vice-President against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted @5["or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him for continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force".]

(2) Where any President or Vice-President has been suspended under sub-section (1) another member shall, subject to the conditions to which the election of the president or, as the case



may be, Vice-President so suspended was subject, be elected to perform all the duties and exercise all the powers

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

**64. Eligibility of certain members, for re election :-**

A member of a panchayat whose office has become vacant under section 25 or under section 62, shall, if his disqualification or disability has ceased, be eligible for re-election.

**65. Filling up of vacancies :-**

(1) If Any vacancy in the office of a President, Vice-president or a member of a panchayat of which notice has been given to the competent authority in the prescribed manner] shall be filled, by the election of a President or Vice-President or [ \* \* \*]a member who shall hold office so long only as the President, Vice-President or member in whose place he has been elected [\* \*] would have held office if the vacancy had not occurred :

Provided that if no member is so [elected] within two months from the date on which notice of the vacancy is given to the competent authority, the competent authority shall as soon as possible appoint a person who is qualified to be @5[elected], and the person so appointed shall be deemed to have been duly "[elected] under this sub-section ;

Provided further that if the vacancy of a member occurs within four months preceding the date on which the term of the panchayat expires under section 17, it shall not be filled.

(2) The meeting for the election of [a President or Vice-President] under sub-section (1) shall be convened by the competent authority on such date as it may fix [and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 55 and the provisions of that section shall, so far as may be, apply in respect of such election.]

(3) When the offices of both the President and Vice-President become vacant simultaneously, [the Taluka Development Officer or such other officer as he may authorise] in this behalf shall pending the election of the President exercise all the powers and perform all the functions and duties of President, but shall not have the right

to vote in any meeting of the panchayat.

**67. First meeting of district panchayat and election of President and Vice-President :-**

(1) On the constitution of a district panchayat or on its reconstitution under section 17 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its President and the Vice-President.

(2) The meeting shall be held on such day within four weeks from [the date on which the names of members elected at the general election are published under section 18), as may be fixed by the competent authority:

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify.

(3) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(4) No business other than the election of the President and the Vice-President shall be transacted at the meeting.

(5) If at the election under this section, there is an equality of votes the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(6) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election] to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

**67A. Duty of retiring President etc. to hand over charge :-**

On the appointment of an officer under sub-section (2) of section 69, or, as the case may be on the election of a new President or Vice-President,] it shall be the duty of the retiring President or, as

the case may be, Vice-President to hand over to him charge of his office and to deliver to him the record and property belonging to the panchayat and in his custody. (2) The provisions of sub-section (1) shall apply mutatis mutandis to a retiring member in the matter of handing over charge of his office.]

**68. Honorarium and allowances etc., to President and Vice-President and travelling allowances to members :-**

(1) (Subject to the provisions of this Act, the district panchayat] shall pay to its President an honorarium of œ[Rs. 800/- per month ]

(2)

(a) The President shall be entitled, without payment of rent, [to the use of a residence, in the headquarters of the Panchayat or with the previous sanction of the State Government at any other place in the district] throughout his term of office and for a period of fifteen days immediately thereafter, or in lieu of such residence house allowance at such rate as the State Government may determine by a general or special order.

(b) No charge shall fall on the President personally in respect of the maintenance of any residence provided under this sub-section.

(3) During the leave or absence of the President the Vice-President shall be paid such honorarium and allowances as may be prescribed.

(3A) The President of the panchayat shall be paid a conveyance allowance or permanent travelling allowance or both at such rates and upon such conditions as the State Government may by order determine from time to time, and any such order may be made so as to be retrospec- tive to any date not earlier than the 1st April, 1963].

(4)[The Vice-President [and members of the Panchayat [and in a case not covered by an order made under sub-section (3A). the President of the panchayat] shall be entitled to travelling allowance while touring on public business at such rates and upon such conditions as may be determined by rules @6[made either prospecting or retrospectively ]

**68A. Payment of honorarium to President during leave or absence :-**

(1) Subject to the provisions of sub section (2), where the President of a district panchayat remains absent or on leave for a continuous period

(2) Where the President remains absent on ground of illness duly certified by such medical authority as the State Government may by general or special order specify, the President shall be entitled to an honorarium under sub-section (1) of section 68 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing in sub-section (1) shall apply to the absence of the President on account of his touring on public business.]

### **69. Term of office of members of district Panchayats and of President and Vice-President :-**

(1) Save as otherwise provided in this Act, the term of members President and Vice-President of a district Panchayat shall be co-extensive with the term of the Panchayats. [x x x]

[(2) On the expiry of the term of the Panchayat, the current duties of the office of the President of the Panchayat shall be carried on by such officer of the State Government as it may by order specify in that behalf, until such time as a new President is elected and takes charge of his office.]

### **70. Resignation :-**

(1) The President may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The Vice-President may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(2) Any other member of the panchayat [\* \* \* \*] may resign by tendering his resignation to the President and the resignation shall take effect on the date on which it is received by the President.

(4) if any dispute regarding any resignation arises it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final:

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation took effect]

**71. Powers and functions Of President and Vice-President :-**

(a) The President shall-

(i) convene, preside at, and conduct meetings of the district panchayats:

(ii) have access to the records of the panchayats;

(iii) discharge all duties imposed, and exercise all the powers conferred on him by or under this Act;

(iv) watch over the financial and executive administration of the panchayats and submit to the panchayat all questions connected therewith which shall appear to him to require its orders; and

(v) exercise administrative supervision over the District Development Officer for securing implementation of resolutions or decisions of the Panchayat or of any Committee thereof.

(b) The President may in cases of emergency direct the execution or suspension or stoppage of any work or the doing of any act which requires the sanction of the panchayat or any authority thereof, and immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such act shall be paid from the District Fund:

Provided that, he shall report forthwith the action taken under this sub-section, and the full reasons therefor to the Executive Committee or any appropriate Standing Committee at its next meetings,

(2) The Vice President shall -

(a) in the absence of the President; preside at the meetings of the Panchayat;

(b) exercise such of the powers and perform such of the duties of the President as the President from time to time may, subject to the rule made by the State Government in this behalf, delegate to him by an order in writing; and

(c) pending the election of President, or during the absence of the

President, exercise the powers and perform the powers and perform the duties of the President.

## **72. Motion of no confidence :-**

(1) [Any member (other than associate member)] who intends to move a motion of no confidence against the President or Vice-President may give notice thereof in the prescribed form to the panchayat. If the notice is supported by [such number of members (other than associate members)] as may be prescribed, the motion may be moved].

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat @3[other than associate members], the President or the Vice-President, as the case may be, shall cease to hold office, after a period of three days from the date on

(3) Notwithstanding anything contained in this Act or the rules made thereunder a President or Vice-President shall not preside over a meeting in which a motion of no confidence is discussed against him; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) When the offices of both the President and Vice-President become vacant simultaneously, the District Development Officer or such other officer as he may authorise in this behalf shall, pending the election of the President exercise all the powers and perform all the functions and duties of the President, but shall not have the right to vote in any meetings of the panchayats.

(5)

(a) Notwithstanding anything contained in section 130, a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat.

(b) If the President of the panchayat fails to call such meeting, the Secretary of the Panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report].

## **73. Removal from office :-**

(1) The competent authority may remove from office any member of a panchayat except [an associate member, or any member of the Education Committee thereof], or a President or Vice-President thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such enquiry as it deems necessary, if such member. President or Vice-President has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performing his duties under this Act. The President or, as the case may be, the Vice-President so removed may at the discretion, of the competent authority also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding four years, any person who has resigned from his office of member. President or Vice-President or otherwise ceased to hold any such office and has been guilty of misconduct as specified in sub-section (i) or has been incapable of performing his duties:

Provided that such action shall be taken within six months from the date on which the person resigns or ceases to hold, any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may, within a period of thirty days from the

#### **74. Leave of absence :-**

(1) Any member (other than an associate member) of a panchayat] who, during his term of office-

(a) is absent for more than three consecutive months from the district unless leave not exceeding four months so to absent himself has granted by the panchayat, or

(b) absents himself [from four consecutive meetings] of the panchayat, without the leave of the said panchayat, shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final : Provided that such

reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy.]

(3) Whenever leave is granted under sub-section (1) to a member who is Vice-President another member shall subject to the conditions to which the election of the Vice President, so absenting himself was subject, be elected to perform all the duties and exercise all the powers of a Vice- President during the period for which such leave is granted.

**75. Suspension of President or Vice-President 6[or Chairmaan of the Education Comittee :-**  
].-

(1) The competent authority may suspend from office any President or Vice-President [or Chairman of the Education Committee] against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him for continuing as a member of the panch- ayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force.

(2) Where any President or Vice-President @1orChairman] has been suspended under sub-section (1) another membsr shall, subject to the condition to which the election of the @2president. Vice-President or, as the case may be, Cliairman] suspended was subject, be elected to perform all the duties and exercise all the powers of a :President or a Vice-President @3[or a Chairman as the case may be] during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under subsection (1) to the State Government Such appeal shall be made within a period of thirty days from the date of the order.

**76. Eligibility of certain members for re-election :-**

A member of a Panchayat whose office has become vacant under section 5 or under section 74, shall, if his disqualification or disability has ceased, be eligible for re-election.

**77. Filling up of vacancies :-**



(1) [Any vacancy in the office of a President, Vice President or member of a panchayat of which notice has been given to the competent authority in the prescribed manner] shall be, filled, by the election of a President or Vice-President or [\* \* \* \*] member who shall hold office so long only as the President, Vice-President or member in whose place he has been elected [\* \*] would have held office if the vacancy had not occurred :

Provided that if no member is so elected ] within two months from the date on which notice of the vacancy is given to the competent authority, the competent authority shall as soon as possible appoint a person who is qualified to be elected ]\* \*], and the person so appointed shall be deemed to have been duly elected [\* \*] under this sub-section :

Provided further that if the vacancy of a member occurs within four months preceding the date on which the term of the Panchayats expires under section 17, it shall not be filled.

(2) The meeting for the election [a President or Vice-President under sub-section (1) shall be convened by the competent authority on such date as it may fix @8[and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 67 and the provisions of that section shall, so far as may be, apply in respect of such election].

(3) When the offices of both the President and Vice-President become vacant simultaneously, @1[District Development Officer or such other officer as he may authorise] in this behalf shall pending the election of the President exercise all the powers and perform all the functions and duties of President but shall have not the right to vote in any meeting of the Panchayat.

## **78. Acts and proceedings of panchayat and committee not vitiated by qualifications etc., of members, thereof :-**

(1) No disqualification of or defect in the election, co-option or appointment of any person acting as a member or as the Presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may "be, in which the person has taken part, wherever the majority of persons, parties, to such act or proceeding, were entitled to act. No resolution of a panchayat or of any committee appointed under this Act shall be deemed invalid on account of any

irregularity in the service of notice upon any members, provided that the proceeding of the panchayat or committee were not prejudicially affected by such irregularity.

(2) Until the contrary is proved every meeting of a panchayat or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(3) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred.]

#### CHAPTER 5

Conduct of Business Administrative Powers and Duties, Property and Fund and Accounts etc , of Panchayats

### **79. Provisions of Part I to apply to gram and nagar Panchayats :-**

The provisions of this part shall unless specifically distinguished apply generally to gram Panchayats and nagar panchayats.

### **80. Meeting of panchayat :-**

The meeting of a panchayat shall be held at such intervals as may be prescribed:

Provided that the Sarpanch or, as the case may be, the Chairman for any specified reason may, and upon the written request of not less than one-third of the members shall, call a meeting of the panchayat at any other time.

### **81. Gram panchayat committees, their constitution, powers, functions and duties :-**

(1) A gram panchayat may constitute an Executive Committee for performing such of its functions and duties (not being those pertaining to its Social Justice Committee (as the panchayat may assign to it.

(2) The Executive Committee shall consist of five members to be elected by the panchayat from amongst its members, out of whom one shall belong to a Scheduled Caste or a Scheduled Tribe and

one shall be woman.

(3) A gram panchayat shall constitute a committee called the Social Justice Committee for performing such functions as are essential for securing social Justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes as may be prescribed, and the constitution of such committee shall be such as may be prescribed.

(4) In addition to the aforesaid committees, a gram panchayat may constitute one or more committees consisting of such members of the panchayat and other residents of the gram as the panchayat may determine, or appoint any of its members, to execute any work or scheme decided upon by the panchayat or to inquire into and report to the panchayat on matters which the panchayat may refer to such committee or member. The panchayat may make regulations for the procedure to be followed by any such Committee.

(5) Where any committee is constituted under this section the members of the committee shall elect from amongst themselves the Chairman of the Committee:

Provided that-

(a) where the Sarpanch and Upa-Sarpanch both are members of any such committee, the Sarpanch shall be the ex-officio Chairman of such committee and if he declines to hold the office the Upa-Sarpanch shall be the ex-officio Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the ex-officio Chairman of the Committee, unless he declines to hold the office.

(6)

(a) The term of each of the committees other than the Executive Committee and the Social Justice Committee shall be such as may be determined by the panchayat.

(b) The term of the Executive Committee shall be two years and on the expiry of its term, the committee may be reconstituted; and the term of the Social Justice Committee shall be co-extensive with the term of the panchayat: Provided that where the unexpired part of the term of the panchayat, during which the Executive

Committee is constituted or reconstituted is less than two years, the term of the Executive Committee shall be co-extensive with the unexpired part of the term of the panchayat.

(7) A member once elected to a committee shall be eligible for re-election.

(8) A member or Chairman may resign from membership or chairmanship of a committee by tendering his resignation to the panchayat.

(9) Any vacancy occurring in a committee shall be filled in as soon as possible.

(10) The committees constituted under this section shall in the performance of their functions exercise such powers and discharge such duties of a gram panchayat as may be assigned to them by the panchayat.

(11) Such of the powers, functions and duties of the panchayat as are not assigned to any committee shall be exercised and performed by the panchayat,

(12) The panchayat may at any time withdraw from any committee other than the Social Justice Committee any of the powers, functions and duties assigned to it and may assign the same to any other committee other than the Social Justice Committee.

(13) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof,-

(a) any person aggrieved by a decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee may prefer an appeal to the Social Justice Committee of the taluka panchayat, within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the Social Justice Committee of the taluka panchayat may after giving an opportunity to the appellant to be heard confirm, modify or reverse the decision appealed against and pass such order as it may think proper.)

**82. Nagar panchayat committees, their constitution, powers, functions and duties :-**

(1) A nagar Panchayat may constitute an Executive Committee for performing such of its functions and duties (not being those pertaining to its Social Justice Committee) as the panchayat may assign to it.

(2) The Executive shall consist of not less than five and not more than seven members to be elected by the panchayat from amongst its members, out of whom one shall belong to a Scheduled Caste or a Scheduled Tribe and one shall be a woman.

(3) A nagar panchayat shall constitute a committee called the Social Justice Committee for performing such functions as are considered essential to secure social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes, as may be prescribed and the constitution of such committee shall be such as may be prescribed.

(4) In addition to the aforesaid committees, a nagar panchayat may constitute one or more committees consisting of such members of the panchayat and other residents of the nagar as the panchayat may determine, or appoint any of its members, to execute any work or scheme decided upon by the panchayat or to attend and report to the panchayat on

(5) Where any committee is constituted under this section the members of the committee shall elect from amongst themselves the Chairman of the committee;

Provided that-

(a) where the Chairman and Vice-Chairman of the panchayat both are members of any such committee, the Chairman shall be the ex-officio Chairman of such committee and if he declines to hold the office, the Vice-Chairman shall be the ex-officio Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the ex-officio Chairman of the committee, unless he declines to hold the office.

(6)

(a) The term of each of the committees other than the Executive Committee and the Social Justice Committee shall be such as may be determined by the panchayat.

(b) The term of the Executive Committee shall be two years and on the expiry of its term, a committee may be reconstituted; and the term of the Social Justice Committee shall be co-extensive with the term of the panchayat:

Provided that where the unexpired part of the term of the panchayat during which the Executive Committee is constituted or reconstituted is less than two years, the term of the Executive Committee shall be co-extensive with the unexpired part of the term of the panchayat.

(7) A member once elected to a committee shall be eligible for re-election.

(8) A member or Chairman may resign from membership or chairmanship of a committee by tendering his resignation to the panchayat.

(9) Any vacancy occurring in a committee shall be filled in as soon as possible

(10) The committees constituted under this section shall; in the performance of their functions, exercise such powers and discharge such duties of a nagar panchayat as may be assigned to them by the panchayat.

(11) Such of the powers, functions and duties of the Panchayat as are not assigned to any committee shall be exercised and performed by the Panchayat.

(12) The panchayat may at any time withdraw from any committee other than the Social Justice Committee any of the powers, functions, and duties assigned to it and may assign the same to any other committee other than the Social Justice Committee.

(13) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof,-

(a) any person aggrieved by a decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat. and

(b) any person aggrieved by the decision of the Social Justice Committee may prefer an appeal to the Social Justice Committee of the taluka panchayat, within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the Social

Justice Committee of the taluka panchayat may after giving an opportunity to the appellant to be heard confirm, modify or reverse the decision appealed, against and pass such order as it may think proper.]

**84. Panchayat to place before gram sabha statement of accounts etc. and duties of gram-sabha :-**

(1) The first meeting of the gram sabha in every years shall be held within two months from the commencement of that year and the gram Panchayat shall place before such meeting -

(i) the annual statement of accounts;

(ii) the report on the administration in the preceding financial year;

(iii) the development and other programme of work proposed for the current financial year;

(iv) the last audit note and replies (if any) made thereto;

(v) any other matter which the taluka panchayat and district panchayat requires to be placed before such meeting.

(2) It shall be open to the gram sabha to discuss any or all of the matter placed before it under sub-section (i) and the panchayat shall consider suggestions, if any, made by the gram sabha.

(3) A gram sabha shall carry out any other functions as may be prescribed.

**85. Procedure in respect of meetings :-**

Save as provided in this Act, the time and place of a meeting of a panchayat or a committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

**86. Questions to be decided by majority of votes :-**

All questions before a meeting of a Panchayat or committee thereof or of a gram sabha shall be decided by a majority of votes of the member present and unless otherwise provided in this Act the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes:

[Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a panchayat or committee thereof may be taken by circulating the

propositions therefore for the vote of members.]

**87. Modification of cancellation of resolutions :-**

No resolution of a panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the whole number of members of such panchayat.

**87A. Invitees at meetings of gram and nagar panchayats :-**

(1) Notwithstanding anything contained in this Act, it shall be lawful for- , -

(a) a gram panchayat to invite at its meeting not more than two persons, and

(b) a nagar panchayat to invite at its meeting not more than three persons, who are not members of such-panchayat but who in the opinion of such panchayat possess special knowledge or experience in the subject matter under consideration at the meeting.

(2) An invitee at a meeting of the Panchayat shall have the right to speak or otherwise take part in the proceeding of the meeting but shall not be entitled to vote.]

**88. Administrative powers of panchayat :-**

Subject to the provisions of this Act it shall be the duty of each Panchayat to make in the area within its jurisdiction, and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matters specified in Schedule 1.

**89. Other functions of panchayat :-**

(1) A panchayat may with the previous sanction of the district panchayat incur expenditure on I[education[ or medical relief outside its Jurisdiction if its finances permit.

(2) A panchayat may also make provision, for carrying out in the areas, within the limits of its jurisdiction or any other work or measure which is likely to promote the health, safety, education, comfort, convenience, or social or economic or cultural-well-being of the inhabitants or the area, including secondary education.

(3) A panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members make provision for any public reception, ceremony or entertainment in the area within its jurisdiction or may make contribution towards an



annual gathering or such other gathering of Panchayats in the district or the State or towards the fund of any institution, which is established with the object of promoting the spirit of community, self help and mutual aid among village folk and suggesting ways and means for the efficient administration of Panchayats and which )s recognised by the State Government :

Provided that except with the previous sanction of the panchayat to which it is subordinate under section 8], the panchayat shall not incur expenditure exceeding twenty-five rupees on any such receptiol, ceremony entertainment or gathering.

(4) If in respect of any land it comes to the notice of a panchayat that on account of the neglect or the occupant of superior holder thereof or dispute between him and his tenant, the cultivation of the land has seriously suffered the panchayat may bring such fact to the notice of the competent authority.

(5) A parchayat shall, in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and in particular, in the removal of untouchability carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority [and in case the panchayat fails to carry out any direction or order so given or issued it shall be lawful for the State Government to withhold the payment to the panchayat of all or any of the grants payable under Chapter X after the panchayat has keen given a reasonable opportunity of being heard.]

(6) A Panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(7) It shall be lawful for a panchayat to render financial or other assistance to any person for carrying on in the gram or as the case may be, nagar any activity which is related to any of the matters, specified in Schedule I.

## **90. Powtrtocompromise :-**

(1)Agram panchayat or, as the case may be, a nagar panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(2) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

**91. Local inquiry and reports by gram Panchayats :-**

It shall be the duty of every gram panchayat to enquire and report in any of the following cases.-

(a) any case where a magistrate has directed that a previous local investigation be made by a gram panchayat under section 202 of the Code of Criminal Procedure, 1898, (V of 1898) and the words "such other person" in sub-section ( ) of the said section shall be deemed to include a gram panchayat,

(b) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, (V of 1898) may require from the gram panchayat in whose jurisdiction either the wife or child for whose maintenance the application is made or the husband or parents respectively of such wife or child resides, report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry.

Provided that no member of the gram Panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate may, in his discretion, call for a further report.

**92. Power of gram or nagar panchayat to manage institutions or execute work transferred to it by taluka or district panchayat :-**

In the case of any institution managed by a taluka panchayat or district panchayat, or of any work to be done out of the fund of a taluka panchayat or district Panchayat, the taluka panchayat or, as the case may be the district panchayat may, if the gram or nagar panchayat so agrees entrust to the gram or nagar panchayat, as the case may be, the management of such institutions or the execution of such work: Provided that in every such case, the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the taluka panchayat or as the case may be, the district panchayat.

### **93. Control on erection of buildings :-**

(1) No person shall erect or re-erect or commence to erect or re-erect within the limits of the gram or nagar, as the case may be, any building without the previous permission of the panchayat.

(2) Permission shall be presumed to have been granted if the Panchayat fails to communicate its sanction or refusal in respect thereof within one month from the date of receipt of the application for the permission; in case of refusal, the panchayat shall communicate to the applicant the reasons thereof and an appeal shall lie against any such order of refusal [to the district panchayat where the order of refusal has been made by a nagar panchayat and to the taluka panchayat where the order of refusal has been made by a gram panchayat]:

Provided that no such appeal shall be entertained if it is made after the expiry of thirty days from the date on which the refusal is communicated to the applicant.]

(3) No person, who becomes entitled under sub-section (1) or (2) to proceed with any intended work of erection or re-erection, shall commence such work after the expiry of one year from the date on which he becomes entitled to proceed therewith unless he shall have again become so entitled by a fresh compliance with the provisions of sub-section (1) or (2) as the case may be.

(4) Whoever erects or re-erects or commences to erect or re-erect any building without such permission or in any manner contrary to the provisions of sub-section (1) or any bye-law in force, or any conditions imposed by the panchayat shall; on conviction be punished with fine, which may extend to fifty rupees and in the case of a continuing contravention, he shall be liable to an additional fine which may extend to five rupees for each day during which such contravention continues after conviction for the first such contravention.

(5) Without prejudice to the penalty prescribed in sub-section (4) the panchayat may-

(a) direct that the erection or re-erection be stopped,

(b) by written notice require such erection or re-erection to be altered or demolished, as it may deem necessary, and, if the requirement under clause (b) is not complied with within the time

fixed in the notice, the panchayat may cause the alteration or demolition to be carried out by its officers and all the expenses incurred by the panchayat therefore shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX:

Provided that when a notice for bringing any action against any direction for the alteration or demolition of any erection or re-erection issued under this sub-section has been given under sub-section (2) of section 320, alteration or demolition shall not be caused to be carried out until the expiry of the period of such notice and a further period of seven days.

(6) Nothing contained in this section shall apply to any building which is used or required for public service or for any public purpose, and if the property of the State or Central Government or any local authority, or is to be erected or re-erected by the State or Central Government or the

Explanation.-The expression "erect" or "re-erect" with reference to a building in this section includes-

- (a) any material alteration, or enlargement of or in any building ;
- (b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;
- (c) such alteration of a building as would effect a change in the drainage or sanitary arrangement or materially alter its security ;
- (d) the addition of any rooms, buildings, outhouses, or other structures to any building ;
- (e) the conversion by any structural alteration into a place of religious worship or into a sacred building of any place or building, not originally meant or constructed for such purpose;
- (f) roofing or coveing an open space between walls and buildings as regards the structure which is formed by roofing or covering such space ;
- (g) conversion into a stall, shop, warehouse, or godown of any building not originally constructed for use as such or vice-versa.
- (h) construction in a wall adjoining any street or land not vested in the owner of the wall, of a door opening on such street or land.

#### **94. Obstruction and encroachments upon public streets and open sites :-**

(i) Whoever, within the limits of the gram or nagar, the case may be-

(a) builds or sets up any wall, or any fence, rail post, stall verandah, platform, plinth, step or structure or thing or any other encroachment, or obstruction, or

(b) deposits, or causes to be placed or deposited, any box, bale, package or merchandise, or any other thing, or

(c) without written permission given to the owner or occupier of a building by a panchayat, puts up, so as to project from an upper storey hereof any verandah, balcony, room or other structure or thing, in or over any public street or place, or in or upon any open drain, gutter, sewer or aqueduct in such street or place, or contravenes any conditions subject to which any permission as aforesaid is given or the provisions of any bye-law made in relation to any such projections or cultivates or makes any unauthorised use of any grazing land, not being private property, shall on conviction, be punished with fine, which may extend to fifty rupees, and with further fine which may extend to five rupees for each day on which such obstruction, deposit projection, cultivation or unauthorised use continues after the date of first conviction for such offence.

(2) The Panchayat may remove any such obstruction or encroachment and remove any crop unauthorisedly cultivated, on grazing land or any other land not being private property, and may remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not :

Provided that if the site be vested in the State Government, the permission of the Collector or any officer authorised by him in this behalf, shall have first been obtained; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX :

Provided further that when before the removal of any such encroachment or projection a notice for bringing action in that behalf has been given under sub-section (2) of section 320, no

action for the removal of encroachment or projection shall be taken until the expiry of the period of such notice and a further period of seven days.

[(2A) Nothing in sub-section (2) shall prevent the panchayat from permitting any construction referred to in clause (a) or clause (c) of subsection (1) to stand on such terms and conditions as may be prescribed.]

(3) The power under sub-section (2) may be exercised in respect of any obstruction, encroachment or projection referred to therein whether or not such obstruction, encroachment, or projection has been made before or after the gram or nagar is declared as such under the Act or before or after the property is vested in the panchayat.

(4) Whoever not being duly authorised in that behalf removes earth, sand or other material from or makes any encroachment in or upon any open site which is not private property, shall, on conviction, be punished with fine which may extend to fifty rupees, and in the case of an encroachment, with further fine which may extend to five rupees for every day on which the encroachment continues after the date of first conviction.

(5) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of, or erection in, any public street on occasions of festivals and ceremonies, of the piling of fuel in by-lanes and sites for not more than seven days, and in such manner as not to inconvenience the public or any individual or from allowing any temporary erection on, or putting projection over, or temporary occupation of, any such public street or place, for any other purpose in accordance with the bye-laws made under this Act.

(6) If the panchayat finds it difficult to remove any obstruction or encroachment or any crop unauthorisedly cultivated on grazing land as referred to in sub-section (2), the taluka panchayat or such officer of the taluka panchayat as the taluka panchayat may authorise in this behalf shall exercise the powers under sub-section (2) and take action to remove the obstruction, encroachment or as the case may be, the crop.

(7) The taluka panchayat may, take action referred to in sub-section (6) suo motu or whenever it is reported to it that though the panchayat was moved to take action under sub-section

(2) it has not taken any action for these months:

Provided that before taking action suo motu it shall direct the panchayat to take action and if the panchayat fails, to do so within a specified time, the taluka panchayat may thereafter take action.

**95. Numbering of premises :-**

-(1) The panchayat may, from time to time by written notice, require the owner of any premises or part thereof, either to put up, by means of a metal plate a number or sub-number on such premises, or part thereof in such position and manner as may be specified in such notice, or to signify in writing his desire that such work shall be executed under the orders of the panchayat.

(2) Any person who destroys, pulls down or defaces any such number or sub-number or puts any number or sub-number different from that put up by order of the panchayat and any owner of any premises or part thereof, who does not at his own expense keep such number or sub-number in good order after it has been put up thereon, shall on conviction, be punished with fine which may extend to twenty rupees.

(3) Where a number or sub-number is put upon any premises or part thereof, under the orders of the panchayat in accordance with sub-section (1), the expenses of such work shall be payable by the owner of such premises or part thereof, as the case may be.

(4) In this section "premises" means a house, outhouse, stable, shed, hut or other structure whether of masonry, bricks, wood. And, metal or any other material whatsoever whether used as a human dwelling or otherwise.

**95A. Power of Taluka Development Officer to require owner to provide water closet or privy accommodation :-**

(1) Where any premises in any gram or nagar are, in the opinion of the Taluka Development Officer, without adequate and suitable water-closet or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, the taluka Development Officer, may, by written notice, require the owner of such premises to provide such water or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, within, such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so

specified or within such time as may, on the application of the owner, be extended by the Taluka Development Officer for any reasonable cause, it shall be lawful for the Taluka Development Officer to make such provision from the gram fund or, as the case may be, nagar fund and where such fund is inadequate, with the permission of the district panchayat from the District Development Fund., The expenses incurred by the Taluka Development Officer in making such provision shall,, on demand by the Taluka Development Officer, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Taluka Development Officer in accordance with the provisions of section 192.

(2) Notwithstanding anything contained in sub-section (1), where' the owner of any premises fails to comply with such requirement within the period specified under sub-section (1), the Taluka Development Officer may, in a case where the owner is not himself the occupier of such premises, permit the occupier of such premises to make provision for such water-closet or privy accommodation at the cost of the owner, if the occupier is willing to do so instead of the Taluka Development Officer himself making such provision. Any such occupier who makes such provision shall, after obtaining the necessary certificate from the Taluka Development Officer about such provision having been made by him, the amount of expenses incurred by him in making such provision and the reasonableness of such expenses, be entitled to deduct, such amount of expenses as it certified by the Taluka Development Officer to be reasonable from the rent or any other such payable by him to the owner or to recover such amount from the owner in any other lawful manner.

(3) For the purpose of making the provision specified in sub-section (1), the Taluka Development Officer shall have power to do all acts necess-

(4) Where any water-closet or privy accommodation is ^provided or set up by the Taluka Development Officer under sub-section (1) and the expenses incurred by the Taluka Development Officer in doing so are paid by, or recovered from the owner in full, such water-closet or privy accommodation shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining it in good repairs and efficient conditions.

(5) The provision as aforesaid made under sub-section (1) or subsection (2) shall not be deemed to be a permanent structure for



the purpose of clause (b) of sub-section (1) of section 13 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947).

Explanation.- For the purposes of this section "water closet" means a closet used as, a privy in which discharges are pushed in or carried off by Water, and includes an acqua privy, gas; plant, latrine attached with gas plant, a closet of type known as PRA[ (Planning Research Action Institute) type, septic tank type, hand flush type, bore hole type, clap trap type or any other type which the State Government may, by notification in the Official Gazette, specify".]

#### **96. Government may vest certain) lands in Panchayats :-**

(1) For the purpose of this Act, the State Government may subject to such conditions and restrictions as it 'may think fit to impose, vest in a Panchayat open sites, waste, vacant or grazing lands or public roads, streets, bridges, ditches, dikes and fences, wells, river-beds tanks, streams, lakes, nallas, canals, water-courses, trees or any other property in the gram or nagar, as the case may be, vesting in the Government.

(2) Subject to any conditions and restrictions imposed by the State Government under sub-section (1) and with the previous sanction of the Collector, a Panchayat may discontinue or stop up any such public road or street vested in it by the State Government, but which is no longer required as public road or street and may lease or sell any such land therefor used for the purposes of such public road or street:

Provided that one months before it is decided to stop up or discontinue such public road or street, the Sarpanch or Chairman as the case may be, shall, by notice signed by him and affixed in the part of the public road or street which is proposed to discontinue or stop up, and published in such other manner as is prescribed, inform the residents of the gram or nagar as the case may be, of the said proposal and consider any objections in writing made thereto; the notice shall indicate the alternative route, if any, which it is proposed to provide or which may already be in existence.

(3) Whenever any public road or street or any part thereof has been so discontinued or stopped up, reasonable compensation shall be paid to every person who was entitled to use such road or street or part thereof, otherwise than as a mere member of the public, as a means of access to or from his property and has suffered damage

from such discontinuance or stopping up, and the provisions in the Bombay Highways Act, 1955, (Bom. LV of 1955) in relation to the assessment, apportionment, and payment of compensation shall, mutatis mutandis, apply thereto as they apply in relation to the closure of a highway under section 52 of that Act.

(4) Where any open site or waste, vacant or grazing land vesting in Government has been vested by Government in a panchayat whether before or after the commencement of this Act, then it shall be lawful for the State Government to resume at any time such Site or land, if it is required by it for any public purpose:

Provided that in case of any improvement of such site or land made by the panchayat or any other person, the Panchayat or person, as the case may be, shall be entitled to compensation equal to the value of such improvement and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894.

#### **97. Other Property of gram or Nagar Panchayat :-**

(1) Ataluka panchayat or the district panchayat may from time to time direct that any property vesting in it shall vest in a gram panchayat or nagar panchayat and thereupon notwithstanding anything contained in the Transfer of Property Act, 1882, (IV of 1882) or the Indian Registration Act, 1908, (XVI of 1908) such property shall vest in the gram panchayat or nagar panchayat, as the case may be.

(2) Every work constructed by a panchayat out of its fund, or with Government assistance or people's participation shall vest in the panchayat.

#### **98. Limitation on power of Panchayat to transfer immovable property :-**

(1) Subject to the provisions of sub-section (2), no lease, sale or other transfer of any immovable property vesting in or acquired by, a panchayat shall be valid unless such lease, sale or other transfer has been made with the previous sanction of the competent authority.

(2) In the case of a lease of immovable property other than the property vesting in the panchayat under section 96, no such previous sanction shall be necessary, if the period of lease does not exceed three years.

## **99. Gram Fund and Nagar Fund :-**

(1) There shall be

(a) in each gram a fund to be called the gram fund, and

(b) in each nagar a fund to be called the nagar fund, and in this section "relevant fund" means in the case of a gram Panchayat the gram fund and in the case of a nagar panchayat the nagar fund.

(2) The following shall be paid into, and form part of the relevant fund, namely-

(a) the amount which may be allotted to the relevant fund by the State Government under the provisions of section 191 of the Bombay District Municipal Act; 1901, (Bom III of 1901) or under the said Act in its application to the Saurashtra area of the State of Gujarat;

(b) the proceeds of any tax or fee imposed by or assigned to the panchayat under this Act;

(c) all sums ordered to be paid as compensation realised under sections 234 and 235;

(d) all other sums ordered by a Court to be placed at the credit of the relevant fund;

(e) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof;

(f) sums contributed to the relevant fund by the State Government or the taluka panchayat or the district panchayat;

(g) all sums received by way of loans from the State Government or the taluka panchayat or the district panchayat or out of the District Development Fund I[or otherwise];

(e) all sums received by way of gift or contributions by the

(i) the income or proceeds of any property vesting in the panchayat;

(j) 1[ \* \* \* \*]

(k) the net proceeds (after deducting the expenses of assessment and collection) of the case authorised by section 181;

(l) all sums, realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case;

(m) all sums realised as pound fees after deducting the expenses.

**100. Application of relevant Fund :-**

(1) All property vested in a Panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law, for the time being in force, shall be applied subject to the provisions for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

[(1a) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed].

(2) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of interest thereon shall be a first charge on its fund.

**101. Decision of claims to property by or against gram or nagar panchayat :-**

(1) In any revenue village [\* \* \*] where any property or any right in or over any property is claimed by or on behalf of the panchayat or by any person against the panchayat, it shall be lawful for the Collector, after formal enquiry of which due notice has been given, to pass an order deciding the claim.

(2) Any suit instituted in any Civil Court after the expiration of one year from the date of the communication of any order passed by the Collector under sub-section (1), or if one or more appeals have been made against such order within the period of limitation then from the date of the communication of any order passed by the final appellate authority as determined according to section 204 of the Land Revenue Code, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has received due notice of such order.

(3)

(a) The powers conferred by this section on the Collector may be exercised also by an Assistant or Deputy Collector or by a Survey

Officer or such other officer appointed under the said Code.

(b) The formal inquiry referred to in this section shall be conducted in accordance with the provisions relating to such enquiry under the said Code.

(c) A person shall be deemed to have had due notice of any inquiry or order under this section if notice thereof has been given in the prescribed manner.

**102. Secretary and servants of Panchayats :-**

(1) Subject to the provisions of this Act and the rules made thereunder:-

(a) there shall be a Secretary for every gram panchayat and nagar panchayat who shall be appointed in accordance with the rules;

(b) a gram panchayat or, as the case may be, nagar panchayat shall have such other servants as may be determined under section 203 Such servants shall be appointed by such authority and their condition of service shall be such as may be prescribed:

Provided that the State Government having regard to the population of a gram and income of the panchayat thereof may direct in respect of a group of gram panchayats that such group shall have one Secretary and thereupon there shall be one Secretary for that group].

(2) A Secretary of a gram panchayat or nagar panchayat shall subject to the control of the Sarpanch or Chairman, as the case may be-

(a) keep in his custody the records and registers of the panchayats,

(b) issue receipts under his signature for sums of money received by him on behalf of the panchayat,

(c) prepare all statements and reports required under this Act, and

(d) perform such other functions and duties under this Act as may be prescribed.

[ (3) [The other servants of the panchayat] shall perform such functions and duties and exercise such powers under this Act as may be imposed or conferred on them by the panchayat, [subject to rules, if any made in this behalf.]

### **103. Contribution to District Development Fund :-**

Every gram panchayat and every nagar panchayat shall contribute every year to \*[the District Development Fund constituted under section 199) a sum equal to such percentage not exceeding ten percent, of its income from such sources as may be prescribed :

Provided that whether any gram panchayat or nagar panchayat fails in any year to make a contribution under this section, it shall be lawful for the State Government to deduct such amount from the grant payable to the panchayat under section 195 in the next succeeding year as may be sufficient to make the contribution and -.credit the same to the District Development Fund on behalf of the gram panchayat or, as the case may be, nagar panchayat.]

### **104. Annual Budget Estimates :-**

(1) Every panchayat (whether a gram panchayat or nagar panchayat) shall have prepared annually on or before such date and in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year 2[and the panchayat if it be a gram panchayat shall forward the budget estimate to the taluka panchayat and if be a nagar panchayat shall forward the budget estimate to the district panchayat, on or before such date as may be prescribed]:

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) (The taluka panchayat or, as the case may be, the district panchayat shall scrutinise the budget estimate and Return it] to the Panchayat within two months of its receipt with such observations and recommendations as it may make in respect of the budget estimate.

(3) The panchayat shall thereupon approve the budget estimate with such modifications as it may think fit having regard to the observations and recommendations made [by the taluka panchayat or, as the case may be, the district Panchayat] under sub-section (?).

### **105. Revised or supplementary budget and re-appropriation of funds :-**

(1) A gram Panchayat or as the case may be, a nagar panchayat may at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary budget shall be considered and approved by the panchayat in the same manner as if it were an original annual budget estimate:

Provided that [the taluka panchayat or, as the case may be, the district panchayat] shall scrutinise the budget and [return it] to the panchayat within one month of its receipt.

(2) Reappropriation of fund in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimates.

**106. Except in emergency no sum to be expended unless it has been included in budget estimates :-**

(1) Save in the case of a pressing emergency, no sum shall be expended by or on behalf of a nagar or gram panchayat unless such sum is included in some budget estimate approved under section 104 or 105 and in force at the time of incurring the expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1), the circumstances shall be forthwith communicated in writing [to the district panchayat, in the case of a nagar panchayat and to the taluka panchayat, in the case of a gram panchayat] with an explanation of the way in which it is proposed by the panchayat to cover such extra expenditure.

**107. Accounts of income and expenditure :-**

Accounts of the income and expenditure of every panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

**108. Annual administration report :-**

(1) The Secretary of every panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report shall be sent to the district panchayat through the taluka panchayat on or before such date and in such form as may be prescribed.

### **109. Audit of accounts of Panchayats :-**

(1) The audit of the accounts of a panchayat shall, until the provisions of the Bombay Local Fund Audit Act, 1930 (Bom. XXV of 1930.) or any other corresponding law are made applicable thereto, be carried out by the State Government in such manner as may be prescribed and a copy of the audit note shall be forwarded to the panchayat [and to the taluka panchayat in the case of a gram

(2) On receipt of the audit note referred to in sub-section (1), the Panchayat shall either remedy any defects or irregularities, which may have been pointed out in the audit note and send to \* [the taluka panchayat or, as the case may be, district Panchayat] within three months an intimation of its having done so or shall, within the said period supply to [the taluka panchayat or, as the case may be, district panchayat] any further explanation in regard to such defects or irregularities as it may wish to give.

(3) On receipt of such intimation or explanation, [the taluka Panchayat or, as the case may be, district panchayat] may, in respect of all or any of the matters discussed in the audit note,-

(a) accept the intimation or explanation given by the panchayat and recommend to the Collector to withdraw the objection,

(b) direct that the matter be investigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities pointed out in the audit note or any of them, have not been removed or remedied.

(4) [The taluka panchayat or, as the case may be, district Panchayat] shall send a report of its decision to the Collector within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2) or in the event of the panchayat failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (2), and shall forward a copy of such report to the panchayat. If [the taluka panchayat or, as the case may be, district panchayat] holds that any defects or irregularities have not been removed or remedied it shall state in the report whether in its opinion the defects or irregularities can be regularised and if so, by what method and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. [The taluka panchayat or, as the case may be, district panchayat] shall also



state whether the amounts to which the defects or irregularities relate should in its opinion be surcharged as hereinafter provided.

(5) The Collector may, after considering the report of [the taluka Panchayat or, as the case may be, district panchayat] and after making such further enquiry as he considers necessary, disallow any item which appears to him contrary to law and surcharge the same on the person making or authorizing the making of the illegal payment, and

(a) if the person on whom the surcharge is made be a member, proceed against him in the manner described in sub-sections (2) and (3) of section 317; and

(b) if the person on whom the surcharge is made is not a member, then after taking his explanation direct by order in writing that such person shall pay to the panchayat the amount surcharged and if the amount be not so paid within one month, the Collector shall recover it as an arrear of land revenue and credit it to the gram or nagar fund.

(6) Any person aggrieved by any order of surcharge made by the Collector under this section may, within one month from the receipt by him of the decision of the Collector, apply to the District Court to modify or set aside such order and that Court after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge and make such order as to costs as it thinks proper in the circumstances

(7) [The taluka panchayat or, as the case maybe, district panchayat] may by order in writing direct that all or any of its functions under sub-sections (3) and (4) may also be performed by one of its committees.

#### **110. Meetings of taluka panchayat :-**

The meeting of a taluka panchayat shall be held normally every three months:

Provided that the President for any specified reason may, and upon the written request of not less than one-third of the members shall call the meeting of the taluka panchayat at any other time.

#### **111. Taluka panchayat committees, their constitution, powers, functions and duties :-**

(1) Taluka panchayat. shall constitute the following committees,

namely.-

(i) An Executive Committee for exercising such powers and performing such functions and duties of the taluka panchayat (not being functions pertaining to its Social Justice Committee), as the taluka panchayat may assign to it:

Provided that it shall be lawful for the Executive Committee to appoint not more than two sub-committees from amongst its members but. the sub committee so appointed shall not be competent to take any final decision in any matter.

(ii) A Social Justice Committee for performing such functions as are considered essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes as may be prescribed.

(2) In addition to the committees referred to in sub-section (1), a taluka panchayat may constitute a committee or committees consisting of such number of members of the panchayat as the panchayat may determine, to execute any work or scheme decided upon by the taluka panchayat or to inquire into and report to the taluka panchayat on matters which the panchayat may refer to such committee or committees. The taluka panchayat may make regulations for the procedure to be followed by any such committee.

(3) The Executive Committee shall consist of-

(a) five members, if the total number of elected members of the taluka panchayat does not exceed Twenty;

(b) seven members, if the total number of elected members of the taluka Panchayat exceeds twenty, but does not exceed twenty-five;

(c) nine members, if the total number of elected members of the taluka panchayat exceeds twenty five; but does not exceed thirty-one;

(d) eleven members if the total number of elected members of the taluka panchayat exceeds thirty-one."]

(4) The constitution of the Social Justice Committee shall be such as may be prescribed.

(5) The members of a committee constituted under this section shall be elected by the panchayat from amongst its members :

[Provided that the taluka panchayat may appoint in accordance with any rules made in this behalf, any of the qualified voters of the taluka on a committee constituted under sub-sec. (2) or sub-section (4) and the qualified voters so appointed shall have the right to speak or otherwise to take part in the proceedings of a meeting of the committee but shall not, except in the case of a committee constituted under sub-section (4), be entitled to vote."]

(6) Where any committee is constituted under this section the members of the committee shall elect from amongst themselves the Chairman of the committee:

Provided that-

(a) where the President and Vice-President both are members of any such committee, the President shall be the ex-officio Chairman of such committee and if he declines to hold the office, the Vice-President shall be the ex-officio Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the ex-officio Chairman of the committee, unless he declines to hold the office.

(7)

(a) No member of the panchayat shall be a member of more than two committees constituted under this section.

(b) If any member is simultaneously or otherwise elected as a member of more than two committees, the member shall within ten days from the date or the later of the dates on which he is so elected intimate to the President two of the committees in which he wishes to serve and thereupon his seat in the committee or committees other than the aforesaid two committees shall become vacant.

(c) Any intimation given under clause (b) shall be final and irrevocable.

(d) Where a member commits default in giving intimation under clause (b), within the period prescribed therein, the panchayat shall determine the two committees in which such member shall retain his seat and thereupon his seat in the committee or committees other than the committees so determined shall become vacant.

(8) A member once elected to a committee shall be eligible for re-election,

(9)

(a) The term of each of the committees other than the Executive Committee and the Social Justice Committee shall be such as may be determined by the Panchayat.

(b) The term of the Executive Committee shall be two years and on the expiry of its term, the committee shall be reconstituted; and the term of the Social Justice Committee shall be co-extensive with the term of the panchayat:

Provided that where the unexpired part of the term of the panchayat, during which the Executive Committee is constituted, or reconstituted, is less than two years, the term of the Executive Committee shall be co-extensive with the unexpired part of the term of the panchayat.

(10) A member or Chairman may resign from membership or chairmanship of a committee by tendering his resignation to the taluka panchayat.

(11) Any vacancy occurring in a committee shall be filled in as soon as possible.

(12) The committees constituted under this section shall in the performance of their functions exercise such powers and discharge such duties of the taluka panchayat as may be assigned to them by the panchayat.

(13) A taluka panchayat may at any time withdraw from any committee other than the Social Justice Committee, any of the powers, functions and duties assigned to it and assign the same to any other committee other than the Social Justice Committee.

(14) Such of the powers, functions and duties of the panchayat as are not assigned to any committee shall be exercised and performed by the taluka panchayat.

(15) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof:-

(a) any person aggrieved by the decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee (not being a decision in appeal) may prefer an appeal to the Social Justice Committee of the district panchayat. within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the Social Justice Committee, may, after giving an opportunity to the appellant to be heard, confirm, modify or reverse the decision appealed against and pass such order as it may think proper

**111A. Honorarium to Chairman of Social Justice Committee**

:-

The Chairman of the Social Justice Committee of a taluka panchayat shall [xx] be entitled to an honorarium of Rs. [200] per month.

**112. Travelling allowance to members of Committee who are not members of a taluka Panchayat :-**

The chairman and members of any Committee of a taluka panchayat constituted under section 11 I who, not being the members of such panchayat are not entitled to payment of travelling allowances under sub-sec. (14) of sec. 56, shall be entitled to travelling allowances while touring for the purpose of attending a meeting of the committee or any business relating to the committee at such rates and subject to such conditions [as may be determined by rules made either prospectively or retrospectively].

**113. Appointment of a member or committee to inquire into and report on any matter. Deleted by Guj. 9 of 1973, s.30 :-**

**114. Procedure in respect of meetings :-**

Save as provided in this Act, the time and place of a meeting of a taluka panchayat or committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

**115. Questions to be decided by majority of votes :-**

All questions before a meeting of a taluka panchayat or committee thereof shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes:

Provided that in such circumstances and subject to such condition as may be prescribed, a decision on any question before a

committee may be taken by circulating (he propositions therefor for the votes of members.]

**116. Modification or cancellation of resolutions :-**

No resolution of a taluka panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the total number of members of such panchayat;

**116A. Invitees at meetings of taluka panchayat and its committees :-**

(1) Notwithstanding anything contained in this Act, it shall be lawful for a taluka panchayat or any of its committees to invite at its meeting not more than four experts or specialists in the subject matter under consideration at the meeting out of persons, who in the opinion of such panchayat or, as the case may be, committee-

(a) have a degree in engineering, medicine, commerce, or such other subject of any University established by law in India and experience of not less than five years in the field of activity pertaining to the subject, and

(b) are not disqualified to be members of the panchayat under any of the clauses (f), (g) and (h) of section 23.

(2) An invitee at a meeting of the panchayat or its committee shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.]

**117. Administrative powers of panchayat :-**

Subject to the provision of this Act, it shall be the duty of each taluka panchayat to make in the area within the jurisdiction and so far as the fund at its disposal will allow reasonable provision in regard to all or any of the matters specified in Schedule II. 2[A taluka panchayat shall also discharge the duties specified in Part II of Schedule II.]

**118. Other functions of Panchayats :-**

(1) A taluka panchayat may, with the previous sanction of the district panchayat, incur expenditure on [education] or medical relief outside its jurisdiction, if its finances permit.

(2) A taluka panchayat may, subject to rules, grant loans to pan-

chayat subordinate to it, for the purposes of this Act.

(3) A taluka panchayat may also make provision for carrying out within the taluka any other work, measure, scheme or project which is likely to promote the health, safety, education, comfort, convenience, or social or economic, or cultural well-being of the inhabitants of the taluka or part thereof including secondary education.

(4) A taluka panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members, make provision for any public reception, ceremony or entertainment within the taluka or may make contribution towards an annual gathering or such other gathering panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self help and mutual aid among village folk and suggesting

Provided that except with the previous sanction of the district panchayat, the panchayat shall not incur expenditure exceeding fifty rupees on any such reception ceremony, entertainment or gathering.

(5) If in respect of any land it comes to the notice of a taluka panchayat that, on account of neglect of the occupant or superior holder thereof or dispute between him and his tenant, the cultivation of the land has seriously suffered, the panchayat may bring such fact to the notice of the competent authority.

(6) A taluka panchayat shall in regard to the measures of the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular, in the removal of untouchability carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.

(7) A taluka panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(8) It shall be lawful for a taluka panchayat to render financial or other assistance to any person for carrying on in the taluka any activity which is related to any of the matters specified in Schedule II.

(9)

(a) A taluka panchayat may compromise in respect of any suit instituted by or against it or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(b) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officer and servants under this Act.

**118A. Entrustment of work etc., to taluka panchayat by district panchayat :-**

In the case of any institution managed by a district panchayat or of any work to be done out of the fund of a district panchayat, the district panchayat may, if the taluka panchayat so agrees, entrust to the taluka Panchayat the management of such institution or the execution of such work].

**119. Property of taluka panchayat :-**

(1) In addition to the movable or immovable property acquired by a taluka panchayat, the following shall vest in the taluka panchayat, namely:-

(a) every road, building or other work constructed by a taluka panchayat out of the taluka fund with or without the Government assistance or people's participation;

(b) any land or property vesting in the State Government when transferred to a taluka panchayat by the State Government or local public purposes;

(c) any land or property which vesting in any other panchayat when vested in the taluka panchayat by that panchayat for the purposes of this Act:

Provided that any land or property transferred to a taluka panchayat under clause (b) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it, subject to the



terms and conditions of the transfer and in the circumstances specified in such terms or 'conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall revert in the State Government and it shall be lawful for the State Government to resume possession thereof.

(2) Notwithstanding that any immovable property vest in. a taluka panchayat no lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority :

Provided that in the case of a lease of immovable property other than the properly referred to in clause (b) of sub-section (1) no such previous sanction shall be necessary if the period of lease does not exceed three years.

**120. Taluka fund :-**

(1) There shall be in each taluka a fund which shall be called a Taluka Fund.

(2) The following shall be paid into and form part of, the taluka fund, namely :-

(a) The proceeds of any tax on fee imposed by or assigned to the panchayat under this Act ;

(b) the sale proceeds of all dust, dirt, dung, refuse or carcasses of animals, except in so far any person is entitled to the whole or a portion thereof;

(c) sums contributed to the taluka fund by the State Government or the District panchayat;

(d) all sums received by way of loans from the State Government or the district panchayat or otherwise ;

(e) all sums received by way of gift or contributions by the taluka panchayat;

(f) the income or proceeds of any property vesting in the taluka panchayat;

(g) the net proceeds (after deducting the expenses of assessment and collections) of the stamp duty authorised by section 184 ;

(h) all sums realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case.

### **121. Application of taluka fund :-**

(1) All property vested in a taluka panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law, for the time being in force, shall be applied subject to the provisions and for the purposes of this Act and all such sums and funds shall be kept in such custody as may be prescribed.

(1a) Any surplus funds in the hands of a panchayat which may not

(2) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of the interest thereon shall be a first charge on its fund.

### **122. Secretary, officers and servants of taluka Panchayats :-**

Subject to the provisions of this A.ct and-the rules made thereunder-

(1) there shall be a Secretary for every taluka panchayat,

(2) the Taluka Development Officer who shall be an officer belonging to the State service and posted under the panchayat, shall be the ex- off icio Secretary of the panchayat.

(3) a taluka panchayat shall have such other officers and servants as may be determined under section 203. Such officers and servants shall be appointed by such authority and their conditions of service shall be such as may be prescribed. The. officers and servants so appointed shall in the discharge of their functions and duties exercise such powers as may be conferred on them, by the panchayat, subject to rules, if any, made in this behalf].

### **123. Powers and functions of Taluka Development Officer :-**

(1) Save as otherwise expressly provided by or under this Act, the executive power of a taluka panchayat for the purpose of carrying out the provisions of this Act, shall vest in the Taluka Development Officer who shall subject to the orders, if any, of the President or of the taluka panchayat, as the case may be-

(a) perform all the functions and exercise all the powers] specifically imposed or conferred upon him by or under this Act, or under any law for the time being in force; and

(b) lay down the duties of all officers and servants of the taluka

panchayat.

(2) Subject to the provisions of this Act and the rules made thereunder the Taluka Development Officer-

(a) shall be entitled to-

(i) attend the meetings of the taluka panchayat, or any of its committees;

(ii) call for any information, return, statement, account or report from any officer or servant of, or holding office under, the taluka panchayat;

(iii) grant leave of absence for a period not exceeding two months, to such class of officers as may be prescribed by rules;

(iv) call for an explanation from any officer or servant of, or holding office under, the taluka panchayat.

(b) shall, subject to the control of the taluka panchayat discharge duties and perform functions, in respect of matters which by or under this

(c) shall appoint such class of officers and servants as may be prescribed;

(d) shall supervise, and control the execution of all activities of the taluka panchayat;

(e) shall take necessary measures for the speedy execution of all works development schemes of the taluka panchayat; .

(f) shall have custody of all papers and documents connected with the proceedings or meetings, of the taluka panchayat and of its committees;

(g) shall assess and give his opinion confidentially every year on the work of the officers holding office under the taluka panchayat, forward them to such authorities as may be prescribed by the State Government and lay down the procedure for writing-such reports about the work of officers and servants under the taluka panchayat;

(h) shall draw and disburse money out of the fund;

(i) shall exercise supervision and control over the acts of officers and servants holding office under the taluka panchayat in matters

of executive administration and those relating to accounts and records of the taluka panchayat; and

(j) shall exercise such other powers and perform such other functions as may be prescribed by the State Government.

(3) Subject to the other provisions of this Act, the Taluka Development Officer shall be under the general control of the taluka panchayat.

#### **124. Annual budget estimates :-**

(1) Every taluka panchayat shall have prepared annually on or before such date in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward it to the district panchayat on or before such date as may be prescribed:

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit d balance Of not less than such minimum amount as may be prescribed in that behalf.

(2) The district panchayat shall scrutinise the budget estimate and [return it] to the panchayat within two months of its receipt with such observations and recommendations as it may make in respect of the budget estimate.

(3) The taluka panchayat shall thereupon approve the budget estimate with such modifications as it may think fit having regard to the observations and recommendations made by the panchayat under sub-section (2).

#### **125. Revised or supplementary budget and re-appropriation of Fund :-**

(1) A taluka panchayat may, at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate to be prepared. Every such revised or supple-

Provided that the district panchayat shall scrutinise the budget and [return it] to the Panchayats within one month of its receipt.

(2) Reappropriation of fund in the budget estimate may be made from time to time subject to the same approval as is required for the budget estimates.

**126. Except in emergency no sum to be expended unless it has been included in budget estimates :-**

(1) Save in the case of a pressing emergency no sum shall be expended by or on behalf of a taluka . panchayat unless such sum is included in some budget estimate approved under section 124 or 125 and in force at the time of incurring the expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) the circumstances shall be forthwith communicated in writing by the President of the Panchayat to the competent authority with an explanation of the way in which it is proposed by the panchayat to cover such extra expenditure.

**127. Accounts of income and expenditure :-**

Accounts of the income and expenditure of every panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

**128. Annual Administration Report :-**

(1) The Secretary of every panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report shall be sent to the competent authority through the district panchayat on or before such date and in such form as may be prescribed.

**129. Audit of account :-**

The Bombay Local Fund Audit Act, 1930, (Bom XXV of 1930) or any other corresponding law for the time being extending to any area shall apply to the auditing of the account of taluka Panchayats.

**130. Meetings of district panchayat :-**

The meeting of a district Panchayat shall be held normally every three months:

Provided that the President of the panchayat may, for any specified reason, and shall, upon the written request of not less than one-third of the members, call the meeting of the district panchayat at any other time.

**131. District panchayat committees, their constitution,**

## **powers, functions and duties :-**

(1) A district Panchayat shall constitute the following committees, namely:-

(i) An Executive Committee for performing functions pertaining to finance, home guards and village defence and such other functions and duties of the panchayat as are not assigned to any other committee:

Provided that it shall be lawful for the Executive Committee to appoint not more than two sub-committees from amongst its members but the sub-committee so appointed shall not be competent to take any final decision in any matter.

(ii) A Social Justice Committee for performing such functions' as are considered essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and Scheduled Tribes as may be prescribed:

Provided that it shall be lawful for the Social Justice Committee to appoint one or more sub-committees from amongst its members to inquire into cases of any discrimination against members of backward classes including Scheduled Castes and Scheduled Tribes, in the matter of use of wells, tanks, bathing ghats, roads and places of public resort, maintained wholly or partly out of the State or panchayat funds or dedicated to the use of the general public.

(iii) An Education Committee for performing the functions and duties specified in Part II of Schedule III and any other functions and duties pertaining to education and such other literary and cultural activities as the panchayat may assign to it.

(iv) A Production and Co-operation Committee for performing functions relating to agricultural production, animal husbandry, irrigation, electrical energy, soil conservation, contour bunding, soil reclamation, co-operative movement, village and cottage industries and small saving schemes.

(v) A Public Health Committee for performing functions pertaining to public health, hospitals, health centres, sanitation, water-supply, vaccination and family planning.

(vi) A Public Works Committee for performing functions pertaining to public works, communications, buildings, rural housing and relief against natural calamities.

(vii) An Appeal Committee under section 290A.

(viii) A Finance Review Committee for reviewing the expenditure incurred by the district panchayat or a taluka Panchayat subordinate to it, for ensuring proper utilisation of money by any such panchayat according to budget provisions, reviewing the position of financial resources of any such panchayat, formulating budget programmes, recommending economies in administrative expenses of any such panchayat and performing such other functions relating to accounts and audit of revenue and expenditure of such panchayat as the district panchayat may assign to it.

(2) In addition to the committee referred to in sub-section (1), a district Panchayat may constitute a committee or committees to execute

(3)

(i) The Executive Committee shall consist of eleven members elected by the district panchayat from amongst its members.

(ii) The constitution of the Social Justice Committee shall be such as may be prescribed.

(iii) The Education Committee shall consist of ten members, if the total number of elected members of the district panchayat is not more than thirty nine, and of twelve members, if the total number of elected members of the panchayat is more than thirty nine, as follows, namely :-

(A) Selected by the Panchayat from amongst the qualified voters in the district:-

(a) in the case of a committee having ten members, two persons, and in the case of a committee having twelve members, three persons, having not less than five years teaching experience in an educational institution imparting primary, secondary, higher or vocational education ;

(b) one person who, being a graduate of any University established by law in India, is an educationist,

(c) one person who having teaching experience of not less than ten years is an educationist ;

(d) one woman;

(e) one person belonging to a Scheduled Caste:

(f) where the population of the Scheduled Tribes in the district exceeds five percent of the total population of the district, one person belonging to a Scheduled Tribe :

Provided that no person shall be selected under any of the items (d), (e) and (f) unless such person has passed the Secondary School Certificate Examination held under the Bombay Secondary School Certificate Examination Act, (1948 Bom. XLIX of 1948), or an examination declared by the State Government to be equivalent to such Secondary School Certificate Examination:

Provided further that items (d), (e) and (f) shall not preclude the panchayat from selecting a woman or a member of a Scheduled Caste or a Scheduled Tribe under item (a), (b) or (c) also.

(B) Elected by the Panchayat from amongst its members.-

(a) Where a person belonging to a Scheduled Tribe is eligible for being selected under item (f) of paragraph (A)-

(i) in the case of a committee having ten members, two persons, and

(ii) in the case of a committee having twelve members, three persons;

(b) Where no person belonging to a Scheduled Tribe is eligible for being selected under item (f) of paragraph (A)-

(i) in the case of a committee having ten members, three persons, and

(ii) in the case of a committee having twelve members, four persons,

(C) Associate member. One associate member to be elected by the Presidents of unauthorised municipalities in the revenue district, from amongst themselves.

(iv) Each of the committees mentioned in clauses (iv), (v) and (vi) of sub-section (1) shall consist of persons elected by the district panchayat from amongst its members as follows :-

(a) seven persons where the total number of elected members of the district panchayat is not more than thirty nine members, and



(b) nine persons where the total number of such members is more than thirty nine.

(v) The Finance Review Committee shall consist of-

(a) three members elected by the panchayat from amongst its members, and

(b) one such associate member of the Panchayat falling under clause (iii) of sub-section (5) of section 15 as the panchayat may nominate.

(vi) A committee constituted under sub-section (2) shall consist of such number of members elected by the district panchayat from amongst its members as the panchayat may think fit :

Provided that the panchayat may appoint any of the qualified voters of the district on such committee and the qualified voters so appointed shall have the right to speak or otherwise take part in the proceedings of a meeting of the committee but shall not be entitled to vote.

(4) The members of each committee shall elect from amongst themselves the Chairman of the committee :

Provided that:-

(a) where the President and the Vice-President both are members of any such committee, the President shall be the ex-officio Chairman of such committee and if he declines to hold the office, the Vice-President shall be the ex-officio Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the ex-officio Chairman of the committee, unless he declines to hold the office :

Provided further that where the person so elected as Chairman of the Education Committee is also the President of the panchayat or at any time after his election as Chairman is elected as such President, he shall not be eligible to continue as the Chairman of the committee, unless he chooses to vacate the office of such President and accordingly vacates that office.

(5)

(a) No member of the panchayat shall be a member of more than

two committees constituted under this section.

(b) If any member is simultaneously or otherwise elected as a member of more than two committees, the member shall within ten days from the date or the later of the dates on which he is so elected intimate to the President, two of the committees in which he wishes to serve and there- upon his seat in the committee or committees other than the aforesaid two committees shall become vacant.

(c) Any intimation given under clause (b) shall be final and irrevoc- able.

(d) Where a member commits default in giving intimation under clause (b), within the period prescribed therein, the panchayat shall deter- mine the two committees in which such member shall retain his seat and thereupon his seat in the committees other than the committees so deter- mined shall become vacant.

(6) A member once elected to or selected for a committee shall be eligible for re-election or, as the case may be, re-selection.

(7)

(a) The term of the Social Justice Committee and that of the Education Committee shall be co-extensive with the term of the district panchayat.

(b) The term of any other committee "constituted under sub- section (1) or (2) shall be two years and on the expiry of the term of a committee constituted under sub-section (1) it shall be reconstituted and on the expiry of the term of the committee constituted under sub-section (2) it may be reconstituted:

Provided that where the unexpired part of the term of the panchayat during which the committee is reconstituted is less than two years, the term of the committee shall be co-extensive with the unexpired part of the term of the panchayat.

(8) A member of Chairman may resign from membership of chair- manship committee by tendering his resignation to the panchayat.

(9) Any vacancy of an elected or selected member occurring in the constitution of a committee shall be filled in by election or, as the case may be, by selection.

(10) The Education Committee shall, in the discharge of its func-

tions exercise all the powers and discharge all the duties of the panchayat.

(11) The committees, other than the Education Committee constituted under this section shall in the performance of their functions exercise such powers and discharge such duties of the district panchayat as may be assigned to them by the panchayat.

(12) A district panchayat may at any time withdraw from-

(a) any committee other than the Social Justice Committee and the Education Committee, any of the powers, functions and duties assigned to it,

(b) the Education Committee, any of the powers, functions and duties, not falling in Part II of Schedule III, and assign the same to any other committee other than the Social Justice Committee.

(13) Such of the powers, functions and duties of the panchayat as are not assigned to any committee shall be exercised and performed by the district panchayat.

(14) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof,-

(a) any person aggrieved by the decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee (not being a decision in appeal) may prefer an appeal to the State Government, within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the State Government may, after giving an opportunity to the appellant to be heard, confirm, modify or reverse the decision appealed against and pass such order as it may think proper.]

### **131A. Removal of Chairman of Education Committee :-**

(1) Any member of the Education Committee who intends to move a motion of no confidence against the Chairman of the Education Committee may give a notice thereof in the prescribed form to the committee.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the members of the committee, the Chairman shall cease to hold office, after a period of three days

from the date on which the motion is carried unless he has resigned earlier and thereupon the office held by such Chairman shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules

(4)

(a) A meeting of the committee for dealing with a motion of no confidence under this section shall be called within a period of seven days from the date on which a notice of such motion is received by the committee.

(b) If the Chairman of the committee fails to call such meeting, the Secretary of the committee shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the committee within a period of seven days from the date of the receipt of the report]

**132. Honorarium, etc., to Chairman of Education Committee**  
:-

(1) The Chairman of the Education Committee of a District Panchayat shall [ \* \* \* \* ] be entitled,-

(a) to an honorarium of [ Rs. 400 per month,]

(b) without payment of rent to use of a resident in the headquarters of the Panchayat [or with the sanction of the State Government at any other place in the district] throughout his term of office and for a period of fifteen days thereafter or in lieu of such residence a house allowance at such rate as the State Government may, by general or special order determine., [ x x x x ]

(2) No charge shall fall on the Chairman personally in respect of the maintenance of any residence provided under sub-clause (b) of sub-section (i).

[(3) During the leave or absence of the Chairman, the functions of the Chairman shall be performed by such member of the Education Committee as may be elected by that committee. The member so elected and performing the functions shall be paid such honorarium and allowances as may be prescribed.]

**133. Honorarium etc. to Chairman of Social Justice Committee**  
:-

(1) The Chairman of the Social Justice Committee of a district Panchayat shall be entitled:-

(a) to an honorarium [Rs. 400 per month;]

(b) without payment of rent to use of a residence in the headquarters of the panchayat or with the sanction of the State Government at

(2) No charge shall fall on the Chairman personally in respect of the maintenance of any residence provided under sub-clause (b) for sub-section (1).

(3) During the leave or absence of the Chairman, the member of the Committee elected by it for performing the functions of the Chairman and performing such function shall be paid such honorarium and allowances as may be prescribed.

**133A. Travelling allowance to members of a committee who are not members of district Panchayat :-**

The Chairman and members of any committee of a district panchayat constituted under section 131, who, not being members of such panchayat are not entitled to payment of allowances, under sub-section (3A) or (4) of section 68, shall be entitled to travelling allowances while touring for the purpose of attending a meeting of the committee or any business, relating to the committee at such rates and subject to such conditions [ as may be determined by rules made either prospectively or retrospectively.]

**134. Procedure in respect of meetings :-**

Save as provided in this Act, the time and place of a meeting of a district panchayat or committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

**135. Question to be decided by majority of votes :-**

All questions before a meeting of a district panchayat or committee thereof shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes :

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions therefor for

the votes of members.]

**136. Modification or cancellation of resolution :-**

No resolution of a district panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two third of the total number of members of such Panchayat.

**136A. Invitees at meetings of district panchayat and its committees :-**

(1) Notwithstanding anything contained in this Act, it shall be lawful for a district panchayat or any of its committees to invite at its meeting not more than five experts or specialists in the subject matter under consideration at the meeting, out of persons who in the opinion of such panchayat or, as the case may be, committee-

(a) have a degree in engineering, medicine, commerce or such other subject of any University established by law in India and experience

(b) are not disqualified to be members of the panchayat under any of the clauses (f), (g) and (h) of section 23.

(2) An invitee at any such meeting of the panchayat or its committee shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.]

**137. Administrative powers of Panchayats :-**

Subject to the provisions of this Act, it shall be the duty of each district panchayat to make in the area within the jurisdiction and so far as the funds at its disposal will allow, reasonable provision in regard to all or any of the matters specified in Schedule III.

**138. Other functions of Panchayats :-**

(1) A district panchayat may with the previous sanction of the State Government incur expenditure on [ education] or medical relief outside its jurisdiction, if its finances permit.

(2) A district panchayat may also make provisions for carrying out within the district any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic or cultural well-being of the inhabitants of the district.

(3) A district panchayat may by resolution passed at its meeting

and supported by two-thirds of the whole members make provision for any public reception, ceremony or entertainment within the district or may make contribution, towards an annual gathering or such other gathering of Panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of Panchayats and which is recognised by the State Government.

(4) A district panchayat may, subject to rules grant a loan out of its fund to a panchayat subordinate to it, for the purposes of this Act.

(5) A district panchayat shall in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular in the removal of untouchability carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.

(6) A district panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(7) It shall be lawful for the district panchayat to render financial or other assistance to any person for carrying on in the district any activity which is related to any of the matters specified in Schedule III.

(8)

(a) A district panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(b) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

**138A. Power of district panchayat to undertake works etc. on behalf of Government etc. and to give technical advice :-**

(1) it shall be lawful for a district panchayat to undertake upon such terms and conditions as may be agreed upon, the construction, maintenance or repair of any work or the management of any institution on behalf of Government, any local authority, any corporation incorporated under any law for the time being in force and owned or controlled by Government or the Court of Wards.

(2) It shall be lawful for a district panchayat to give on such terms and conditions as may be agreed upon, technical advice and guidance to a local authority in respect of the construction of any work undertaken by such local authority.]

**139. Property of district panchayats :-**

(1) In addition to the movable or immovable property acquired by a district panchayat, the following shall vest in the district panchayat, namely:-

(a) every road, building or other work constructed by a district panchayat out of the district fund with or without the Government assistance or people's participation;

(b) any land or property vesting in the State Government when transferred to a district panchayat by the State Government for local public purposes;

(c) any land or other property vesting in any other panchayat, when vested in the district panchayat by that panchayat for the purposes of this Act:

Provided that any land or property transferred to a district panchayat under [clause (b)] shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it subject to the terms and conditions of the transfer and in the circumstances specified in such terms or conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall revert in the State Government and it shall be lawful for the state Government to resume possession thereof.

(2) Notwithstanding that any immovable property vests in a district panchayat, no lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority: Provided that in the case of a lease of



immovable property other than the property referred to in clause (b) of sub-section (1), no such Previous

**140. District Fund :-**

(1) There shall be in each district a fund which shall be called a district fund.

(2) The following shall be paid into and form part of the district fund, namely:-

(a) The proceeds of any tax or fee imposed under this Act;

(b) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof;

(c) sums contributed to the district fund by the State Government;

(d) all sums received by way of loans from the State Government or otherwise;

(e) all sums received by way of gift or contributions by the district panchayat;

(f) the income or proceeds of any property vesting in the district panchayat;

(g) the net proceeds (after deducting the expenses of assessment and collections) of the cess authorised by section 169;

(h) all sums realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case.

**141. Application of District Fund :-**

(1) All property vested in a district panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force, shall be applied subject to the provisions and for the purposes, of this Act and all such sums and funds shall be kept in such custody as may be prescribed: Provided that out of the net proceeds of the cess referred to in clause (g) of sub-section (2) of section 140, a portion calculated at the rate of eight paise on every rupee of every sum on which the cess is levied under section 169, shall be applied by a district panchayat for the purpose of primary education in the district.]

[(1a) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed.]

(2) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of interest thereon shall be a first charge on its fund.

**141A. District Family Welfare Fund :-**

(1) Notwithstanding any- thing contained in section 140 and 141, in each district, there shall be established by the district panchayat a fund to be called the District Family Welfare Fund which shall consist of-

(a) all the sums received by way of gifts or contribution from the State Government or the Central Government or any person for the purpose of family welfare programmes;

(b) the proceeds of entertainment programme arranged by the Panchayat;

(e) the sale proceeds of family welfare seals.

(2) The Fund shall be applied by the panchayat for the purpose of family welfare programmes in the district.]

(3) Any sum in the fund which may not be required for the current expenditure may be invested in such manner as may be prescribed"].

**142. Secretary and officers and servants of a district panchayat :-**

Subject to the provisions of this Act and the rules made thereunder-

(1) there shall be a secretary for every district panchayat;

(2)

(a) a District Development Officer posted under the panchayat, shall be ex-officio secretary of the panchayat; [\* \* \* \* \* ]

[(3) a district panchayat shall have such other officers and servants as may be determined under section 203. Such officers and servants shall be appointed by such authority and their conditions of service shall be such as may be prescribed The officers and servants so appointed shall, in the discharge of their functions and

duties, exercise such powers as may be conferred on them by the panchayat, subject to rules, if any, made in this behalf.]

### **143. Powers and functions of District Development Officer**

:-

(1) Save as otherwise expressly provided by or under this Act the executive power of a district panchayat for the purpose of carrying out the provisions of this Act, shall vest in the District Development Officer who shall subject to the orders, if any, of the President or of the district panchayat, as the case may be-

(a) perform all the functions and exercise all the powers] specifically imposed or conferred upon him by or under this Act, or under any law for the time being in force; and

(b) lay down the duties of all officers and servants of the district panchayat.

(2) Subject to the provisions of this Act and the rules made thereunder the District Development Officer-

(a) shall be entitled to-

(i) attend the meetings of the district panchayat, or any of its committees;

(ii) call for any information, return, statement, account or report from any officer or servant of, or holding office under, the district panchayat;

(iii) grant leave of absence, [\* \* \* \* \*] to such class of officers as may be prescribed by rules;

(iv) call for an explanation from any officer or servant of, or holding office under, the district panchayat;

(b) shall, subject to the control of the district panchayat discharge duties and perform functions, in respect of matters which by or under this Act are not expressly imposed or conferred on any committee, presiding officer or any officer of the district panchayat;

(c) shall appoint such class of officers and servants as may be prescribed;

(d) shall supervise and control the execution of all activities of the district panchayat;

(e) shall take necessary measures for the speedy execution of all works and development schemes of the district panchayat;

(f) shall have custody of all papers and documents connected with the proceedings of meetings of the district panchayat and of its committees;

(g) shall assess and give his opinion confidentially every year on the work of the officers holding office under the district panchayat; forward them to such authorities as may be prescribed by the State Government and lay down the procedure for writing such reports about the work of officers and servants under the district panchayat;

(h) shall draw and disburse money out of the fund;

(i) shall exercise supervision and control over the acts of officers and servants holding office under the district panchayat in matters of executive administration and those relating to accounts and records of the district panchayat; and

(j) shall exercise such other powers and perform such other function as may be prescribed by the State Government.

[(2A)

(a) Save as provided in clause (b), the District Development Officer may subject to such conditions as he may think fit to impose, delegate any of his powers and functions to any officer or servant holding office under the district panchayat, provided such officer or servant is not below such rank as may be prescribed.

(b) Notwithstanding anything contained in sub-section (2), the power to draw and disburse money out of the fund referred to in clause (h) of the said sub-section shall in so far as such drawing and disbursement of money is in respect of any matter specified in Part II of Schedule III or dealt with under the Bombay Primary Education Act, 1947 (Bom. LXI of 1947) be deemed to be delegated to and be exercised by the Administrative Officer appointed for the District Panchayat under section 21 of the Bombay Primary Education Act, 1947. (Bom. LXI of 1947)]

(3) Subject to the other provisions of this Act, the District Development Officer shall be under the general control of the district panchayat.

**144. Budget estimate of district panchayat and re-appropriation of funds :-**

(1) Every district panchayat shall have prepared annually on or before such date, and in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year:

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The district panchayat shall as soon as may be after the said date consider the budget estimate so prepared and approve the same with or without modification as it shall think fit.

(3) The district panchayat may, if necessary, at any time during the year for which a budget estimate has been approved, cause a revised or supplementary budget estimate to be prepared and shall consider and approve the same in the same manner as if it were an original annual budget estimate.

(4) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimate.

**145. Copy of budget estimate to be forwarded to competent authority :-**

A copy of every budget estimate and a statement of every re-appropriation as finally approved under section 144 shall be forwarded by the President of the district panchayat without delay to the competent authority; a copy of the annual budget estimate shall be so forwarded not later than [the 31st March].

**146. Except on pressing emergency no sum to be expended unless it has been included in budget estimate :-**

(1) Save in the case of pressing emergency, no sum shall be expended by, or on behalf of any district panchayat unless such sum is included in some budget estimate approved under section 144 and in force at the time of incurring the expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) the circumstances shall forthwith be communicated in writing by the President of the

district panchayat to the competent authority with an explanation of the way in which it is proposed by the district panchayat to cover such extra expenditure.

**147. Accounts and their audit :-**

(1) Accounts of the income and expenditure of every district panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

(2) The Bombay local Fund Audit Act. 1930 (Bom. XXV of 1930) or any other corresponding law for the time being extending to any area shall apply to the auditing of the accounts of the district Panchayats.

**148. Annual reports :-**

(1) The Secretary of the district panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report shall be sent to the competent authority before such date and in such form as may be prescribed.

**CHAPTER 6**

Provisions as to Transfer of Certain Functions Under any Enactment to Panchayats

**149. Recovery of land revenue by panchayats :-**

The State Government shall, notwithstanding anything contained in the Land Revenue Code, or any law relating to the collection of any cess, for the time being in force in the State by notification in the Official Gazette, entrust to every gram panchayat and every nagar panchayat any or all of the functions and duties of a village accountant or patel or other similar functions of any other person, by whatever name called, in relation to the collection of land revenue (including cesses) and dues recoverable as arrears of land revenue which is levied and assessed by or under the Land Revenue Code, or law relating to the collection of any cess for the time being in force in the State and all other functions and duties of a village accountant under that Code.

**150. Responsibility of the panchayat :-**

The panchayat so entrusted under section 149 shall be responsible for the recovery and collection of the land revenue (including

cesses) and other dues of the gram or, as the case may be, nagar in accordance with the provisions of the Land Revenue Code and the rules, instructions and others made or issued thereunder and the law relating to the collection of such cesses.

**151. Conferment of powers and duties for collection of land revenue on Panchayats :-**

Where a panchayat has been entrusted with the functions and duties relating to the collection of land revenue (including cesses) and other dues under section 149, and State Government shall by notification in the Official Gazette, confer on such panchayat, subject to such conditions as may be specified in the notification all or any of the powers of the Collector, for the realisation of land revenue and other dues recoverable as arrears of land revenue under the Land Revenue Code, and for the collection of cesses under the law relating thereto, and it shall be competent for the panchayat so empowered to exercise all or any of the powers so conferred in this behalf.

**152. Certain class of officers posted under panchayat to be revenue officers and their powers :-**

(1) Notwithstanding anything contained in this Act and the Land Revenue Code, a District Development Officer, a Taluka Development Officer and such revenue officers not below the rank of a Deputy Collector as may be posted under a district Panchayat and designated by the State Government in this behalf shall be deemed for the purposes of this Chapter to be revenue officers within the meaning of the Land Revenue Code and for the purposes of this Chapter it shall be lawful for the State Government to define the area within which any such officer shall exercise jurisdiction and to confer on such officer all or any of the powers exercisable by the Collector or any other revenue officer under the Land Revenue Code.

(2) Where in the case of any such officer the area of his jurisdiction has been defined and the powers are so conferred, such officer shall have and

**153. Right of State Government to collect land revenue unaffected :-**

Notwithstanding anything contained in the provisions hereinbefore the right of the State Government to collect land revenue and any cess, shall remain unaffected, and if in the opinion of the State

Government a Panchayat exceeds or abuses its powers under this Chapter or fails to exercise the same, or is incompetent to perform, or makes persistent default in the performance of, the duties imposed or persistently disobeys any of the orders of the Collector with regard to the exercise of any of the said powers the State Govt may after consultation with the district panchayat and after the panchayat an opportunity to reader an explanation, by order in the Official Gazette withdraw all the powers conferred on the panchayat under this Chapter and direct its revenue officers to recover the land ravenue or as the case may be, the cesses.

**154. Collector to appoint officer on suspension of powers of panchayat :-**

On the withdrawal under section 153 of the powers conferred on a panchayat, the Collector shall appoint an officer to take charge of the accounts, records and other papers and articles in connection with the recovery of land revenue, or collection of cesses, in the gram or, as the case may be, nagar.

**155. Dissolution of district school board and transfer of their functions to taluka Panchayats and district Panchayats :-**

(1) Notwithstanding anything contained in the Bombay Primary Education Act, 1947 (Bom LXI of 1947) and the Saurashtra Primary Education Act, 1956, (Sau XXX III of 1956) or any other corresponding law for the time being in force, on and with effect from such date as the State Government may, by notification in the Official Gazette appoint (hereinafter referred to in this Chapter as "the said date") every District school board constituted under the Bombay Primary Education Act, 1947 or, as the case may be, the Saurashtra Primary Education Act, 1956 (hereinafter referred to in this Chapter as "the relevant Act") functioning immediately before the said date (hereinafter referred to in this Chapter as "the existing school board") shall stand dissolved and on such dissolution, the following consequences shall ensue, that is to say-

(a) the chairman, vice-chairman and other members of the existing school board shall be deemed to have vacated their office;

(b) the powers exercised and the functions and duties performed by the existing school board in the local area for which it was functioning immediately before the said date shall be exercised and performed by the taluka panchayats and the district panchayat



functioning in that local area, in accordance with the order made by the State Government under sub-section (2) (hereinafter referred to in this section as "the said order");

(c) all primary schools with their lands, buildings, records and equipment and other properties, movable and immovable vesting in, held by or under the control of the existing school board immediately before the said date shall vest in, be held by or be under the control of the taluka Panchayats and the district panchayat in accordance with the distribution made in that behalf under the said order;

(d) the assets, rights and liabilities of the existing school board shall stand transferred to the taluka Panchayats and the district Panchayat in accordance with the distribution thereof made under the said order;

(e) the employees of the existing school board shall stand transferred to the taluka Panchayats and the district panchayat in accordance with the distribution made in that behalf and on such terms and conditions as may be provided, in the said order:

Provided that the terms and conditions of service of any such employee shall not be less favourable than those applicable to him while in service of the existing school board:

Provided further that nothing in this clause shall entitle any employee to claim the same cadre or designation on such transfer.

(2) For giving effect to the provisions of sub-section (1). the State Government, having regard to the Panchayat Functions List, shall, by an order published in the Official Gazette provide for-

(a) the distribution of powers, functions and duties of the existing school board under the relevant Act and of the assets, rights, liabilities of the existing school board, and of the properties vested in held by or under the control of the existing school board and for the transfer of the employees of the existing school board, among the taluka panchayats and the district panchayat;

(b) the saving of anything done or any action taken by the existing school board before the date and the continuance and disposal of pending proceedings;

(c) all incidental, consequential and supplementary matters as may be necessary to give effect to the provisions of sub-section (1) and

for the proper and just distribution of assets, rights and liabilities between taluka Panchayats and the district panchayat; and

(d) the adaptations and modifications of the relevant Act, or of any other law whether by way of repeal or amendment as may be necessary to give effect to the provisions of sub-section (1).

**156. Delegation of powers of Registrar Co-operative societies to Panchayats :-**

(1) Notwithstanding anything contained in the Bombay Co-operative Societies Act, 1925, (Bom VII of 1925) or any other corresponding enactment for the time being in force in the State of Gujarat, the State Government, having regard to the Panchayat Functions List, may subject to such conditions as it may think fit to impose, by an order published in the Official Gazette, delegate to a district panchayat and the taluka panchayats subordinate to it, such powers, functions and duties of the Registrar or any other authority under the said Act or enactment as may be specified in the order.

(2) In particular, such order may provide for the delegation of powers relating to--

(a) the registration of co-operative societies;

(b) the approval of amendment to the bye-laws of co-operative societies;

(c) appeals arising out of non-admission of members in a co-operative society;

(d) maintenance of register of co-operative societies;

(e) change in the name or classification of a co-operative society;

(f) permission to co-operative societies to enter into partnership;

(g) the calling of, or extending the period for the calling of, annual general meetings of co-operative societies;

(h) the calling of a special general meeting of a co-operative society;

(i) the disposal of surplus assets of co-operative societies in the event of their winding up;

(j) direction for giving possession of books papers of the co-

operative societies to the chairman thereof.

**157. Transfer of functions of State Government to Panchayats :-**

(1) Notwithstanding anything contained in any law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer by an order published in the Official Gazette to a district Panchayat [any such powers functions and duties relating to any matter as are exercised or performed] by the State Government or any office of Government under any enactment which the State Legislature is competent to enact, or otherwise in the executive power of the State, and appear to relate to matters arising within a district and to be of an administrative character and shall on such transfer, allot to the district such fund and personnel as may be necessary to enable the district panchayat [to exercise the powers and discharge] the functions and duties so transferred.

(2) Without prejudice to the generality of the provisions of sub-section (1) the State Government may transfer to the district Panchayats [such powers, functions and duties as are exercised or performed] by the following departments of the State, namely:

- (1) Agriculture;
- (2) Animal husbandry;
- (3) Public Health and Medical relief;
- (4) Public Works Department activities in the district;
- (5) Social Welfare;
- (6) Land Department;
- (7) Prohibition Department so far as prohibition propaganda is concerned;
- (8) Co-operative Department;
- (9) Cottage Industries and Small-scale Industries;
- (10) District Statistical Office.

(3) On the transfer of [ any powers, functions and duties] under sub-sections (1) and (2) the district panchayat shall, if the State Government so directs and with the previous approval of the State

Government, may delegate to any panchayat subordinate to it any of the functions, powers and duties so transferred and allot to such fund and staff as may be necessary, to enable the panchayat [ to exercise the powers and discharge the functions and duties] so delegated.

(4) Where [ any powers functions and duties] conferred by or under any enactment are so transferred or delegated, that enactment shall have effect as if this section had been incorporated in that enactment.

(5) The matters in respect of which the functions and duties are transferred or delegated under this section shall be deemed to be included in the Panchayat Functions List.

**158. Transfer to Panchayats functions performed by Government before the commencement of this Act :-**

(1) Any functions and duties relating to any of the matters specified in the Panchayat Functions List performed before the commencement [of this section] by the State Government

(2) On such transfer, the district panchayat may, with the previous approval of the State Government, delegate to any panchayat subordinate to it any of the functions and duties so transferred.

**158A. Transfer of rights and liabilities in respect of property transferred to panchayat :-**

In transferring to a district Panchayat any power, functions and duties relating to any matter exercised by the State Government or any of its officers, it shall be lawful for the State Government to transfer to the district panchayat any property belonging to the State Government and connected with such matter together with the rights and liabilities (including rights and liabilities arising out of any contract) of the State Government in respect of the property and thereupon the right and liabilities which accrued before such transfer or which may accrue there after shall be the rights and liabilities of the district Panchayats.)

**158B. Obligation or liability of servants transferred under section 157 or 158 not affected :-**

The transfer or allotment of any servant to a panchayat under section 157 or 158 shall not affect-

(a) any obligation or liability incurred or default committed before

such transfer or allotment by such servant while acting or purporting to act in the discharge of his duties as such servant; and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default, and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto before such transfer or allotment by such authority as the State Government may by general or special order specify in this behalf.]

**158C. Withdrawal of powers, function etc. from district panchayat :-**

Notwithstanding the transfer of any powers, functions and duties in respect of any matter to a district panchayat under section 157 or 158, the State Government on a proposal from the district panchayat in that behalf or where it is satisfied that by reason of a change in the nature of the matter such as the conversion of a primary health centre into a secondary health centre or hospital or the conversion of a seed multiplication farm into an agricultural research farm or a road becoming a part of a high way, the matter would cease to be a matter in the Panchayat Functions List and that it is necessary to withdraw from the district Panchayat the powers, functions or duties in respect of such matter, may, after consultation with the State Council for panchayats, by notification in Official Gazette, withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the panchayat under section 158A and of the staff, if any, which may have been transferred to the panchayat under section 157 or 158, as the case may be].

**CHAPTER 7**

**Cattle Pounds**

**159. Cattle Trespass Act to cease to apply :-**

In any local area which is declared or deemed to be a gram or nagar under this Act, the provisions of the Cattle Trespass Act, 1871, (I of 1871) or any law corresponding to that Act in force in any part of the State shall cease to apply in relation to such local area:

Provided that-

(a) nothing in this section shall affect the liability of any person to

any penalty under any law so ceasing to be in force;

(b) any appointment, notification, order rule made or issued under any such law in respect of any cattle pounds within the limits of such gram or nagar shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act, and continue in force until superseded by any notification, order or rule made under this Act;

(c) any cattle pound in the local area established under any law so ceasing to be in force shall be deemed to be vested in the gram panchayat or nagar panchayat within whose limits it is situate and shall be maintained

**160. Power to establish cattle pounds and appoint pound keepers :-**

(1) Notwithstanding anything contained in any law for the time being in force, every gram panchayat, or as the case may be, nagar panchayat within the limits of its jurisdiction shall from time to time, appoint such places as it thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons as may be approved by the [Taluka Development Officer]. The duties of pound keepers shall be such as may be prescribed.

(2) Every pound keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the panchayat by which he is appointed.

**161. Penalty for allowing cattle to stray in street or to trespass upon private or public property :-**

(1) Whoever, within the limits of a gram or nagar, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished-

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees or with both;

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both:

[Provided that in absence of adequate and special reasons to the

contrary to be mentioned in the judgment of the court,-

(i) for a first offence, such fine shall not be less than one hundred rupees, and

(ii) for a second or subsequent offence such fine shall not be less than two hundred and fifty rupees.]

(2) The Magistrate trying the offence under sub-section (1) may order,-

(a) that the accused shall pay such compensation, not exceeding two hundred and fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land; and also,

(b) that the cattle in respect of which the accused is convicted shall be forfeited to the State Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognizable.

(5) Nothing contained in sub-section (1) shall render any person

### **162. Impounding cattle :-**

(1) It shall be the duty of every Police Officer and a Watch and Ward appointed by the panchayat, and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the limits of the gram or naggr, as the case may be.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees or with both.

### **163. Delivery of cattle claimed and consequences of failure to pay pound-fees and expenses etc :-**

(1) If the owner of cattle which are impounded under section 162 or his agent appears and claims the cattle, the poundkeeper shall

deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under section 163 and on depositing the amount of security, if any, prescribed under section 167.

(2) If the owner or his agent appears but refuses to pay the fees and expenses as required under sub-section (1) on the ground that the seizure was illegal and that the owner is about to make a complaint under section 166, then upon the deposit of the fees and expenses incurred in respect of the cattle, the cattle shall be delivered to him.

(3) If on any complaint referred to in sub-section (2), the seizure is declared to be lawful or if the owner or his agent fails to make such complaint within a period of four weeks from the date of delivery of the cattle to him and the provisions of section 167 are applicable, the poundkeeper shall require the owner or his agent to make a declaration and to deposit the amount of security as required by that section. If the owner or his agent fails to make such declaration or to deposit such amount, the cattle delivered to him under sub-section (2) shall be seized again for the purposes of sub-section (4)

(4) If the owner or his agent appears and refuses or omits to pay the pound-fees and expenses under sub-section (1) or to deposit the poundfees and expenses under sub-section (2) or to deposit the amount of security and to make a declaration as required by sub-section (3) the cattle or as many of them as may be necessary shall by siad public auction by such officer at such place and time and subject to such conditions as are referred to in section 164. The amount of pound-fees leviable and the expenses of feeding and watering together with the expenses of sale, if any, and the amount of security, if any, as prescribed under section 167 shall be deducted from the proceeds of the sale.

#### **164. Sale of cattle not claimed :-**

(1) If within seven days after any cattle have been impounded, no person appearing to be the owner of such cattle offers to pay the pound-fee and expenses chargeable under section 16 such cuttle shall be forthwith sold by auction in the prescribed manner and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such



officer as the panchayat authorises in this behalf that he was the owner of such cattle and shall in any other case, form part of the gram fund or, as the case may be, nagar fund.

(2) No Police Officer, or Officer, member or servant of the panchayat including the pound-keeper shall, directly, or indirectly purchase any cattle at a sale under sub-section (1).

**165. Pound-fees and expenses chargeable to be fixed :-**

(1) The pound-fee chargeable shall be such as the State Government may from time to time by notification in the Official Gazette, specify for each kind of cattle.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as shall from time to time be fixed by the panchayat with the previous approval of the District panchayat.

**166. Complaints of illegal seizure and detention :-**

(1) .Any person whose cattle have been seized under this Act or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the first class.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure of detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and, if the cattle have not been released the Magistrate shall besides awarding such compensation order their release, and direct that the fees and expenses leviable under this Act shall by paid be the person who made the seizure or detained the cattle.

(4) The compensation, fees, and expenses mentioned in this section may be recovered as if they were fines imposed by the Magistrate.

**167. Security in respect of impounded cattle :-**

(1) In any gram or nagar to which the State Government may, by notification in the Official Gazette, apply this section, every pound-keeper shall, before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the prescribed form a declaration regarding the ownership of such cattle and to deposit by way of security such sum as may be prescribed. Progressively increasing scales may be prescribed in respect of cattle belonging to or kept by the same person according to the number of cattle impounded at a time and the number of times the cattle are impounded and different scales may be prescribed for different grams and nagars.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be directed by the State Government by rules made in this behalf, shall stand forfeited to the State Government. If cattle are not impounded as aforesaid, the amount of security deposit shall on an application made by or on behalf of the depositor be refunded to him on the expiry of that period.

(3) On every occasion on which the release of the cattle impounded under this Act is claimed, the owner of the cattle shall deposit a fresh security.

**168. Removal of cattle to specified places :-**

(1) If in any local area to which the State Government may, by notification in the Official Gazette, apply this section, a Mamlatdar Mahalkari is satisfied-

(i) that the grazing land set apart for the use of cattle of one or more village in the taluka, or mahal under his jurisdiction is insufficient for the cattle belonging to the permanent residents of such village or villages;

(ii) that the crops or grass standing on any agricultural land or grazing land so set apart are likely to be damaged by cattle belonging to persons who are not residents of such village or villages and who own more than twenty head of cattle, he may-

(a) in any case referred to in clause (i) direct any such resident

owner, by special or general order, to remove or cause to be removed all or any dry or useless cattle belonging to him to such place or places within the State and within such period as may be specified in the order, and

(b) in any case referred to in clause (ii) direct any such non-resident owner, by special or general order, to remove or cause to be removed all or any of his cattle to such place or places within the State and within such period as may be specified in the order.

(2) If the owner of the cattle fails to remove the cattle as directed under sub-section (1). the Mamlaldar or Mahalkari, as the case may be, may direct a police officer not below the rank of a head-constable to remove or cause to be removed such cattle to the place or places specified in the order.

(3) If the Mamlatdar or Mahalkari is satisfied that the order issued by him under sub-section (1) is contravened by any owner or keeper of cattle, he may impose a fine not exceeding one thousand rupees. Any fine so imposed may, on failure of such owner or keeper to pay the same within the specified time, be recovered by sale of all or any of the cattle ordered to be removed under sub.-section (1).

## CHAPTER 8

### TAXATION

#### **169. Levy of :-**

fifty paise] cess on every rupee of land revenue.-

(1) The State Government shall levy, on the conditions and in the manner hereinafter described, a cess at the rate of [fifty paise] on every rupee of-

(a) every sum payable to the State Government as ordinary land revenue except sums payable on account of any of the charges mentioned in sub-section (2) and except sums payable on account of any charge which may be notified by the State Government in this behalf; [\*\*\*]

[(aa) every sum which would have been payable as land revenue by a small holder as defined in the Explanation to section 45 of the Bombay Land Revenue Code, 1879, (Bom. V of 1879) in respect of the land held by him for the time being for the purpose of agriculture, had land revenue been payable in respect of such land under the said section by such small holder; and]

(b) every sum which would have been assessable on any land as land revenue had there been no alienation of the land revenue:

Provided that no cess shall be levied under this section on sums less than twenty-five naye paise:

[Provided further that the amount of cess shall, if not a multiple of five paise be increased to the next highest multiple of five paise.]

["(c) every sum which would have been payable as land revenue in respect of any land leased by the Government (whether before or after the commencement of the Gujarat Panchayats (Second Amendment) Act, 1987, (Guj. 6 of 1987) if land revenue is leviable on such land, notwithstanding that no land revenue is leviable on such land under the terms of such lease."]

(2) The following sums shall not be taken into account for the purposes of sub-section (i), namely.-

(i) penalties and fines, including any charge imposed under section 148 of the Land Revenue Code, as penalty or interest in case of default, but not including any fine levied under section 65 of the said Code on grant of permission to use land for a purpose unconnected with agriculture;

(ii) occasional fixed payments, in commutation of all claims of the State Government in respect of succession to or transfer of inams, payable on each succession or transfer of inams;

(iii) land revenue on service inam land, recovered from interior village servants for periods of unauthorised absence from service; and all other such charges of assessment on inams and watans for broken periods and past years;

(iv) fees for grazing when charged per head of cattle.

[(3)

(a) If it appears to a district panchayat that for the purposes of its functions under Schedule III an additional provision of funds is necessary, it may by a resolution passed at its meeting apply to the State Government to increase in relation to its district the rate of cess levied under sub-section (1) to such extent and for such period as may be specified in the resolution:

Provided that by such increase the rate of cess shall not exceed [two hundred paise] on every rupee on which such cess is leviable

under sub-section 1).

(b) On receipt of an application under clause (a) the State Government may, by notification in the Official Gazette increase the rate of the cess as proposed by the district panchayat and thereupon sub-section (1) shall have effect as if for the rate specified therein the rate as so increased had been substituted.]

**170. Rules for assessment :-**

In the assessment of the said cess on villages alienated as defined in the Land Revenue Code,-

(a) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder;

(b) if the village has come under summary settlement under the exemptions from Land Revenue (No. 1) Act, 1863, or the Exemptions from Land Revenue (No. 2) Act, 1863, and clause (a) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement; and

(c) in villages to which neither of clauses (a) or (b) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector; or and if no such rate is recorded, or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector in agreement with the district panchayat which, shall pass a special resolution to that effect and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by the State Government, the expense of such rough survey being borne half by the district panchayat and half by the holder or proprietor of such village.

**171. Levy of cess on water rate :-**

The State Government may levy a cess not exceeding twenty naye paise on every rupee of water-rate leviable under the provisions of the Bombay Irrigation Act, 1879, (Bombay VII of 1879).

**172. Manner of levying cess described in section 169 :-**

The cess described in section 169 shall be levied, so far as may be. in the same manner, and under the same provisions of law, as the

land revenue :

Provided that, in the case any land in the possession of a tenant, if such tenant is liable [to pay the land revenue] in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, (Bom. LXVII of 1948) or the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, (Bom. XCLX of 1958) such tenant shall be primarily liable for the payment of cess in respect of such land.

**173. Manner of levying cess described in section 171 :-**

The cess described in section 171 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as water-rates payable to the State Government under the Bombay Irrigation Act, 1879. (Bom. VII of 1879).

**174. Assistance to superior holders :-**

The provisions of law relating to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them, or from persons authorised to use their water-courses, shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of water-courses in respect of the recovery of the said cesses from their tenants, occupants or persons authorised to use their water courses, and shall be applicable also to occupants of land under the Land Revenue Code for the recovery of the said cesses from their tenants or joint occupants.

**175. Collection and credit of local cess on water rates :-**

The local cess leviable on water-rate under section 171 in respect of lands shall be paid by the State Government to the taluka panchayat within the jurisdiction of which the lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

**176. Collection and credit of local cess of land revenue :-**

The local cess leviable on lands under section 169 shall be paid by the State-Government to the district Panchayat within the jurisdiction of which lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

**177. Suspension and remission of local cess :-**

The State Government may, on the application of the district panchayat to which the cess is payable, or suspend or remit the

collection of cess or any portion thereof in any year in any area, subject to the jurisdiction of such district panchayat.

**178. Levy of taxes and fees by gram Panchayats and nagar panchayats :-**

(1) [Subject to any general or special order [including an order fixing the minimum and maximum rates of a tax or fee] which the State Government may make in this behalf, it shall be competent to a gram panchayat and to a nagar panchayat to levy] all or any of the following taxes and fees at such rates as may be decided by it [x x x] and in such manner and subject to such exemptions as may be prescribed, namely :-

(i) a tax on buildings (whether subject to payment of agricultural assessment or not) and lands (which are not subject to payment of agricultural assessment), within the limits of the gram or, as the case may be, nagar;

[(ii) octroi on animals or goods or both brought within the gram or nagar for consumption, use or sale therein,]

(iii) a pilgrim tax;

(iv) a tax on fairs, festivals and other entertainment [not being a tax on payments for admission to any entertainment];

[(v) a tax on vehicles, boats or animals used for riding, draught or burden, kept for use within the gram or nagar, whether they are actually kept within or outside the gram or nagar;

(va) a toll on vehicles and animals used as aforesaid entering the gram or nagar but not liable to taxation under clause (v) of this sub-section;

(vb) a tax on dogs kept within the gram or nagar]; (vi) [xxx]

(vii) a general sanitary cess for the construction or maintenance, or the construction and maintenance, of public latrines and for the removal and disposal of refuse;

(viii) a general water rate which may be imposed in the form of a rate assessed on buildings and lands or in any other form as may be best adopted to the circumstances of any class of cases;

(ix) any other prescribed tax (not being a toll on motor vehicles or trailers, save as provided by section 20 of the Bombay Motor

Vehicles Tax Act, 1958, (Bom. LXV of 1958) [or a tax on profession, trader, callings and employments] [or a tax on payments for admission to any entertainment] which the state Legislature has, under the Constitution, powers to impose in the State;

(x) a fee on markets and weekly bazars;

(xi) a fee on cart-stands and tonga-stands;

(xii) a special water rate for water supplied by the panchayat through pipes which may be imposed in any form including that of charges for such water supplied, fixed in such mode or modes as shall be best adopted in the circumstances of any class of cases;

(xiii) a fee for the supply of water from wells and tanks vesting in it, for purposes other than domestic use and for cattle.

(xiv) a fee for temporary erection on, or putting up projections over or temporary occupation of, any public street or place;

(xv) a special sanitary cess upon private latrines, premises or compounds cleaned by the panchayat agency;

[(xva) a drainage tax; (xvb) a lighting tax;]

(xvi) a fee for cleansing a cess pool constructed on land whether belonging to a panchayat or not;

(xvii) a fee for grazing cattle on grazing lands vesting in a panchayat,

[(xviii) in lieu of any two or more separate taxes specified in clauses (i), (vii), (viii) and (xvb), a consolidated tax on buildings or lands or both situated within the limits of the gram or, as the case may be, nagar ]

[(1A) Notwithstanding anything contained in sub-section (1), after the expiry of a period of two years from the 1st April, 1908, it shall be compulsory for a gram Panchayat or, as the case may be, a nagar panchayat to levy a tax on buildings and lands referred to in clause (i) of sub-section (1) and at least any two of the other taxes or fees referred to in the said sub-section.]

(2) The duties and obligations of persons liable to any tax or fee under sub-section (1) shall be such as may be prescribed.

[(2A) Rules made under sub-section (1) may, inter alia, provide-



(1) for the assignment and payment of a part of the proceeds of pilgrim tax levied by a gram panchayat or nagar panchayat to a district panchayat or taluka panchayat to such extent and in such circumstances and on such conditions as may be prescribed;

(2) for lump sum payment of tax on vehicles or animals by person liable to pay such tax, ]

(3) The tax on buildings or lands referred to in [ clause (i) and (xviii)] of sub-section (1) shall be leviable from the owners or occupiers thereof:

Provided that when an owner of a building or land has left the gram or nagar or cannot otherwise be found, any person to whom such building or land has been transferred shall be liable for the tax leviable from the owner.

(4) The State Government may, by notification in the Official Gazette, direct that the tax upon buildings or lands referred to in clause (i) of sub-section (1) shall not be levied, or shall be levied on such reduced scale, on all buildings and lands or any class of buildings or lands situated in an area predominantly populated by members of Schedule Castes or Scheduled Tribes.

(5) Notwithstanding anything contained in sub section (1), where a tax on professions, trades or callings and employments has been imposed by any district panchayat under the provisions of this Act in the area within the limits of a gram panchayat or nagar panchayat, it shall not be lawful for that panchayat so long as the tax is being so imposed to levy any such tax within such limit.

(6) Any person aggrieved by the assessment, levy or imposition of any tax or fee may appeal to the district panchayat within the prescribed period.

[(7) No such appeal shall be entertained unless the amount claimed from the appellant has been deposited by the appellant with the panchayat].

(8) The State Government may suspend the levy or imposition of tax or fee and may at any time rescind such suspension.

**179. Lump-sum contribution by factories in lieu of taxes levied by panchayat :-**

(1) Subject to any rules that may be made under this Act, and

regard being had to the fact that factory itself provides in the factory area all or any of the amenities which such Panchayat provides, a gram panchayat or as the case may be, nagar panchayat may arrive at an agreement with any factory with the sanction of the State Government to receive a lump-sum contribution in lieu of all or any of the taxes levied by the panchayat.

(2) Where no such agreement as is referred to in sub-section (1) can be reached, the matter may be referred to the State Government in the manner prescribed and the State Government may after giving to the panchayat and the factory concerned an opportunity of being heard decide the amount of such contribution. The decision of the State Government shall be binding on the panchayat and the factory concerned.

[(3) In the case of any matter referred to the State Government under sub-section (2), the State Government may, subject to such conditions as it may think fit to impose having regard to the circumstances of the case, by order in writing direct the panchayat to stay the collection or recovery from the factory of all or any of the taxes until the State Government decides the matter under sub-section (2).]

### **180. Framing markets, etc :-**

[(1)] It shall be lawful for a gram panchayat or as the case may be, a nagar Panchayat to lease by public auction or private contract the collection of any fees levied by it on markets and weekly bazars [or the collecting of octroi]:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

[(2)] All sums payable under the terms and conditions of the lease, if not paid, shall be recoverable as arrears of land revenue.

(3) The lessee and every person employed by the lessee to assist him in the collection of the fees or octroi, as the case may be shall be deemed to be person appointed by the panchayat to collect the same under this Act and shall exercise all the powers and be subject to all the responsibilities attaching to persons appointed to collect such fees or octroi, as the case may be, under this Act.

(4) Any rules or orders for the levy, collection and recovery of any

such fees or octroi as the case may be, shall have effect subject to the provisions of this section].

**181. Levy and collection upto twenty five naye paise as cess of every rupee of land revenue :-**

(1) A gram panchayat or as the case may be nagar panchayat may, by resolution passed at its meeting, apply to levy a cess at the rate not exceeding twenty five naye paise, according to its needs and capacity, on every rupee of every sum payable to the State Government as land revenue, and on which a cess is leviable under [clauses(a) (aa) and (b)] of sub-section (1) of section 169 and thereupon the State

(2) Where a gram Panchayat or nagar panchayat undertakes for the benefit of the community any special work or project so as to complete it within a specified period and for that purpose an additional provision of funds is necessary, the panchayat may, by resolution passed at its meeting and with the previous permission of the district panchayat apply to the State Government to increase the rate of cess levied in accordance with sub-section (1) to such extent and for such period as may be specified in the resolution:

Provided that such increase shall not exceed one hundred naye paise on every rupee of every sum payable to the State Government as ordinary land revenue.

(3) On receipt of an application under sub-section (1) or (2) the State Government shall levy the cess or increase the rate thereof as proposed by the Panchayat and sub-section (1) shall have effect accordingly.

(4) The net proceeds (after deducting the expenses of assessment and collection) of any cess levied and collected in accordance with sub-section(1) shall form part of and be paid into the gram fund or as the case may be nagar fund.

(5) The State Government may, at the request of the panchayat to which the cess referred to in sub-section (1) is payable, suspend the collection of the cess or any portion thereof in any year.

**182. Power of [Controlling panchayat] to increase taxation of panchayat :-**

(1) If the income of a gram panchayat or nagar panchayat falls below what in the opinion of [controlling panchayat] is necessary

for the proper discharge of the duties specified in Schedule I [controlling panchayat] may after having given such panchayat an opportunity of being heard, require it to take steps within six months, to increase its income to such extent as [controlling panchayat] considers necessary. If the gram panchayat or as the case may be nagar panchayat fails to take adequate steps to increase its income to the required extent, [controlling panchayat] may require it to levy any of the taxes or fees specified in section 178 or increase the rate at which any of the such taxes and fees is levied and it shall be the duty of the panchayat to comply with the requirement:

Provided that [controlling panchayat] shall not compel the panchayat to levy any tax or fee or increase the rate thereof beyond the maximum rate prescribed in this behalf.

(2) The panchayat in respect of which an order under sub-section (1) is made by the [controlling panchayat] may within the prescribed period prefer [an appeal to the district panchayat, if the controlling panchayat is a taluka panchayat and to the State Government, if the controlling panchayat is a district panchayat] which may pass such orders on the appeal as it may think just and proper. [The authority to which the appeal is preferred may] stay the execution of the order until the appeal is decided.

Explanation.-In this section "controlling panchayat" means a taluka panchayat in the case of a gram panchayat and the district panchayat in the case of a nagar panchayat.]

#### **182A. Recovery of cost of watch and wards :-**

If under clause (a) of item 4 of Schedule I, gram panchayat or nagar panchayat incurs any expenditure on watch and ward of the gram or as the case may be, nagar and of the crops therein the cost of such watch and ward shall be levied and recovered by the panchayat from such persons and in such manner (including the levying of a fee) as may be prescribed.]

#### **183. Taxes and fees which may be imposed by taluka panchayat and mode of collection thereof :-**

(1) Subject to any general or special orders which the State Government may make in this, behalf, every taluka Panchayat may after observing the preliminary procedure required by section 189 impose an education cess and any of taxes and fees which are leviable by a gram or nagar panchayat under section 178:

Provided that the rate of tax or fee leviable by a taluka panchayat in respect of any matter within the limits of any gram or nagar shall not exceed 15 per cent. of the rate of the tax or fee actually levied by the gram panchayat or nagar panchayat in respect of the same matter, and where no such tax or fee has been levied by the gram panchayat or nagar panchayat, shall not exceed 15 per cent, of the prescribed maximum rate of tax or fee in respect of the same matter:

Provided further that:-

(i) no tax imposed as aforesaid, other than a special sanitary cess or a water-rate, shall without the express [consent of the Government, or as the case may be, the district panchayat concerned] be leviable in respect of any building or part of any building or any vehicle, animal or other property, belonging to the Government [or the] district panchayat and used solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops, the conveyance of Government stores or of any other Government property. the passage of Military or Police Officers on duty, or the passage or conveyance of person or property in the custody of such of officers; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

(2)

(a) Where in the exercise of the powers under sub-section (1) a taluka panchayat imposes a tax or fee in any area within the jurisdiction of a gram or nagar panchayat, such tax or fee shall be collected by the gram or nagar panchayat concerned from those persons who are liable to pay the same under the rules made by the taluka panchayat in accordance with the provisions of section 192 as if it were a tax or fee imposed by the gram or nagar panchayats concerned under the provisions of this Act and shall be paid to the taluka panchayat at such time and in such manner as the taluka panchayat may specify.

(b) Such percentage not exceeding 50 per cent. of the gross collection of such tax or fee in any financial year as the State Government may by general or special order determine shall not form part of the taluka fund but shall be assigned to the gram

panchayat or, as the case may be, nagar panchayat in such manner as the taluka panchayat may determine.

(c) If any panchayat makes any default in the payment of any sum due in respect of a tax or fee within the time specified under clause (a), the provisions of section 188 shall mutatis mutandis apply to such default and the taluka panchayat shall exercise the same powers as are exercisable by a district panchayat under that section.

**184. Increase of stamp duty for taluka panchayat :-**

(1) Taluka Panchayat may, by resolution passed at its meeting apply to the State Government, for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 (Bom. LX of 1958) on instruments of sale, mortgage, lease or any other kind of transfer of immovable property situated within the limits of the taluka, to such extent as not to exceed 15 per cent of the rate of duty so leviable and specified in the resolution.

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 (Bom. LX of 1958.) receipt of an application under sub-section (1) the State Government shall by notification published in the Official Gazette, direct that the rate of stamp duty on the class of instruments specified in the notification and affecting the immovable property situated within the taluka shall be increased to the extent specified in the notification with effect from the date specified in the notification and thereupon, the rate of stamp duty shall stand increased accordingly.

(3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, (Bom. IX of 1958.) shall be read as if it specifically required the particulars therein referred to be set forth separately in respect of-

(a) property situated in the jurisdiction of any taluka panchayat; and

(b) property not situated in the jurisdiction of any taluka panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class or instruments for a district panchayat under section 186.

(5) The State Government shall, every year after due appropriation made by law in this behalf, pay to the taluka panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1), in respect of properties situated within the jurisdiction of the taluka panchayat.

**185. Taxes which may be imposed by a district panchayat :-**

Subject to any general or special orders with the State Government make in this behalf, every district panchayat may, after observing the preliminary procedure required by section 189 impose any of the cesses and fees which are leviable by a gram panchayat under section 178;

Provided that the rate of tax or fee leviable by a district Panchayat in respect of any matter within the limits of any gram or nagar shall not exceed 10 percent, of the rate of the tax or fee actually levied by the gram panchayat or nagar panchayat in respect of the same matter, and where no such tax or fee has been levied by the gram panchayat or nagar panchayat, shall not exceed 10 percent, of the prescribed maximum rate of tax or fee in respect of the same matter :

Provided further that-

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate, shall without the express [consent of the Government or, as the case may be, the taluka panchayats concerned] be leviable in respect of any building or part of any building or any vehicle, animal or other property belonging to the Government or to the taluka panchayat [ \* \* \* ] and used solely for public purposes, and not used or intended to be used for purpose of profit and no toll shall be leviable for passage of troops the conveyance of Government stores or of any other Government property the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officers; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

**186. Increase of stamp duty for a district panchayat :-**

(1) A district panchayat may, by resolution passed at its meeting, apply to the State Government, for increasing the rate of stamp duty leviable under the Bombay Stamp Act, (1958 Bom. LX of

19:18) on instruments of sale, mortgage, lease or any other kind of transfer of immoveable property situated within the limits of the district, to such extent as not to exceed [20] per cent of rate of duty so leviable and specified in the resolution.

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 (Bom. LX of 1958) receipt of an application under sub-section (1), the State Government shall by notification published in the Official Gazette, direct that the rate of stamp duty on the class of instruments specified in the notification and affecting the immovable property situated within the district shall be increased to the extent specified in the notification with effect from the date specified in the notification and thereupon, the rate of stamp duty shall stand increased accordingly

(3) For the purpose of this section 28 of the Bombay Stamp Act, 1958, (Bom. LX of 1958) shall be read as if it specifically required the particulars therein under referred to be set forth separately in respect of : -

(a) property situated in the jurisdiction of any district Panchayat; and

(b) property not situated in the jurisdiction of any district panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a taluka panchayat under section 184.

(5) The State Government shall, every year after the due appropriation made by law in this behalf, pay to the district panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of properties situated within the jurisdiction of the district panchayat.

**187. Tax on professions etc., levied by district panchayat to be collected by gram or nagar panchayat :-**

Where in exercise of the powers given by this Act, a district panchayat imposes [ any tax or fee] that notwithstanding anything in this Act or any other law for the time being in force. in any area within the jurisdiction of a gram panchayat or nagar panchayat-



(a) Such tax or fee shall be collected by the gram panchayat concerned from those persons who are liable to pay the tax or fee under the rules made by a district panchayat and who reside, or carry on any trade or exercise any profession or follow a calling, within such area, in accordance with the provision of section 192, as if it were a tax or fee imposed by the gram panchayat or, as the case may be, nagar panchayat under the provisions this Act, and shall be paid to the district panchayat at such time and in such manner as the district panchayat may specify;

(b) such percentage, not exceeding fifty per cent. of the gross collection of such tax or fee in any financial year, as the State Government may by general or special order determined shall not form part of the district Fund but shall be assigned to the gram panchayat, or as the case may be nagar panchayat in such manner as the district panchayat may determine

**188. Default in payment by panchayat :-**

(1) If any panchayat makes default in the payment of any sum due in respect of a tax on professions, trades, callings and employments or any other tax or fee within the time specified by the district panchayat under clause (a) of section 187, the district panchayat may, notwithstanding any law relating to the funds vesting in such panchayat or any other law for the time being in force, direct any bank in which any moneys of the panchayat are deposited or the person in charge of the Government treasury or of any place of security in which the moneys of the panchayats are deposited to pay such moneys as may be standing to the credit of the panchayat in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the panchayat by way of deposit by such bank or person and such bank or person shall be bound to obey such order.

2. Every payment made pursuant to an order under sub-section (1) shall be a sufficient discharge to such bank or person from all liability to the Panchayat in respect of any sum so paid by it or him out of the moneys of the panchayat so deposited with such bank or person.

**189. Procedure of district panchayat preliminary to imposing tax :-**

(1) A taluka panchayat or, as the case may be. a district Panchayat shall, before imposing a tax or fee, by resolution passed at a

meeting of the panchayat-

(a) select a tax or fee which may be imposed; and

(b) approve rules describing the tax or fee selected; and

(c) shall in such resolution and in such rules specify-

(i) the class or classes of persons or of property, or of both, which the panchayat desires to make liable, any exemptions which it desires to give (including the circumstances or principles on which exemptions can be given) and the duties and obligations of persons liable to pay any such tax or fee;

(ii) the amount for which, or the rate at which, it is desired to make such classes liable; and

(iii) all Other matters which the State Government may require to be so specified.

(2) When such a resolution has been passed, the panchayat shall publish the rules with a notice in the prescribed form and manner.

(3) Any inhabitant of the taluka or as the case may be, district objecting to the imposition of the said tax or fee, or to the amount or rate proposed, or to the class of persons or property to be made liable therefor, or to any exemptions proposed, may, within one month from the publication of the said notice, send his objections in writing to the taluka panchayat or district panchayat as the case may be and the panchayat shall take all such objections into consideration, or shall authorize a committee of its member to consider and report on them.

(4) The panchayat shall take the proposals and all objections received thereto or the report of the committee, if any, into consideration at a meeting and sanction the rules with or without modifications.

### **190. Procedure for abolishing or varying tax :-**

(1) The panchayat may, at a special meeting, pass a resolution to propose the abolition of any tax or fee already imposed or a variation in the amount or rate thereof.

(2) Any such proposal shall be dealt with according to the procedure laid down in section 189 for the imposition of a new tax or fee; and the notification of the abolition or variation of a tax or

fee under this section in the Official Gazette shall be conclusive proof that such abolition or variation has been made in accordance with the provisions of this Act.

(3) Nothing in this section shall affect the power of a panchayat to propose an increase in the rate of cess on land revenue or in the rate of stamp duty under the provisions of sections 181, 184 or 186.

**191. Publication of sanctioned rules with notice :-**

All rules sanctioned under section 189 shall be published in the prescribed manner by the taluka panchayat in the taluka and by the district panchayat in the district for which they are made, and the tax as described in the rules so published shall, from the date specified in the notice under that section in (such date not being less than one month from the publication of such notice), be imposed accordingly:

Provided that-

(a) a tax leviable by the year-

(i) shall not come into force except on one of the following dates, that is to say, the first day of April, the first day of July, the first day of October or the first day of January, in any year, and

(ii) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing;

(b) on or before the day on which a notice is issued, the panchayat shall publish such further detailed rules as may be required prescribed the mode of levying and recovering the tax therein specified, and the dates on which the tax or the instalments (if any), thereof, shall be payable; and

(c) if the levy of a tax, or of a special portion of tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except as regards any unpaid arrears which have become due during the period.

**CHAPTER 9**

Recovery of Taxes, Fees, Cesses and Other Dues

**192. Recovery of taxes and other dues :-**

(1) When any tax or fee or any other sum has become due, a

panchayat shall with the least practicable delay, cause to be presented to the person, liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

[(2) If any person fails to pay any tax or fee or any other sum due from him to a panchayat under this Act or the rules on or before the specified date of payment, he shall pay to the panchayat by way of penalty in addition to the tax, fee or sum, as the case may be, an amount equal to one per cent of the amount of the tax or fee or sum as the case may be for each complete month during the time he continues to make default in the payment of tax, fee or sum, as the case may be.

(2A) In the case of a person who is a defaulter under sub-section (2) the panchayat shall cause a writ of demand in the prescribed form to be served on such person.]

(3) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub section (2) shall be effected by an officer or servant of the Panchayat in this behalf-

(a) by giving or tendering the bill or writ to the person to whom it is addressed; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the area of jurisdiction of the Panchayat or by giving or tendering the bill or writ to some adult male member or servant of his family; or

(c) if such person does not reside in the area of jurisdiction of the panchayat and his address elsewhere is known to the officer directing the issue of the bill or writ then by forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(d) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates in the presence of at least two panchas.

(4) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the movable property of the defaulter in the prescribed manner.

(5) Fees for-

(a) every writ of demand issued under sub-section (2);

(b) every distress made under sub-section (4);

(c) the cost of maintaining any livestock seized under sub-section (4) shall be chargeable at such rates as may be prescribed.

(6) Notwithstanding anything contained in the foregoing sub-sections any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.

(7) If a panchayat is unable to recover a tax or fee or [other sum (including penalty)] due to it as aforesaid, it shall be recoverable as an arrear of land revenue;

\* \* \* \* \*

(8) If a panchayat fails to recover any tax, fee or any sum due to it, or neglects to take action under sub-sections (2) and (3) of Section 279 or sub-sections (2) and (4) of this section, the competent authority may apply to the Collector to recover the same as an arrear of land revenue.

(9) On receipt of such application the Collector shall, after holding such enquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue unless such sum is, under section 193 directed to be written off.

**192A. Penalty for evasion of octroi :-**

Where any animal or goods passing into a gram or nagar are liable to the payment of octroi, any person, who with the intention of defrauding the gram panchayat or nagar panchayat, as the case maybe, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of such gram or nagar, any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, or who fails to comply with any direction given by the officer demanding the octroi by the authority of panchayat with reference to the introduction of the animal or goods within the octroi limits shall be punished, on conviction, with fine which may extend to ten times the amount of such octroi or to fifty rupees, whichever may be greater.]

**193. District Development Officers power to direct**

### **irrecoverable sums to be written off :-**

The District Development Officer may direct any sum certified by a Nyaya Panchayat and recoverable under sections 276, 277 and 279 and any sum certified by a panchayat as recoverable as an arrear of land revenue to be written off, if in his opinion the sums are irrecoverable:

Provided that no sum exceeding five hundred rupees shall be written off except with the previous sanction of the State Government.

#### CHAPTER 9A

Power to Evict Persons from Premises Belonging to Panchayats

### **193A. Power to evict certain persons from panchayat premises :-**

(1) If a panchayat is satisfied-

(a) that the person authorised to occupy any premises belonging to it (hereinafter referred to as "the panchayat premises") as a tenant or otherwise has-

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(ii) sub-let, without the permission of the panchayat, the whole or any part of such premises, or

(iii) acted in contravention of any of the terms express or implied under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any panchayat premises, the panchayat may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of service of the notice.

(2) Before an order under sub-section (1) is made against any person the panchayat shall inform the person by notice in writing of the grounds on which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause, why such order

should not be made, within a period to be specified in such notice. If such person makes an application to the panchayat for extension of the period specified in the notice the panchayat may grant the same on such terms as to panchayat and recovery of the amount claimed in the notice as it deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the panchayat by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1).

(3) If any person refuses or fails to comply with an order made under sub-section (1) the officer authorised by the panchayat in this behalf may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(4) If a person who has been ordered to vacate any premises on the grounds mentioned in sub-clause (i) or (iii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the panchayat may allow, pays to the panchayat the rent in arrears or carries out or otherwise complies with the terms contravened by him to

Explanation.-For the purposes of this section and section 193B, the expression "unauthorised occupation", in relation to any person authorised to occupy any panchayat premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

### **193C. Deduction of rent from salary or wages in certain cases :-**

(1) Without prejudice to the provisions of section 193A any person who has been allotted any panchayat premises and is an employee of the State Government or a local authority may execute an agreement in favour of the panchayat providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the panchayat in satisfaction of the rent due by him in respect of the panchayat premises allotted to him.

(2) Notwithstanding anything contained in any law for the time being in force, on the execution of such agreement, the State Government or, as the case may be, the local authority shall, if so required by the panchayat by a requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the requisition and pay the amount so deducted to the panchayat, as if it were a part of the salary or wages payable and paid to the employee.

**193D. Appeal :-**

(1) Any person aggrieved by an order of the panchayat under section 193A or section 193B may, within thirty days of the date of the service of the notice under sub-section (1) of section 193A or sub-section (1) or (2) of section 193B, as the case may be, prefer an appeal to the State Government :

Provided that the State Government may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the State Government may, after calling for a report from the panchayat and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the State Government may stay the enforcement of the order of the panchayat for such period and on such conditions as it thinks fit.

**193E. Bar of Jurisdiction of Civil Courts :-**

No order made. by the State Government or the panchayat in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.]

**CHAPTER 10**

Financial Assistance to Panchayats

**194. Provision by the State Government for making grants to panchayats :-**



The State Government shall in each year after due appropriation made by the State Legislature by law in this behalf make provision for making grants to the Panchayats in accordance with this Chapter.

**195. Extent of grants out of the average three years collection of land revenue :-**

(1) For the purposes of section 194, the State Government shall in each year determine a sum which shall be equal to the average of the land revenue collected or recovered during the three preceding revenue years in the State.

(2) Out of the sum determined under sub-section (1) an amount equal to-

(a) such percentage of the sum as may be prescribed shall be set apart for meeting the expenditure on the salaries of the secretaries of gram panchayats and of the village accountants (talatis) in the State and on their training;

(b) five per cent. of the sum shall be paid into the State Equalisation Fund established under section 196:

Provided that in the case of a gram or nagar Panchayat of a Devasthan, gram or nagar the land revenue in respect of which is wholly or partially alienated in favour of the Devasthan, the gram panchayat or the case may be nagar panchayat shall be paid in each year out of the State Equalisation Fund a sum of the same basis as is applicable to other grams and nagars under sub-section (3).

(3) Out of the balance remaining after making the provisions in accordance with sub-section (2)-

(i) an amount equal to-

(a) 50 per cent of the balance shall be distributed among the gram panchayats and nagar panchayats,

(b) 25 per cent. of the balance shall be distributed among the taluka panchayats; and

(c) 10 per cent of the balance shall be distributed among the district panchayats, in proportion to the average collection and recovery of land revenue from the respective gram, nagar, taluka or as the case may be, district panchayat in the three revenue

years immediately preceding;

(ii) an amount equal to-

(a) 7 1/2 per cent, of the balance shall be paid into the District Equalisation Fund established under section 197,

(b) 7 1/2 per cent. of the balance shall be paid into the District Gram Encouragement Fund established under section 198.

**196. State Equalisation Fund :-**

(1) There shall be established by the State Government a fund to be called the State Equalisation Fund, which shall consist of the payments made into it under clause (b) of sub-section (2) of section 195 and which shall be utilised for making special grants to backward districts so as to minimise the social and economic inequalities between the districts of the State.

(2) The fund established under sub-section (1) shall be non-lapsable.

(3) Special grants out of the said fund to district Panchayats shall be made in accordance with the rules made in that behalf.

**197. District Equalisation Fund :-**

(1) In each district, there shall be established by the district panchayat a fund to be called the District Equalisation Fund, consisting of the payments made into it under sub-clause (a) of clause (ii) of sub-section (3) of section 195 which shall be utilised by the district panchayat for making special grants to backward panchayats subordinate to it so as to minimise the social and economic inequalities between the panchayats in the district.

(2) The fund established under sub-section (1) shall be non-lapsable and shall be invested in the prescribed manner.

(3) Special grants out of the said fund shall be made in accordance with the rules made in that behalf.

**198. District Gram Encouragement Fund :-**

(1) In each district, there shall be established by the district panchayat a fund to be called the District Gram Encouragement Fund which shall consist of the payments made into it under sub-clause (b) of clause (ii) of sub-section (3) of section 195 and which shall be utilised by the district panchayat for making incentive

grants to gram Panchayats to encourage them to raise their income by levying taxes and fees leviable by them under this Act.

(2) The fund established under sub-section (1) shall be non-lapsable and shall be invested in the prescribed manner,

(3) Incentive grants out of the said fund shall be made in accordance with the rules made in that behalf.

**199. District Development Fund :-**

(1) In each district, there shall be established a fund to be called the District Development Fund which shall consist of the contributions made by the gram Panchayats and nagar panchayats under section 103.

(2) The fund shall vest in the district panchayat and shall be invested in the prescribed manner.

(3) The fund shall be utilised for granting loans to gram panchayat and nagar panchayats in accordance with the rules and for payment of interest on contributions made by the said panchayats.

(4) The State Government shall make rules prescribing the purposes for which loans may be granted, the terms and conditions (including the rate of interest and of penal interest) on which such loans may be made, the period therefor and all matters incidental to the grant of loans.

**199A. Temporary withdrawal from District Gram Encouragement Fund or District Development for certain purposes :-**

(1) Notwithstanding anything contained in sections 198 and 199, it shall be lawful for the district panchayat to utilise, at anytime during the period ending on 31st July, 1977, the amount standing to the credit of the District Gram Encouragement Fund established under section 198 or of the District Development Fund established under section 199, for the purpose of giving financial assistance to landless labourers for construction of houses on the plots of lands allotted for such purpose to such labourers by the State Government:

Provided that the maximum amount of such financial assistance to be given from any of said Funds during the aforesaid period and the mode of payment of such assistance, shall be regulated, by

general or special order made by the State Government in that behalf.

(2) Any amount withdrawn from any of the aforesaid Funds for the purpose of sub-section (1) shall be regarded as an advance, repayable without any interest by the district panchayat to the credit of the concerned Fund within a period of one year from the date of its withdrawal.]

**200. Grant of a portion of forest revenue to district panchayats :-**

The State Government shall after due appropriation made by the State Legislature by law in this behalf, pay to every district panchayat an amount equal to two per cent. of the forest revenue collected in the revenue year immediately preceding within the limits of the district.

**201. Grant from forest revenue to certain gram Panchayats :-**

Where any gram is situated in a forest area and is not assessed under the Land Revenue Code then the State Government shall, in lieu of a grant of land revenue under section 195, pay to the gram panchayat of the gram, in each year such amount out of the forest revenue of the gram collected in the revenue year immediately preceding, as it may fix but the amount so fixed shall not be-

(1) less than Rs. 500, and

(2) more than an amount calculated on the basis of the population of the gram at such per capita rate as is equal to the per capita rate arrived at in respect of grants made under section 195.

**202. Power of Government to make additional grants to Panchayats :-**

Notwithstanding anything contained in the foregoing provisions of this Chapter, the State Government may, after due appropriation made by the State Legislature by law in this behalf, make additional grant or grants in any year for augmenting the finances of any panchayat for any of the purposes of this Act.

**CHAPTER 11**

Provisions Relating to Services

**203. Panchayat Service to be regulated by rules-2 :-**

(1) For the purpose of bringing about uniform scales of pay uniform

conditions of service for persons employed in the discharge of functions and duties of panchayats, there shall be constituted a Panchayat Service in connection with the affairs of panchayats. Such service shall be distinct from the State service.]

(2) The Panchayat Service shall consist of such classes, cadres and posts and the initial strength of officers and servants in each such class and cadre shall be such, as the State Government may by order from time to time determine:

Provided that nothing in this sub-section shall prevent a district Panchayat from altering, with the previous approval of the State Government, any class, cadre or number of posts so determined by the State Government.

[(2A) [

(a) The cadres referred to in sub-section (2) may consist of district cadres, taluka cadres and local cadres.]

(b) A servant belonging to a district cadre shall be liable to be posted whether by promotion or transfer to any post in any taluka in the district.

(c) A servant belonging to a taluka cadre shall be liable to be posted, whether by promotion or transfer to any post in any gram or nagar in the same taluka.

[(d) A servant belonging to a local cadre shall be liable to be posted whether by promotion or transfer to any post in the same gram or as the case may be, nagar.]

(2B) In addition to the posts in the cadres referred to in subsection (2A), [a panchayat] may have such other posis of such classes as the State Government may, by general or special order determine. Such posts shall be called "deputation posts" and shall be filled in accordance with the pro. visions of section 207.]

(3) Subject to the provisions of this Act, the State Govt. may make rules regulating the mode of recruitment either by holding examinations or otherwise and conditions of service of persons appointed to the panchayat service and the [powers] in respect of appointments, transfers and promotions of officers and servants in the Panchayats service and disciplinary action against any such officers or servants.

(4) Rules made under sub-section (3) shall in particular contain-

[(a) a provision entitling servants of such cadres in the Panchayat Service to promotion to such cadres in the State Service as may be prescribed,]

(b) a provision specifying the [clauses of posts] recruitment to which shall be made through the District Panchayat Service Selection Committee and the [clases of posts,] recruitment to which shall be made by the Gujarat Panchayat Service Selection Board, and

(c) a provision regarding the percentage of vacancies to be reserved for the members of Scheduled Castes, Scheduled Tribes and other backward classes in the Panchayat Service.

[(5) Such rules may provided for inter district transfers of servants belonging to the panchayat service and the circumstances in which and the conditions subject to which such transfers may be made ]

["(6) The promotion of a servant in a cadre in the Panchayat Service to a cadre in the State service in accordance with the rules made under clause (a) of the sub-section (4) shall not affect-

(a) any obligation or liability incurred or default committed by such servant during the period of his service in a cadre in the Panchayat Service while acting or purporting to act in the discharge of his duties as such servant, or

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default; and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of service by such authority as the State Government may, by general or special order specify in this behalf,"].

**204. Expenditure towards pay, allowances etc., of officers and servants in Panchayat Service to be met by panchayats :-**

Subject to the rules, which the State Government may make in this behalf, the expenditure towards the pay and allowances of and other benefits available to an officer or servant of the Panchayat Service serving for the time being under any panchayat shall be met by that panchayat from its own fund ]

**205. Mode of appointment :-**

Subject to any rules made under section 203, appointments to the posts in the Panchayats Service shall be made-

(i) by direct recruitment,

(ii) by promotion, or

(iii) by transfer of a member of the State Service to the Panchayat Service.

**206. Allocation of officers and servants to Panchayat Service :-**

(1) The State Government shall by a general or special order allocate to the Panchayat Service-

(i) such number of officers and servants out of the staff [allotted or] transferred to a panchayat under sections (157, 158 and 325] as it may deem fit,

[ (ia) all officers and servants of the municipalities dissolved under section 307,]

(ii) all officers and servants in the service of district local boards and district school boards immediately before their dissolution under this Act and transferred to the [\* \* \*] Panchayats under sections [155] and 326,

(iii) such other officers and servants employed in the State service as may be necessary to enable [the Panchayats] to discharge efficiently their functions and duties under this Act.

(2) The officers and servants allocated to the Panchayat Service under sub-section (1) shall be taken over by [such Panchayats] in such cadre and on such tenure, remuneration and other conditions of service as the State Government may by general or special order determine:

Provided that the conditions of service of any such officer or servant shall not be less favourable than those applicable to him immediately before such allocation:

Provided further that nothing in the aforesaid proviso shall entitle an officer or servant to claim the same cadre and designation which he had before allocation.

**206A. 206A :-**

(1) Allocation to Panchayat Service to be provisional for certain period and reallocation of officers and servants to State Service.-

(1) Notwithstanding anything contained in section 206, the allocation to the Panchayat service made under sec. 206 of officers or servants [allotted or transfer to a panchayat] under sec. 157 or 158 shall initially be provisional and it shall be lawful for the State Government to review their allocation [four years] from the 1st April 1963, and if necessary to reallocate by an order made in that behalf any of such officers or servants to the State Service for any of the following reasons, namely:-

[(i)] if out of the officers and servants so allocated any officers or servants are found to be surplus in any category of the Panchayat Service;

[(ii)] if in the interest of public service, it is considered necessary to recall any such officer or servant;

[(iia)] if in pursuance of any information called for in this behalf by or on behalf of the State Government at any time after the 1st April, 1963 any such officer or servant has preferred to revert to the State Service and after taking into consideration the exigencies of service in the panchayat organisation and also of service under the State Government, the State Government thinks fit to recall such officer or servant;]

[(iii)] any other reasons prescribed by rules.

(2) Any officer or servant, who is not re-allocated under subsection (1) and continues in the Panchayat Service immediately before the expiry of the aforesaid period of [four years] shall on such expiry be deemed to be finally allocated to the Panchayat Service.

(3) The conditions of service of an an officer or servant re-allocated to the State Service shall not be less favourable than those applicable to him immediately before such re-allocation.

[ (4) The re-allocation of an officer or servant to the State service under sub-section (1) whether made before or after the commencement of the Gujarat Panchayats and the Gujarat New Capital (Periphery) Control (Amendment) Ordinance, 1964, (Gujarat Ord. No. 2 Of 1964 ) Shall not affect-

(a) any obligation or liability incurred or default committed by such officer or servant during the period of his allocation to the



Panchayat Service while acting or purporting to act in the discharge of his duties as such officer or servant, and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default, and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of allocation by such authority as the State Government may by general or special order specify in this behalf.]

**206B. Certain officers of former local boards to be absorbed in State Service :-**

If immediately before the commencement of section 326 any person in the employment of a district local board was holding a post and scale of pay generally corresponding to (those in Class I or Class II services of the State and after the commencement of that section, such person has been transferred to the service of a district panchayat under that section and continues in such service on the commencement of the Gujarat Panchayats (Amendment) Act, 1968(Guj. 1 of 1968)the State Government shall, subject to the rules prescribed under section 203, appoint such person to an appropriate cadre in Class I or Class II service of the State and thereafter the terms and conditions of service of such person as respects pay, allowances, leave, transfer, retirement pension, provident fund and other conditions shall be regulated by the rules and orders which regulate the conditions of service of the members of the appropriate cadres of the State Service:

Provided that the terms and conditions of appointment applicable immediately before the commencement of the Act to such person shall not be varied to his disadvantage:

Provided further that any service rendered under the district local board before the commencement of section 326 and after the commencement of the section under the district panchayat by any such person shall be deemed to be in service under the State Government and that the liability on account of contribution to be made to pension or provident fund established under the State Government on account of such person till he is appointed under this section shall be borne by the District Panchayat concerned.]

**207. Posting under panchayats of officers and servants in State Services :-**

(1) [For the purpose of enabling the panchayats] to discharge (their

functions and duties under this Act, it shall be lawful for the State Government to direct by a general or special order that such number of officers of the Indian Administrative Service and of class I and class II service of the State [and such number of officers or servants 3[allotted or transferred to a panchayat] under section 157 or 158 but not

(2) The pay and allowances of an officer posted in accordance with sub-section (1) shall, during the period of posting, be paid by the panchayat from its fund.

[(3) Any officer or servant [who was allotted or transferred to a panchayat] under section 157 or IS8 but not allocated to the Panchayat Service under Section 206 before the date of coming into force of the Gujarat Panchayats (Second Amendment) Act, 1963, (Guj.LIII of 1963) shall be deemed to be posted under this section under the panchayat to which he was so allotted or transferred, subject, however, to such conditions and for such period as the State Government may specify by an order made within a period of six months from the said date.]

[(4) Notwithstanding anything contained in sub-section (1) if in the opinion of the State Government, it is necessary so to do in the public interest, it shall be lawful for the State Government to post by an order in writing any servant of class III services of the State under [ such panchayat and for such period and subject to such conditions as may be specified in the order and accordingly the servant specified in the order shall be posted under such panchayat and the provisions of sub-section (2) shall apply to such servant as they apply to an officer posted in accordance with sub-section (1).]

[(5) The procedure in respect of disciplinary action against any officer or servant posted under a panchayat otherwise than as a member of the Panchayat Service, the authorities competent to take such action and the powers of such authorities shall be such as may be prescribed.]

**208. Loan of services of Government officers to Panchayats**  
:-

Any panchayat, may subject to the rules made in this behalf, obtain the Services of any officer of Government on loan.

**209. No compensation payable for transfer of services :-**

Notwithstanding anything contained in the Industrial Disputes Act,

1947 XIV of 1947, or any other law for the time being in force, the allocation of any officer or servant to the Panchayat Service under section 206 shall not entitle such officer or servant to any compensation under that Act or law; and no claim for any such compensation shall be entertained by any Court, Tribunal or authority.

**210. Gujarat Panchayat Service Selection Board, its Constitution and functions :-**

(1) There shall be established a Gujarat Panchayat Service Selection Board consisting of three members including the Chairman.

(2) At least one of the members of the Board shall be a person who is a member of the State Service or has retired from such service.

(3) Subject to sub-sections (1) and (2), the State Government shall appoint as members of the Board such persons as it may think fit and out of the persons so appointed appoint one person as the Chairman of the Board.

(4) The conditions of service (including pay and allowances) of the members of the Board shall be such as the State Government may by order determine.

(5) It shall be the duty of the Board to select candidates for recruitment to such posts in the panchayat service, and [to advise the panchayat] in such matters as may be prescribed by rules.

(6) The Board shall perform such other function as provided by or under this Act.

**211. District Panchayat Service Selection Committee and District Primary Education Staff Selection Committee :-**

(1) There shall be a District Panchayat Service Selection Committee in each district for selecting candidates for recruitment to such posts of the Panchayat Service and [to advise the panchayats] in such matters and to perform such other functions as may be prescribed.

(2) A District Panchayat Service Selection Committee shall consist of-

(a) one member of the Gujarat Panchayat Service Selection Board to be nominated by the Chairman of that Board.

(b) the President of the District Panchayat of the district, and

(c) such officer of the panchayat service or State service as the State Government may nominate.

(3)

(a) In addition to the District Panchayat Service Selection Committee, the State Government may appoint each district a District Primary Education Staff Selection Committee for the recruitment of primary teachers and such other staff in connection with primary education as may be prescribed;

(b) The constitution, powers and duties of such a committee shall be such as may be prescribed.

[x x x]

## CHAPTER 12

Constitution of Conciliation Panchas and Nyaya Panchayats and their Functions and Powers

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

(1) A Nyaya Panchayat for a group of grams (hereinafter referred to as "Gram Nyaya Panchayat")

(2) A Nyaya Panchayat for a nagar (hereinafter referred to as a "Nagar Nyaya Panchayat") shall consist of five members to be elected by the nagar panchayat for the nagar in accordance with section 214.

### **213. Constitution of conciliation panch :-**

(1) A conciliation panch for a gram panchayat or, as the case may be, nagar panchayat shall consist of three members out of which-

(a) one shall be a standing member to be elected by the panchayat in accordance with section 214, and

(b) two members chosen by the parties in accordance with section 246.

(2) The standing member shall be the Chairman of the conciliation panch.

(3) The other two members shall act as members of the conciliation panch only in respect of the case in which they are chosen by the parties.

**214. Election of members of Nyaya Panchayats and conciliation panchas :-**

(1) Every gram panchayat shall, as soon as may be after the election of its [ \* ] Upa Sarpanch at its first meeting elect in the prescribed manner from amongst the members of gram sabha of the gram

(a) one person to be a member of the Gram Nyaya Panchayat, and

(b) one person to be standing member of the conciliation panch of the gram:

Provided that if for any reason the gram panchayat does not elect or fails to elect any person required to hold office under clause (a) or (b), the district panchayat shall appoint from amongst persons qualified to be elected a person to hold that office and the person so appointed shall be deemed to be duly elected to that office:

Provided that Sarpanch and Upa-Sarpanch shall not be eligible for being so elected [or for being continued as a member of the Gram Nyaya Panchayat or as a standing member of a conciliation panch.]

(2) Every nagar panchayat shall as soon as may be, after the election of its Chairman and Vice-Chairman at its first meeting elect in the prescribed manner from amongst the voters of the nagar-

(a) five persons, to be members of the Nagar Nyaya Panchayat, and

(b) one person to be a standing member of the conciliation panch of the nagar:

Provided that the Chairman and the Vice Chairman of the panchayat shall not be eligible for being so elected [or for being continued as a

Provided further that if for any reason the nagar panchayat does not elect or fails to elect the required number of persons willing to take office the district panchayat shall appoint from persons qualified to be elected such persons as are required to make up the required number and the persons so appointed shall be deemed to be duly elected for the purposes of this section.

(3) No member of the gram sabha or, as the case may be, of the voters of nagar who is not able to read and write in Gujarati or is not qualified for being elected or being continued as a member of

the panchayat shall be eligible for being elected [or for being continued] as a member of Nyaya Panchayat or as a standing member of a conciliation panch.

[(4) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election, to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.]

**215. Member to vacate if absents without leave :-**

(1) A member of a Nyaya Panchayat who absents himself for two consecutive months from the meeting of the Nyaya Panchayat without the permission of the competent authority shall cease to be a member of the Nyaya Panchayat and his office shall become vacant.

[(1A) A member of a Nyaya Panchayat or a standing member of a conciliation panch who has not been qualified for being elected or for being continued as a member of the Nyaya Panchayat or as a standing member of a conciliation panch shall cease to be such member and his office shall become vacant from such date as the competent authority may specify.]

(2) Any dispute as to vacancy under sub-section (1), shall be referred for decision to the competent authority whose decision shall be final.

**216. Resignation of member of Nyaya Panchayat and Conciliation panch :-**

(1) A person holding office [as a member or a Chairman] of a Nyaya Panchayat or as a standing member of a conciliation panch may resign from his office by tendering his resignation in writing to the Sarpanch or as the case may be, Chairman of the panchayat which elected him [as a member of the Nyaya Panchayat or, as the case may be, standing member of the conciliation panch.]

(2) Such resignation shall take effect from the date on which it is accepted by the panchayat or on the expiry of thirty days from the date of tendering the resignation, whichever is earlier.

**217. Election of Chairman :-**

A Nyaya Panchayat shall [choose] from amongst its members one

member as its Chairman who shall perform such functions as provided by or under this Act:

[Provided that in the event of any dispute in choosing the chairman the competent authority shall nominate one of the members of the Nyaya Panchayat to be the Chairman.]

### **218. Powers of Nyaya Panchayat :-**

(1) The Nyaya Panchayat constituted as aforesaid, may exercise all or any of the powers mentioned in sub-sections (1) and (2) of section 227 and section 229 as the State Government may by general or special order specify in this behalf.

(2) The State Government may at any time, by notification in the Official Gazette, direct that such Nyaya Panchayat shall exercise all or any of the judicial powers mentioned in sub-section (3) of section 227 and section 233.

(3) If in the opinion of the State Government a Nyaya Panchayat has been incompetent in the exercise, or has been guilty of the abuse of its powers, the Government may at any time by notification in the Official Gazette withdraw all or any of the powers vested in, or conferred on such Nyaya Panchayat.

(4) The State Government shall, under due appropriation made by the State Legislature by law in this behalf, provide the funds required to meet the expenses of Nyaya Panchayat in exercising their powers and discharging their functions under this Act, and the amount so provided shall be kept in such custody and the accounts thereof shall be maintained in such manner as may be prescribed. The State Government shall prescribe by rules the expenses which may be incurred by Nyaya Panchayats.

### **219. Term of office of members of Nyaya Panchayat :-**

(1) Save as otherwise provided by this Act, the term of office of a member of the Nyaya Panchayat [and of a standing member of a conciliation panch] shall expire with the term of the panchayat which elected him.

(2) If any vacancy arises in the office of any of the members of such Nyaya Panchayat [or of a standing member of a conciliation panch] it shall be filled by election as provided in section 212 [or 2.3, as the case may be], and the members so elected shall hold office so long only as the member in whose place he has been

elected would have held office if the vacancy had not occurred.

**220. Rules regarding conduct of business of Nyaya Panchayat :-**

Save as provided in this Act, the State Government may make rules to regulate-

- (a) the conduct and distribution of business in and practice before a Nyaya Panchayat;
- (b) the times and places at which the Nyaya Panchayat shall sit;
- (c) any other matter which in the opinion of the State Government is necessary for the proper and efficient conduct of proceedings before a Nyaya Panchayat.

**221. Place of sittings of Nyaya Panchayats :-**

(1) A Gram Nyaya Panchayat shall sit, for the hearing of a suit or trial of a case, in the gram where such suit or case has been instituted;

(2) A Nagar Nyaya Panchayat shall sit for the hearing of the suit or trial of a case at a place within the nagar.

**222. Chairman of Nyaya Panchayat :-**

A Nyaya Panchayat shall be presided over by its Chairman and in his absence by such member as may be chosen by the members present at the sitting of the Nyaya Panchayat.]

**223. Judicial clerk of Nyaya Panchayat :-**

The Secretary of the panchayat of the gram where the sitting of the Nyaya Panchayat is held shall act as the judicial clerk of the Nyaya Panchayat for the purpose of recording its proceedings and decisions, and performing such other duties as may be prescribed, [In the case of a Nyaya Nagar Panchayat, the Secretary of the Nagar Panchayat [or such officer of the nagar panchayat as the nagar panchayat may authorise in this behalf) shall act as the judicial clerk of the Nyaya Panchayat for the purposes aforesaid ]

**224. Removal of member from Nyaya Panchayat [or Conciliation Panch :-**

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(1) If in the opinion of the State Government a member of a Nyaya Panchayat [or conciliation panch] has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or refuses



to perform, or has been incapable of performing any of the duties as a member of the Nyaya Panchayat 5[or as the case may be, the conciliation panch] the State Government may remove such member after giving him an opportunity of being heard, and after such inquiry as the State Government deems necessary.

(2) If any inquiry is held under sub-section (1) the State Government may suspend such member from being on the Nyaya Panchayat [or as the case may be, the conciliation panch] for such period as it thinks fit.

(3) On the removal of a member of the Nyaya Panchayat [or as the

[(4)

(a) The District Development Officer may suspend from office any member of the Nyaya Panchayat or conciliation panch against whom criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in prison during trial under the provisions of any law for the time being in force.

(b) An appeal against an order passed under clause (a) shall lie to the State Government, such appeal shall be made within a period of thirty days from the date of the order.]

### **225. Absence of member of Nyaya Panchayat at hearings :-**

(1) If any member of a Nyaya Panchayat is absent from any hearing, the remaining members may notwithstanding anything contained in this Act try the case, suit or proceeding provided that at least three members are present.

(2) No trial as aforesaid shall be invalid by reason merely that all the members were not present at any hearing, or that some of the members were not present at all the hearings of such trial.

### **226. Saving of pending proceedings :-**

(i) Every suit or case of the nature specified in sub-sections (1) and (2) of section 227 or in section 229, pending in any court and cognizable by a Nyaya Panchayat under section

(ii) every suit of the nature specified in sub-section (3) of section 227 pending in any court and cognizable by a Nyaya Panchayat in pursuance of a notification issued under that sub-section, and

(iii) all proceedings arising from, and incidental to, any such suit or case, shall be tried, heard and determined by a court or any other court having jurisdiction to try, hear and determine the same as if this Act has not been passed.

### **227. Suits triable by Nyaya Panchayats :-**

(1) Save as otherwise provided in section 228, and subject to the provisions of sub-section (3) of section 218 a Nyaya Panchayat constituted under this Act shall take cognizance of and try all or any of the following suits, namely:-

(a) suits for money due on contracts, not affecting any interest in immovable property,

(b) suits for the recovery of movable property or for the value thereof,

(c) suits for compensation for the wrongful taking and injuring movable property, [and] Where the amount or value of the claim does not exceed one hundred rupees

[(d) suits for compensation for damage caused to property by cattle trespass.]

(2) With the written consent of both the parties recorded in the presence of the Nyaya Panchayat, suits of the nature described in subsection (1) but the value of which does not exceed two hundred and fifty rupees shall be triable by such Nyaya Panchayat.

(3) The State Government may, by notification in the Official Gazette direct that any Nyaya Panchayat may try any suit of the nature described in sub-section (1), upto such value exceeding one hundred rupees as may be specified in the notification, but not exceeding two hundred and fifty rupees,

### **227A. Limitation for suits :-**

Every suit of the nature referred to in section 227 instituted before a Nyaya Panchayat after the expiry of the period specified in respect thereof in the Table below shall be dismissed although limitation has not been set up as a defence.

### **228. Suits not triable by Nyaya Panchayats :-**

No suit shall be brought before any Nyaya Panchayat.-

(1) on a balance of partnership account;

(2) for a share or part of a share under any intestacy or for a legacy or part of legacy under A will;

(3) by or against the Government or any local authority or an officer or servant of the Government or a member, officer or servant of a local authority in his official capacity, or by or against any member of that Nyaya Panchayat;

(4) by or against a minor or a person of unsound mind or against any soldier sailor or airman actually serving under the Government in such capacity; and

(5) on account of any dispute or matter in respect of which any suit or application would be cognizable-

(a) by a revenue court; or

(b) before a tribunal or authority appointed under-

(i) the Bombay Tenancy and Agricultural Lands Act, 1948, (Bom. LXVI of 1948), or Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958; (Bom. XGIX of 1958).

(ii) the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949; (Sau. Ord. No. LVI of 1949).

(iii) the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1933, (Sau. Act No. XXIII of 1933).

### **229. Offences cognizable by Nyaya Panchayat :-**

A Nyaya Panchayat shall take cognizance of and try all or any of the following offences including the abetment thereof, or attempt to commit any such offences, subject to the provisions of sub-section (3) of section 218 -

(a) Under the Indian Penal Code XLV of 1860. Section Negligently doing any act known to be likely to spread the infection or any diseases dangerous to life 269 Fouling the water of a public spring or reservoir 277 Causing danger, obstruction or injury to any person in any public way. 283 Voluntarily causing hurt. 323 Assault or use of criminal force otherwise than on grave and sudden provocation. 352 Assault or use of criminal force on grave and sudden provocation. 358 Theft, where the value of the property stolen does not exceed Rs. 20 379 Mischief when the loss or damage caused does not exceed Rs. 20 in value. 426 Criminal trespass 447 House trespass 448 Dishonestly breaking open or

unfastening any closed receptacle containing or supposed to contain property. 461 Intentional insult with intent to provoke a breach of the peace. 504 Criminal intimidation 506 First Part] Misconduct in public by a drunken person 510

(b) Under the Prevention of Cruelty to Animals Act, 1890 (XI of 1890), in its application to the Bombay area, Saurashtra area and Kutch area of the State- Section Practising phooka 4 Killing animals with unnecessary cruelty \ \5

(c) Under the Bombay District Vaccination Act, 1892, and that Act in its application to the Saurashtra and Kutch areas of the State of Gujarat- \ \ \ \ \ \ \ \ \ \ \Section Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into such area. \ 22 Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years \ 23 Not producing child for being vaccinated \ \ 24 Neglecting to take child to be vaccinated \ 25

(d)

(1) Under the Bombay Primary Education Act, 1947, (Bom LXI of 1917)- \ \ \ \ \ \ \ \ \ \ \Section Failure to cause child to attend approved school \35 Employing child liable for compulsory education \36

(2) Under the Saurashtra Primary Education Act, 1956, (Sau. Act, XXX III of 1956). Failure to cause a child to attend approved school \29 Employing child liable for compulsory education \30

(e) Under this Act- Section

(i) erecting or re-erecting etc. any building without permission 93

(ii) obstructions and encroachments upon public streets, grazing lands and open sites; 94

(iii) destruction or defacement of any number or sub-number of premises or part thereof. 95

(iv) contravention of a rule 323

(v) contravention of a bye-law 324

(f) Such compoundable offence under any law for the time being in force as the State Government may specify in this behalf by a notification published in the Official Gazette:

Provided that no offence of theft shall be cognizable by any Nyaya Panchayat unless an accused person has been either apprehended or recognised and named.

**230. Certain persons accused of theft not to be tried by Nyaya Panchayats :-**

No Nyayat Panchayat shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code (XLV of 1860) in which the accused:-

(a) has been previously convicted of an offence punishable under Chapter XIV or Chapter XVII of the Indian Penal Code, (XLV of 1860) with imprisonment of either description for a term of three years or upwards;

(b) has been previously fined for theft by any Nyaya Panchayat,

(c) has been bound over to be of good behaviour in proceedings instituted under section 109, or section 110 of the Code of Criminal Procedure, 1898 (V of 1698).

**231. Offences by or against public servants not cognizable by Nyaya Panchayats :-**

No Nyaya Panchayat shall take cognizance of any offence specified in section 229 in which either the complainant or the accused is a member of the Nyaya Panchayat or a public servant serving in the district in which gram or nagar for which the panchayat is established is situated:

Provided, however, that a Nyaya Panchayat shall not be debarred from taking cognizance of an offence punishable under section 35 or 36 of the Bombay Primary Education Act, 1947, (Bom LXI of 1947.) or section 29 or 30 of the Saurashtra Primary Education Act, 1956, (Sau. Act XXX III of 1956), or under section 93, 94, or 93 of this Act, or for a contravention of a rule made under clause (c) of sub-section (2) of section 3 23 or of a bye-law under subsection (4) of section 324 thereof, notwithstanding that the complainant in the case is a public servant.

**231A. Limitation for cases :-**

No Nyaya Panchayat shall take cognizance of any offence specified in section 229 after the expiry of one year from the date on which the offence was committed.]

**232. Maximum penalties :-**

(1) The following are the maximum penalties which may be inflicted by a Nyaya Panchayat for the offences mentioned in section 229 for an offence-

(i) under section 35 of the Bombay Primary Education Act, 1947. (Bom. LXI of 1947). and section 29 of the Saurashtra Primary Education Act, 1956, (Sau. Act XXX III of 1956), fine not exceeding two rupees and in case of the failure to compel the child to attend an approved school continue after conviction, with fine of fifty naye paise for every day on which the failure continues or is repeated; and

(ii) under section 36 of the Bombay Primary Education Act, 1947, (Born. LXI of 1947) and section 30 of the Saurashtra Primary Education Act, 1956, (Sau. Act XXX III of 1956). fine not exceeding twenty-five rupees;

(iii) under the provisions of any other Act mentioned in section 229 of this Act, fine not exceeding twenty rupees,

(iv) under a rule made under section 323 or bye-law made under subsection

(v) of section 324 of this Act, fine not exceeding fifty rupees and in addition not exceeding five rupees per day for a continuing contravention as provided in that sub-section.

(2) No sentence of imprisonment, whether substantive or in default of fine shall be inflicted by a Nyaya Panchayat.

**233. Power of State Government to empower particular Nyaya panchayat to inflict enhanced penalties :-**

Notwithstanding anything in section 233 the State Government may empower, by notification in the Official Gazette a Nyaya Panchayat to inflict a maximum penalty of fine not exceeding one hundred rupees for any of the offences mentioned in section 229 except the following:-

(1) section 35 or 36 of the Bombay Primary Education Act. 1947 (Bom. LXI of 1947), or section 29 or 30 of the Saurashtra Primary Education Act, 1956; (Sau. Act XXX III of 1956).

(2) an offence under section 23 or 25 of the Bombay District Vaccination Act, 1892, (Bom. 1 of 1892), or of that Act in its application to the Saurashtra or Kutch area of the State of Gujarat;

(3) an offence under 6C of the Prevention of Cruelty to Animals Act, 1890, in its application to the Bombay area, Saurashtra area and Kutch area of the State.

**234. Compensation to complainants :-**

In inflicting any fine under section 232 or section 233 the Nyaya Panchayat may direct that the whole or any portion of the fine recovered shall be applied-

(a) towards defraying the expenses properly incurred in the case by the complainant, or

(b) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

**235. Compensation to accused for false or frivolous case :-**

If a Nyaya Panchayat is satisfied after inquiry, that a case brought before it is false, frivolous or vexatious, such Nyaya Panchayat may order the complainant to pay the accused such compensation, not exceeding five rupees, as it thinks fit.

**236. Youthful offenders :-**

Instead of passing any sentence, a Nyaya Panchayat may, after due admonition, discharge a youthful offender who, in the opinion of such Nyaya Panchayat, is at the time of conviction of the offence, under the age of sixteen years.

**237. Certain members not to sit on Nyaya Panchayats :-**

(1) No member of a Nyaya Panchayat who is a party to or has any interest in, any suit or case shall sit on the Nyaya Panchayat while it is trying such suit or case.

(2) Any dispute as to whether a member of a Nyaya Panchayat is a party to) or interested in, a suit or case shall, on a written application of a party to such suit or case be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

**238. Res judicata and pending suits and cases :-**

(1) No Nyaya Panchayat shall try any suit or issue in respect of any matter which is pending for decision or has been heard and decided by a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(2) Where an accused person has been tried for any offence and

duly convicted or acquitted, a Nyaya Panchayat shall not take cognizance of such offence or, on the same facts, or any other offence of which the accused might have been charged or convicted.

**239. Suits to include whole claims :-**

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 to bring the suit within the jurisdiction of the Nyaya Panchayat. If a Plaintiff intentionally 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.

**240. Institution of suits and cases :-**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (V of 1898) every case instituted under this Act shall be instituted before the member of the Nyaya Panchayat of the gram or nagar in which the offence is committed, and if he be absent then before the Sarpanch or as the case may be Chairman of the panchayat, and in his absence before the Up-Sarpanch or as the case may be the Vice-Chairman thereof.

(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908) every suit instituted under this Act shall be instituted before the member of the Nyaya Panchayat of the gram or nagar in which the defendant, or any of the defendants where there are more than one, ordinarily resides or carries on business at the time of the institution of the suit, irrespective of the place where the cause of action arose and in the absence of such member, shall be instituted before the Sarpanch or as the case may be. Chairman of the panchayat, and in his absence before the Upa-Sarpanch or as the case may be Vice-Chairman thereof.

**241. Return of complaints :-**

Any Magistrate upon receiving a complaint of facts constituting an offence cognizable by a Nyaya Panchayat shall return the complaint for presentation to the Nyaya Panchayat having jurisdiction to try the same.

**242. Bar of jurisdiction of courts in suits and cases :-**

Notwithstanding anything contained in any law for the time being in force no court shall entertain any suit specified in section 227 or take cognizance of any offence specified in section 229 unless and



until the District or the Sessions Court. as the case may be, has passed an order in writing under section 270 or 282 I[or the Nyaya Panchayat is debarred from entertaining such suit or from taking cognizance of such offence under any provision of this Act].

**243. Pending cases before Nyaya Panchayat when three or more vacancies occur :-**

Where, for any reason three or more vacancies occur in the Nyaya Panchayat, the Nyaya Panchayat shall hear and dispose of all suits, cases and proceedings, pending before it as if such suits, cases and proceedings were instituted after the new members had taken their office as members of such Nyaya Panchayat.

**CHAPTER 13**

Procedure of Nyaya Panchayats in Suits and Cases and Procedure in Conciliation Proceedings

**244. Suits and cases how instituted :-**

Any person intending to institute a suit or case under this Act before a Nyaya Panchayat shall make an application in writing to the person before whom a suitor case can be instituted under section 240, and shall at the same time pay the prescribed fees:

Provided that an officer authorised under any law mentioned in clause (d) of section 229, who intends to institute a case of nature specified in that clause may send such application by registered post.

**245. Registers to be maintained :-**

One or more registers of all suits and of all cases instituted under section 244 shall be maintained by the Nyaya Panchayat in the manner prescribed.

**246. Suit or case to be referred to conciliation panch :-**

(1) On the institution of a suit or case under section 244 [Chairman of the Nyaya Panchayat] shall refer it to the Chairman of the conciliation panch.

(2) On receipt of a reference under sub-section (1) the Chairman shall fix date, time and place for conciliation in the matter, give intimation thereof, to the person instituting the suit or case and call upon the opposite party to the suit or case to suggest the name of a person to act as a member of the conciliation panch in the case and to appear before him on the date so fixed.

(3) If any party does not suggest the name of any person to act as a member of the conciliation panch on or before the date fixed under sub-sec. (2) it shall be presumed that he does not wish to have the dispute settled by conciliation and that there has been a failure in effecting a compromise.

**247. Duty of each party to appear before conciliation panch :-**

(1) It shall be the duty of each party to the suit or case to appear before the Chairman of the conciliation panch at the time, date and place fixed by the Chairman.

(2) If any party fails without sufficient cause to comply with the requirements of sub-section (1), he shall be liable to a fine up to five rupees and for each subsequent default in complying with such requirements he shall be liable to a fine upto ten rupees.

(3) Any fine levied under sub-section (2) shall form part of the gram fund or as the case may be, the nagar fund.

**248. Constitution of conciliation panch :-**

(1) If the opposite party suggests the name and address of a person to act as member of the conciliation panch, then the Chairman, the person suggested by the person instituting the suit or case and the person suggested by the opposite party shall constitute the conciliation panch.

(2)[The judicial clerk of the Nyaya Panchayat of the gram or, as the case may be, nagar] shall act as the clerk of the conciliation panch for the purpose of recording its proceedings and performing such other duties as may be prescribed.

**249. Proceedings to be oral :-**

The conciliation proceedings before a conciliation panch shall be oral, and as far as possible, continuous and shall be concluded within a period of thirty days from the date of reference under section 216:

Provided that the Chairman of the Nyaya Panchayat may extend the period up to sixty days in the aggregate.

**250. Procedure of conciliation proceedings :-**

(1) The conciliation panch shall hear the witness produced by the parties or witnesses who appear voluntarily.

(2) Statements made or evidence tendered by witnesses in the conciliation proceedings shall not be recorded in writing.

(3) The conciliation panch shall have no power to administer oaths to parties and witnesses.

(4) If the conciliation panch does not succeed in effecting a compromise between the parties, the fact shall be recorded in the record of the conciliation proceedings.

(5) If the conciliation panch succeeds in effecting a compromise between parties, the compromise shall be reduced into writing and brought on record.

(6) The record of the conciliation proceedings shall contain the following particulars, namely:-

(i) place of the proceedings and the date or dates on which they were held,

(ii) names of the parties and of their representatives, if any, appearing before the conciliation panch,

(iii) brief statement of the claims of each party.

(iv) whether compromise has been effected and if so the terms thereof.

(7) The record of the conciliation proceedings shall be read out to the parties and the fact that the same has been so read out to the parties and admitted by the parties as correct shall be endorsed on the record.

(8) The parties and all the members of the conciliation panch shall sign the record of the conciliation proceedings and if any of them is illiterate, he shall affix his thumb impression thereon.

**251. Papers to be forwarded to Nyaya Panchayat :-**

(1) The Chairman of the conciliation panch shall thereupon forward the suit or case together with the record of the conciliation proceedings to the Chairman of the Nyaya Panchayat.

(2) In the event of a failure in effecting a compromise, the Chairman of the conciliation panch shall issue a certificate to that effect to the person instituting the suit or case.

**252. Final order to be framed by Nyaya Panchayat :-**

Where a compromise is effected under section 250, the Nyaya Panchayat shall pass a decree in accordance with the compromise or as the case may be pass an order permitting the case to be compounded.

**253. Conciliation proceedings to be confidential :-**

No member of the conciliation panch shall disclose to any person, court or authority anything which may have come to his knowledge in the course of the conciliation proceeding nor shall he be compelled by any court or authority to answer any question relating to such proceedings.

**254. Plaintiff or complainant to attend next sitting of Nyaya Panchayat :-**

Every suit or case instituted in accordance with the provisions of section 244 shall on the production of a certificate under section 251 be brought before the Nyaya Panchayat as its sitting in the gram or nagar, concerned and the plaintiff or complainant, as the case may be, shall as soon as may be, informed of the time and place fixed for such sitting and directed to attend at that time and place.

**255. Summons to be issued to defendant or accused :-**

The Nyaya Panchayat may cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place:

Provided that the Nyaya Panchayats may for reasons to be recorded, after considering the application and examining the plaintiff or complainant, refuse to issue summons and may dismiss the suit or complaint.

**256. Summons by whom served :-**

Such summons shall ordinarily be caused to be served by the patel or village headman. Where there are two pates in the village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit, and by the police patel if it relates to a case:

Provided, however, that a Nyaya Panchayat may cause the summons to be served through any other person.

**257. Mode of service of summons :-**

The summons shall be induplicate, signed by a member of the Nyaya Panchayat and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb impression shall be taken in token of service. If the defendant or accused cannot be found and the Nyaya Panchayat is satisfied that he is evading service or if he refuses to take the summons, the Nyaya Panchayat may order service to be made on adult male member of his family residing with him or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

**258. Mode of service out-side gram or nagar :-**

If a defendant or accused is at the time of the issue of the summons outside the jurisdiction of the Nyaya Panchayat, the summons may be forwarded by the Nyaya Panchayat to the Collector or to any Officer not below the rank of a Mamlatdar or Mahalkari, who may be authorised by the Collector in this behalf and the Collector or such officer shall cause the summons to be served as if it were summons from his own court.

**259. Exemption of certain persons from appearance in suit :-**

(1) Women, who according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempted from personal appearance before a Nyaya Panchayat in any suit or case.

(2) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, (V of 1908), shall also be exempted from personal appearance before a Nyaya Panchayat in a suit.

**260. Issue of summons to witnesses :-**

(1) A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(2) A Nyaya Panchayat may refuse to summon a witness or to

enforce a summons already issued to a witness where, in its opinion, the attendance of the witness cannot be procured without a n amount of delay, expense or inconvenience which in the circumstances would be unreasonable.

(3) No Nyaya Panchayat shall enforce the attendance of any person living outside the limits of the gram or nagar where the sitting of the Nyaya Panchayat is held to give evidence, or to produce a document, unless such sum of money is deposited with the Nyaya Panchayat as appears to the Nyaya Panchayat to be sufficient to defray his reasonable expenses.

(4) If after the service of summons upon him, a witness fails to appear either in person or by a representative, or to produce any documents, the Nyaya Panchayat may apply to the relevant Judge mentioned in subsection (1) of section 24 having jurisdiction in the area if the summons was issued in a suit or to the Magistrate having jurisdiction in the area, if the summons was issued in a case and such Judge or Magistrate, as the case may be, shall compel the attendance, of any such witness in person or his representative or the production of the document by him before the Nyaya Panchayat, as if such Judge or Magistrate were a Court trying the suit or the case, unless such Judge or Magistrate consider that the attendance of any such witness, or the production of the document by him, is not necessary for the proper adjudication of the suit or case.

(5) No Nyaya Panchayat shall compel any person to give evidence or to disclose any communication or to produce any document which such person cannot be permitted to give or compelled to disclose or produce or is forbidden so to do, under the provisions of the Indian Evidence Act, 1872 (1 of 1872), or by or under any other law for the time being in force.

### **261. Pleaders etc., excluded from appearance :-**

(1) Any party to any suit or case before a Nyaya Panchayat may be permitted on reasonable cause being shown to the satisfaction of the Nyaya Panchayat to employ his relative, servant or dependent, who is not, or has not previously been a lawyer to appear either conjunctly with or in lieu of such party:

Provided that where any such relative is related to the party as father, husband, wife, son or unmarried daughter of the party, the party may be permitted to employ such relative notwithstanding

that he is or has previously been a lawyer and in such a case the opposite party shall be permitted to appear through a lawyer.

(2) Save as provided in sub-section (1), no lawyer shall be permitted to appear on behalf of any party to any suit or case before a Nyaya Panchayat.

(3) When a relative, servant or dependant appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

Explanation.-For the purposes of this section "lawyer" means a pleader or vakil or an advocate or attorney of a High Court.

### **262. Decision of suits or cases on facts ascertained :-**

(1) It shall be the duty of a Nyaya Panchayat to ascertain the facts of suit or case before it after holding an enquiry in accordance with the provisions of this Act and the rules thereunder.

(2) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a Nyaya Panchayat to hold such enquiry.

(3) After holding such enquiry, a Nyaya Panchayat may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable. Such decree or order shall state the finding and brief statement of the reasons therefor.

(4) A Nyaya Panchayat may, in passing such decree or order, award costs of the suit and the costs of the suit shall include the amount of fees paid for the institution of the suit.

### **263. Decision of Nyaya Panchayat :-**

The decision of a Nyaya Panchayat shall be in accordance with the opinion of the members of the Nyaya Panchayat present at the sitting or, of the majority of such members. If the members are equally divided, the Chairman shall have and exercise a second or casting vote.

### **264. Adjournment :-**

The Nyaya Panchayat may, from time to time, adjourn the hearing of any suit or case, provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

**265. Disposal of suits and cases in absence of party concerned :-**

(1) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the Nyaya Panchayat may hear and decide the suit or case in his absence.

(2) The Nyaya Panchayat may hear and decide a suit or case in the absence of the defendant or the accused, if summons has been served upon him in the manner hereinbefore provided or if he has been informed of the time and place fixed for hearing :

Provided that no sentence shall be passed by a Nyaya Panchayat on any accused unless he has appeared, either in person or by a representative before the Nyaya Panchayat and the substance of his statement has been recorded in the prescribed register.

(3) If, after the service of summons upon him, the accused fails to appear either in person or by a representative, the Nyaya Panchayat may apply to the Magistrate having jurisdiction in the area, and such Magistrate shall compel the accused to appear in person or by his representative before the Nyaya Panchayat, as if he were a court trying the case.

(4) Where an accused person has, under sub-section (3), been compelled to appear before the Nyaya Panchayat it shall forthwith take his statement and thereafter his attendance at the hearing of the case shall not be compulsory.

**266. Compromise of suits and compounding of cases :-**

(1) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the Nyaya Panchayat shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit.

(2) A Nyaya Panchayat may permit any case to be compounded.

(3) When a Nyaya Panchayat does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (1) or does not permit a case to be compounded under sub-section (2) it shall record its reasons therefor in writing.

**267. Death of parties :-**



When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action and the period during which the suit was pending shall be excluded in computing the period of limitation for the fresh suit.

**268. Nyaya Panchayat not to revise or alter its decision :-**

(1) Except as provided in sub-section (2), a Nyaya Panchayat shall not have power to cancel, revise or alter any decree or order passed by it.

(2) On an application made within one month from the date of the decree or order of a Nyaya Panchayat, the Nyaya Panchayat may, for reasons to be recorded in writing restore any suit which has been dismissed for default or in which an ex parte decree or order has been passed against the defendant.

**269. Interest and instalments :-**

In suits for money, a Nyaya Panchayat may, in its discretion, direct payment of interest on the sum decreed at a rate not exceeding six percent, per annum from the date of the decree until the date of payment, and of any fees which may be prescribed. When a Nyaya Panchayat decrees the payment of a sum of money in a suit it may direct (hat it be paid by instalments, without interest or with interest not exceeding the above rate.

**270. Reference by Nyaya Panchayat to District Court or Sessions Court :-**

(1) When any Nyaya Panchayat is of opinion that any suit or case before it is of such nature, or of such difficulty or importance that it ought to be tried by a court, or more severe than, that which such Nyaya Panchayat is empowered to inflict it shall stay proceedings, and refer the suit to the District Court or the case to the Sessions Court for orders.

(2) If the District or Sessions Court, as the case may be, is of the opinion that the suit or case if of such nature, difficulty or importance that it ought not to be tried by the Nyaya Panchayat or that the accused in a case ought to receive a punishment different in kind from. or more severe than that which such Nyaya Panchayat is empowered to inflict, such court shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such or case.

(3) If the District or Sessions Court, as the case may be, is of opinion that the suit or case is not of such nature, difficulty or importance that it ought to be tried by a court, or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such Nyaya Panchayat is empowered to inflict, such court shall return the suit or case to the Nyaya Panchayat which made the reference, for disposal.

**270A. Power to transfer criminal proceedings and award compensation :-**

(1) If it is made to appear to a Sessions Court that in the interest of justice it is necessary so to do the Sessions Court may on an application made to it in this behalf transfer any case pending before a Nyaya Panchayat to another Nyaya Panchayat or to a Court subordinate to it.

-,:.

(2) Where any application under sub-section (1) is dismissed, the Sessions Court may, if it is of the opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to the person who opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case.]

**271. No appeal against decree or order of Nyaya Panchayat but revision lies :-**

(1) No appeal shall lie against the decree or order passed by a Nyaya Panchayat in a suit or case.

(2) But on an application made by any of the parties, or of its own motion,-

(a) a District court in a suit, or

(b) a Sessions Court, in a case, may call for and examine the record or proceedings of a Nyaya Panchayat for the purpose of ascertaining itself as to the legality or propriety of any decree or order passed or as to the regularity of the proceedings held by such Nyaya Panchayat.

(3) If it appears to the District or Sessions Court, as the case may be, that the decree, order or proceedings so called for should be modified, cancelled or reversed it may pass such order as it thinks

just.

(3A) If in the opinion of the Court, the application made under sub-section (2) was frivolous or vexatious, it may order the applicant to pay by way of compensation to the person who opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case.]

(4) The period for filing an application by any of the parties under sub-section (2) shall be thirty days from the date of the decree or order and the provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, (IX of 1908), shall apply to the computation of the afore- said period.

**272. Finality of decree and orders :-**

Every order passed under section 270, 271, 282 or 283 by a District Court or by a Sessions Court shall be final, and shall not be subject to any appeal, revision or review.

**273. Custody and disposal of property pending trial :-**

When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Nyaya Panchayat during trial, the Nyaya Panchayat may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial and if the property is subject to speedy or natural decay, or if it is otherwise expedient so to do, it may after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

**274. Disposal of property regarding which offence committed :-**

(1) On the conclusion of a trial before it a Nyaya Panchayat may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (3), be carried out for two months.

(3) Nothing in this section shall be deemed to prohibit a Nyaya Panchayat from delivering any property under the provisions of sub-section (1) to any persons claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Nyaya Panchayat engaging to restore such property to it if the order made under this section is modified or set aside in revision.

Explanation-In this section the term "property" includes in the case of property regarding which an offence appears to have been committed not only such property has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted, or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

#### CHAPTER 14

##### Execution of Decrees of Nyaya Panchayats

#### **275. Satisfaction or adjustment of decree to be recorded :-**

If, on the application of a degree holder or judgment debtor, the Nyaya Panchayat, after enquiry finds that the decree has been satisfied or adjusted, wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

#### **276. Execution through Collector :-**

(1) If, after a period of one months from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-bolder may within one year of the date of the decree, apply to the Nyaya Panchayat for execution.

(2) On such application for execution, the Nyaya Panchayat shall certify to the Collector that the decree remains unsatisfied or unadjusted in whole or in part, and on receipt of such certification the Collector, provided that the Nyaya Panchayat has so certified to the Collector with one year from the date of the application for execution, shall-

(a) if the decree is for money, proceed to recover it as if it were an arrear of land revenue;

(b) if the decree is for any specific movable property, cause the decree to be executed, as if it were a decree of a civil court, and in so acting he may exercise all the powers of civil court.

**277. Execution of instalment decree through Collector :-**

(1) If, after a period of one months from the dale fixed for the payment of any instalment of a sum of money decreed by a Nyaya Panchayat under section 269 an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the Nyaya Panchayat.

(2) On such application for execution, the Nyaya Panchayat shall certify lo the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector, provided the Nyaya Panchayat has so certified to the Collector within one year from the date of the application for execution, shall proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

**278. Satisfaction of decree or instalment after certificates :-**

If, after the issue of the certificate to the Collector under section 226 or 277 but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 275 the Nyaya Panchayat shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

**279. Fine and compensation when payable and mode of recovery :-**

(1) Eveiy fine imposed and every sum ordered to be paid as a compensation under sections, 232, 233, 234 and 235 by a Nyaya Panchayat shall be payable at once:

Provided that the Nyaya Panchayat may allow any person ordered by it to pay fine or compensation lo pay the same within such time, not exceeding fifteen days as it may think proper and on such terms as to security as seems to the Nyaya Panchayat necessary to impose.

(2) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the Nyaya Panchayat shall recover the same by distraint and sale of the defaulters movable property.

(3) If the amount of the fine or compensation is not fully recovered the Nyaya Panchayat shall certify accordingly to the Collector, and on receipt of such certification the Collector, provided the Nyaya Panchayat has so certified to the Collector within a period of one year from the date when the amount became recoverable by the Nyaya Panchayat under subsection (2), shall proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the Nyaya Panchayat.

**280. Fine or compensation when realised to be recorded :-**

As soon as the amount of fine or compensation referred to in section 279 is realised by the Nyaya Panchayat whether directly or through the Collector, the amount so realised shall be entered in the prescribed register.

**281. Payment of compensation out of village fund :-**

Any money which has been ordered by the Nyaya Panchayat under [ section 234 or section 235] to be paid as expenses or compensation, shall be paid by it out of the amounts realised under section [232 and 233].

**282. District Court or Sessions Court may quash proceedings :-**

(1) The District Court in any suit and the Sessions Court in any case may, at any time, either on the application of an aggrieved party or otherwise or on a reference made by a Nyaya Panchayat under section 270, by order in writing quash any proceedings of a Nyaya Panchayat at any stage, or cancel any decree or order passed by a Nyaya Panchayat.

(2) When an order has been passed by the District Court under subsection (1) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a Civil Court and the period from the date of the institution of the suit before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(3) Where an order has been passed by the Sessions Court under sub-section (1) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

**283. Transfer of suit or case by District Court or Sessions Court :-**

(1) The District Court in any suit, and the Sessions Court in any case. may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal court competent to try the same.

(2) On the transfer of such suit or case, the court to which it is transferred shall hear such suit or case a new as if such suit or case was instituted before it.

**284. Procedure in proceedings before District Court and Sessions Court :-**

Subject to the provisions of this Act. in regard to all proceedings under this Act, District Court and Sessions Court shall have the same power and shall follow the same procedure as they respectively have and follow in regard to proceeding in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction.

**285. Bar to arrest and imprisonment in execution of decree :-**

No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act.

**CHAPTER 15**

**Control**

**286. Power of Government to prepare State wide projects etc., not affected :-**

Nothing in this Act shall affect the power of the State Government to prepare for the whole State the Five Year Plan or the project and programmes relating to the construction of roads, water supply, or any other matter or to undertake any project or programme concerning a district or more districts than one.

**287. Panchayats to form part of Statewise panchayats organisation and to perform functions so as to carry out the State Policy :-**

The gram panchayats, nagar panchayats, taluka panchayats and District panchayats, notwithstanding that they are separate bodies corporate [having distinct territorial jurisdiction and distinct functions to perform-

(1) shall form part of the panchayat organisation set up for the purpose of securing a greater measure of participation by the people of the State in local and governmental functions;]

(2) shall perform the functions and duties assigned to them by or under this Act so as to conform to the State Five Year Plans and the National Five Year Plans and to the State policy in general [and shall give effect to such general or special directions as the State Government may from time to time by order in writing issue in that behalf];

(3) shall carry their administration faithfully and efficiently.

**287A. Panchayat to invite designated officer or person to attend meetings :-**

(i) It in respect of any matter which is to be dealt with by a panchayat, the State Government so directs by a general or special order, it shall be the duty of the panchayat to invite such officer or person as may be designated by the State Government as an officer or person possessing technical knowledge and experience pertaining to such matter to attend the meeting of the panchayat or, as the case may be, of its committee whenever such matter is to be dealt with thereat.

(2) Where upon such invitation, any such officer or person attends any meeting of the panchayat or, as the case may be, of its committee, he shall be entitled to take part in the discussion which may be held in respect of such matter at the meeting but shall not be entitled to vote.

(3) Where any such officer or person attends any such meeting he shall be paid such allowances at such rates as may be prescribed.]

**288. Power of Government to issue directions :-**

Where the functions and duties assigned to gram panchayat, nagar panchayats taluka panchayats and district panchayats under the Panchayats Functions List relates to the same subject, then in order that the the functions and duties may not overlap or that the responsibility for performing any such function or duty is not shifted by one panchayat to another on account of any ambiguity or misunderstanding, the State Government may, from time to time, by an order in writing, issue to all, or any of the panchayats such direction as it may think necessary for avoiding any such overlapping of functions, or shifting of the responsibility and the panchayats shall be bound to exercise their powers, and perform their Junctions and duties in conformity with such directions.

**289. Necessity of administrative sanction etc., to work or**



### **schemes grant-in-aid and acquisition of property :-**

(1) Subject to the provisions of sub-section (2) no work or development, scheme which a panchayat intends to undertake as part of its functions and duties under this Act shall be commenced unless a detailed estimate of the cost of such work or development scheme has been approved by the panchayat and the plan thereof is approved by the prescribed authority.

(2) No such work or development scheme shall be commenced and no grant-in-aid shall be made by a panchayat from its fund unless previous sanction has been accorded thereto by such authority as may be prescribed by rules in that behalf.

[(3) Subject to such exceptions as may be prescribed no property These words were inserted by Guj. 7 of 1966, s. 21.

### **290. Appeals against order of gram or nagar panchayat :-**

(1) Save as otherwise provided in this Act, an appeal shall lie to the district panchayat against any order or decision of a gram panchayat or nagar panchayat [or taluka panchayat] affecting any individual or institution.

(2) Such appeal shall be made within a period of thirty days from the date of the order or decision.

(3) The district panchayat may pass such order on the appeal as it may deem just and proper and the order on appeal shall be final.

### **290A. Appeal Committee to exercise appellate powers of district panchayats :-**

(1) Notwithstanding anything contained in section 13, the appellate powers conferred on a district panchayat under sections 93, 178 and 290 shall be exercisable by an Appeal Committee of the district panchayat, which shall consist of the President of the Panchayat and [four] other members of the panchayat as may be chosen by the panchayat from amongst its members.

(2) The resident of the panchayat shall be ex-Officio Chairman of the Appeal Committee.

(3) The term of the Appeal Committee shall be co-extensive with the term of the panchayat.

(4) A member chosen on the Appeal Committee may resign from

membership of the Committee by tendering his resignation to the Chairman.

[(5) The State Government shall make rules consistent with this  
These words were inserted, *ibid.*, s. 75

(a) the sittings of the members of the committee in benches constituted by the President or such other member of the Committee as is authorised by him; and

(b) the mode of settling differences of opinion which may arise between the members of a bench.]

(6) The appellate powers as aforesaid shall include power to grant temporary injunction or to issue a direction to stay the execution of the decision or order appealed against until the disposal of the appeal or to make such other interlocutory orders as may appear to be just and convenient and such power may be exercised by the Chairman of the Appeal Committee.

(7) Any decision given by the Appeal Committee in the exercise of the powers conferred on it by this section shall be deemed to be the decision of the district panchayat.

**290B. To whom appeal may be addressed etc :-**

An appeal to be made to a district panchayat shall be in writing and addressed to the District Development Officer. It may be sent to the District Development Officer by registered post or presented to him in person. Every such appeal shall be accompanied by the decision or order appealed against or by a certified copy thereof]

**291. Power to call for proceedings :-**

(1) The district panchayat shall have power-

(a) to call for any proceeding of any panchayat subordinate to it or an extract therefrom, any book or document in the possession of or under the control of any such subordinate panchayat and any return, statement, account or report which the district panchayat thinks fit to require such panchayat to furnish, and

(b) to require any such subordinate panchayat to take into consideration-

(i) any objection which appears to the district panchayat to exist to the doing of anything which is about to be done or is being done by such subordinate panchayat, or

(ii) any information which the district panchayat is able to furnish and which appears to the district panchayat to necessitate the doing such a certain thing by the subordinate panchayat, and to make a written reply to the district panchayat within a reasonable time stating its reasons for not desisting from doing or for not doing such things.

(2) An officer authorised by the State Government in this behalf by a general or special order shall, in respect of a district panchayat, have the same powers as a district panchayat has under sub-section (1) in respect of a panchayat subordinate to it.

### **292. Powers of entry :-**

(1) The district panchayat may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied [by any subordinate panchayat] or any work in progress under its direction [and [also to enter or cause to be entered the office] of any such panchayat and [inspect or cause to be inspected any record] register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection].

[(2) The taluka panchayat, if so empowered by the State Government, may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any subordinate panchayat or any work in progress under its direction and [also to enter or cause to be entered the office] of any such panchayat and [inspect or cause to be inspected any record], register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection.]

### **292A. Powers of officer of State Government regarding inspection :-**

An officer authorised by the State Government in this behalf by a general or special order may enter on and inspect or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any panchayat or any work in progress under its direction and also enter the office of any panchayat and inspect any record, register or other document kept therein and the panchayat shall comply with the inspection notes, if any, made by

such officer.]

### **293. Reduction of establishment :-**

(1) If, in the opinion of the district panchayat the number of persons maintained by a panchayat subordinate to it as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on being required by the district panchayat, reduce such number or remuneration.

(2) The panchayat may appeal to the State Government or an officer authorised by it in that behalf against any requisition made under sub-section (1), and the decision of the State Government or the officer so authorised shall be final.

### **294. Suspension of execution of order :-**

(1) IF, in the opinion of the Taluka Development Officer the execution of any order or resolution of a panchayat subordinate to the taluka panchayat or the doing of anything which is about to be done, or is being done by or on behalf of such panchayat, is unlawful, he may by order in writing suspend the execution or prohibit the doing thereof.

(2) When the taluka Development Officer makes an order under sub-section (1), he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons therefor.

(3) The Taluka Development Officer shall forthwith submit to the District Development Officer a report of every case occurring under this section and the District Development Officer may revise or modify any order made therein and make in respect thereof any other order which the Taluka Development Officer could have made.

(4) The District Development Officer in respect of a taluka panchayat [or nagar panchayat] shall have the same powers as Taluka Development Officer has in respect of [a gram panchayat] under sub-sections (1), (2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government. The State Government may pass such order thereon as it may deem fit.

(5) An officer authorised by the State Government in this behalf by

general or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in respect of a taluka . panchayat under this section.

(6) If in the opinion of the Collector the execution of any order or resolution of any panchayat or the doing of anything which is about to be done or is being done by or on behalf of such panchayat, or is likely to cause injury or annoyance to the public or to lead to a breach of peace, the Collector may by order in writing suspend the execution or prohibit the doing thereof and shall forthwith-

(a) send to the panchayat affected thereby a copy of the order, with a statement of the reasons therefor, and

(b) submit to the State Government a report thereof.

### **295. Execution of work in case of emergency :-**

(1) In cases of emergency the Taluka Development Officer may provide for the execution of any work or the doing of any act which a panchyat sub-ordinate to a taluka panchayat is empowered to execute or do, and the immediate execution or doing whereof is, his opinion, necessary for the health or safety of the public and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the Taluka Development Officer may direct the officer incharge of the treasury in which the fund of the panchayat is kept to pay such expense or so much thereof as is possible, from the balance of such fund in his hands and the officer in charge of the treasury shall comply with such directions.

(3) The Taluka Development Officer shall forthwith report to the District Development Officer every case in which he exercises his powers under sub-section (i).

(4) The District Development Officer in respect of a taluka panchayat [for nagar panchayat) shall have the same powers as Taluka Develop- meet Officer has in respect of [a gram] panchayat under sub.sections ( ), (2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government.

(5) An officer authorised by the State Government in this behalf by a genera] or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in

respect of a taluka panchayat under this section.

**295A. Extension by panchayat of its services, etc , to area outside its limits :-**

(1) If for the purpose of taking immediate steps for protecting life and property in any area affected by an outbreak of fire or epidemic disease or any other natural calamity, the District Development Officer is satisfied that it is necessary to requisition, equipment or staff provided or

(2) Where any direction is issued to a paachayat under sub-section (1), the pacchayat shall, subject to the provisions of sub-section (3), be entitled to the cost of supplying the service, equipment and staff in pursuance of the direction.

(3)

(a) The sum payable to the panchayat under sub-section (2) by way of cost shall be determined by the officer making the requisition under sub-section (1)

(b) If (he area to which the service, equipment and staff are so supplied, is within the local limits,of any municipal corporation, municipality or any other panchayat, such corporation municipality, or panchayat, as the case may be, shall beliable to pay to the panchayat to which the order under sub-section (1) is directed the sum determined under clause (a) and shall pay the same to the panchayat within such period as the Officer determining the sum directs and in any other case, the sum determined under clause (a) shall be paid to the panchayat by the State Government.

(4) If any area not comprised within the local limits of a municipal corporation, municipality or any panchayat, is affected by an outbreak of fire or epidemic disease or any other natural calamity \\and a panchayat is satisfied that for protecting life and property in that area it is necessary to take immediate steps to make available any of its services, equipment and staff for that area, then notwithstanding anything contained in sub section (1), sub-section (2), or sub-section (3), and whether a requisition under subsection (1) has been made or not, it ?ha]l be lawful for the panchayat to do so free of cost."]

**296. Default in performance of duty :-**

(1) If at any time, it appears to the district panchayat that any

panchayat subordinate to it has made default in the performance of any duty imposed on it under this Act, it may order the duty to be performed within a specified period, and if the duty is not performed within the period specified the district panchayat may appoint a person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat within such period as the district panchayat may fix.

(2) If the expense is not so paid, the district panchayat may direct the person in custody of the fund of the panchayat to pay such expenses, or so much thereof as is possible, from the balance of such fund in his hands, and such person shall pay such expense or part thereof accordingly.

(3) If at any time it appears to the State Government or any officer authorised by the State Government in this behalf, that a panchayat has made default in the performance of any duty and that the district panchayat has failed or neglected to take action under sub-sec. (1), the State Government or the officer authorised, as the case may be, may take such action as could have been taken by the district panchayat under sub-sections (1) and

(4) The district panchayat or the officer authorised, as the case may be, shall forthwith report to the State Government every case occurring under this section and the State Government may revise or modify any order made therein, and make in respect thereof, any other order which the district panchayat could have made.

(5) An Officer authorised in this behalf by the State Government by a general or special order shall, in respect of district panchayat, have the same powers as the district panchayat has in respect of the panchayat subordinate to it under this section.

### **297. Dissolution or supersession of panchayat for default :-**

(1) If, in the opinion of the State Government, a panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of, the duties imposed on it or functions entrusted to it under any provision of this Act or by or under any other law for the time being in force, or fails to obey an order made under this Act by the panchayat superior thereto or by the State Government or any officer authorised by it, under this Act or persistently disobeys any of such orders the State Government may, after consultation with the district panchayat in the case of a panchayat subordinate to it and after giving the panchayat an

opportunity of rendering an explanation, by order in the Official Gazette.

(i) dissolve such panchayat, or

(ii) supersede such panchayat for the period specified in the order; such period may be longer than the term for which the members of the panchayat would have held office under section 17 if the panchayat had not been superseded under this section:

[Provided that the State Government may from time to time after making such inquiry as it may consider necessary by an order published in the Official Gazette extend the period of supersession of such panchayat until such date as may be specified in the order or by like order curtail the period of supersession.]

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall from the date specified in the order, vacate their office as such members.

(3) When the panchayat dissolved or superseded it shall be reconstituted in the manner provided in this Act.

(4) If a panchayat is dissolved or superseded-

(a) all the powers and duties of the panchayat shall, during the period of dissolution or supersession, as the case may be, be exercised and performed by such person or persons as the State Government may, from time to time appoint in that behalf; and

(b) all property vested in the panchayat shall during the period of dissolution or supersession, as the case may be, vest in the State Government; and

(c) on the dissolution or, as the case may be, on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election.

**298. Consequences of alteration of limits of gram or nagar :-**

(1) When by a notification under sub-section (2) of section 9 the limits of any gram or nagar are altered so as to-

(a) include any area therein, or

(b) exclude any area therefrom, the State Government may,



notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the Official Gazette, provide for all or any of the following matters, namely:-

(i) in a case falling under clause (a), the interim increase in the number of the members of the gram panchayat or, as the case may be, nagar panchayat by appointment of additional members by the State Government;

(ii) in a case falling under clause (b) the removal of the members of the grain panchayat or, as the case may be, nagar panchayat, who in the opinion of the State Government represent the area excluded from the gram or, as the case may be, nagar:

Provided that where the area so excluded has been included in any other gram or nagar, the members so removed shall be appointed as additional members of the panchayat of such gram or nagar;

(iii) the term for which additional members so appointed shall hold office and the manner of filling casual vacancies;

(iv) allocation of any officer or servant of the panchayats affected by the alteration of the limits.

(2) The panchayat, if any, constituted for the gram or nagar and functioning immediately, before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue to function until the expiry of its term under this Act and on such expiry it shall be reconstructed in the manner provided in this Act.

(3) The Nyaya Panchayat constituted for the respective gram or nagar shall, notwithstanding the alteration of the limits of the gram or nagar, continue to function in the gram or nagar as constituted with the altered limits, until the expiry of its term under this Act.

(4) If in altering the limits of any gram or nagar, the area excluded therefrom is included in any other gram or nagar, the-

(a) such portion of the gram or nagar fund, debts, obligations and other property of the gram or nagar from which the area is so excluded shall be transferred to and vest in, the panchayat of the gram or nagar in in which such area is included, as the State Government may, by order in writing direct;

(b) the rights and liabilities of the panchayat in respect of any

contracts, agreements and other matters and things, arising in or relating to area so excluded shall vest in the panchayat of the gram or nagar in which the area is so included;

(c) any notice, tax, fee, cess. order, licence, permission, rule or bye-law issued, imposed, granted or made in respect of the area so excluded shall be deemed to have been issued, imposed, granted or made in respect of the panchayats in which the area is so included and shall continue in force until it is superseded under the provisions of the law applicable thereto;

(d) all proceedings relating to the area excluded from the gram or nagar and pending before the panchayat or the Nyaya Panchayat on the date of such exclusion shall be transferred to and disposed of by the panchayat, or, as the case may be, the Nyaya Panchayat of the gram or nagar in which the area is included].

**299. Vesting of property etc :-**

of Panchayat which has been dissolved and reconstituted or established] Deleted by Guj. 1 of 1963, s. 4.

**300. Effect of area being excluded from gram :-**

Where by a notification under section 9 any local area forming part of a gram or nagar is excluded from such gram or nagar and such area is not included in or declared to be gram or nagar so much of the gram fund or, as the case may be, nagar fund and other property vesting in the panchayat of the gram or nagar of which such area formed part, as the State Government by order in writing direct, shall vest in the State Government to be utilized for the benefit of the area as the State Government may think fit.

**301. Effect of area ceasing to be gram or nagar :-**

On any area ceasing to be a gram or nagar by virtue of any notification under section 9-

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification;

(b) the unexpended balance of the fund of the panchayat and the property (including arrears of rates, taxes and fees) vesting in the panchayat shall vest in the State Government to be utilised for the benefit of the inhabitants of the areas as the State Government thinks fit;

(c) the Nyaya Panchayat if any constituted for the group in which

the gram was included shall continue to function for the remaining grams of the group unless the number of the remaining grams is rendered less than three.

**302. Effect of dissolution or supersession of panchayat or of withdrawal of judicial powers of Nyaya Panchayat or Nyaya Panchayats and proceedings pending before them :-**

(1) When a panchayat is dissolved or superseded under section 297 [\* \* \* \*], the member elected by such panchayat shall cease to be a member of the Nyaya Panchayat concerned, and the State Government shall appoint a person to the Nyaya Panchayat from amongst the members of the Gram Sabha of the gram or, as the case may be, qualified voters of the nagar.

(2) Where all the judicial powers of a Nyaya Panchayat have been withdrawn under sub-section (3) of section 218, such Nyaya Panchayat

(3) On the dissolution of a Nyaya Panchayat under sub-section (2)-

(i) the provisions of sub-section (2) and (3) of section 282 shall be deemed to apply in respect of any suits or cases pending before the Nyaya Panchayat as if the District or Sessions Court, as the case may be, has passed an order under sub-section (1) of section 282 quashing such suits or cases; and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of Civil Judge of the lowest grade or the Court of the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the Nyaya Panchayat had not been constituted and such Civil Court or Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Civil Court or the Court of such Magistrate.

(4) If any local area is excluded from a gram or nagar and no panchayat is constituted for the area so excluded, the provisions of sub-section (3) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the Nyaya Panchayat in respect of the said area as if so far as such suits, proceedings and applications are concerned the Nyaya Panchayat had been dissolved.

**303. Powers and duties of panchayat or Nyaya Panchayat not validly constituted to be performed by person appointed by Government or by Court as the case may be :-**

(1)

(a) Notwithstanding anything contained in this Act or the rules or by-laws made thereunder, if at any time it appears to the State Government that a panchayat has been validly constituted under this Act, the State Government may, by notification in the Official Gazette, cause all or any of the powers and duties performed by such person or persons in such manner and for such period and subject to such conditions as it may think fit: Provided that on the reconstitution of the panchayat under subsection (2) such notification shall cease to have effect from the date, on which the first meeting of the panchayat so reconstituted is held under sections 44, 55 or 67.

(b) On the issue of such notification the member of the Nyaya Panchayat elected by such panchayat shall cease to be a member of the Nyaya Panchayat having jurisdiction, and such Nyaya Panchayat shall cease to exercise any powers in respect of suits or cases instituted before such member, or the member, or the Sarpanch or the Upa-Sarpanch of the gram or, as the case may be, the Chairman or Vice-Chairman of the nagar concerned and the provision of sub-section (3) of section 302 shall, so far as may be, apply in respect of such suits, cases, proceedings' applications which may be pending before such Nyaya Panchayat on the date of notification issued by the State Government under clause (a).

(2) On the issue of such notification all the members of the panchayat shall be deemed to have vacated their office as members and the panchayat shall be reconstituted before the expiry of the period specified in such notification in the manner provided in this Act.

(3) All the powers and duties of the panchayat exercised and performed bona fide till the date of the notification referred to in subsection (1) by the persons who constituted such panchayat or Nyaya Panchayat. as the case may be. shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or be called in question on the ground merely that the persons were not members of a validly constituted panchayat or

Nyaya Panchayat and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts.

[(4) Where a panchayat, after its being liable to be reconstituted by reason of the expiry of its terms or otherwise under the provisions of this Act continues to function as before and the members thereof continue to hold their office, it shall be lawful for the State Government to take action under sub.section (1) in respect of such panchayat as if it were a a panchayat not validly constituted under this Act.]

**303A. Power of State Government to appoint officers to carry on the administration of panchayats in certain circumstances :-**

(1) Notwithstanding anything contained in this Act or the rules or bye-laws made there under, if at any time, the State Government is satisfied that a situation exists by reason of dissensions among the members of a panchayat or disturbances in the whole or any part of the State of Gujarat, whereby:-

(i) the administration of the affairs of a panchayat cannot be carried on in accordance with the provisions of this Act or the rules or bye-law made thereunder; or

(ii) it is not possible or expedient to hold elections for the re-constitution of a panchayat on the expiry of its term, the State Government may, by notification in the Official Gazette, make a declaration to that effect.

(2) A notification issued under sub-section (1) in relation to any panchayat shall remain in force for such period, not exceeding six months, as may be specified therein : Provided that if the State Government is of the opinion that it is necessary so to do, it may, by order and for reasons to be mentioned therein extend, from time to time, the period so specified, so, however, that the notification shall not in any case remain in force for more than one year in the aggregate.

(3) On the issue of a notification under sub section (1) in relation to any panchayat:-

(a) all the member.-, of such panchayat shall vacate their office as such members;

(b) all the powers and duties of such panchayat shall, during the period when such notification is in force, be exercised and performed by such officer of the State Government as it may, by order, specify in that behalf.

(4) The State Government shall, before the expiry of the period specified in the notification issued under sub-section (1) or extended under the proviso to sub-section (2), as the case may be, take steps for the purpose of reconstituting the panchayat in the manner provided in this Act].

**303B. Power of State Government to appoint officer to exercise and perform the powers and duties of panchayat when elections could not be held for reconstituting it :-**

(1) Notwithstanding anything contained in this Act or the rules or bye-laws made thereunder, if, in respect of any panchayat, the State Government is satisfied, at any time before or after the date on which it is or has become liable to be reconstituted on account of the expiry of its term or otherwise, that it is not possible to hold elections for the reconstitution of that panchayat, by reason of any of the matters connected with the holding of election of members set out in sections 20 and 21 or elsewhere in this Act or any rules made thereunder not having been completed and not being likely to be completed within a reasonable period, the State Government may, by notification in the Official Gazette, make a declaration to that effect.

(2) A notification issued under sub-section (1) in relation to any panchayat shall remain in force for such period, not exceeding six months, as may be specified therein :

Provided that if the State Government is of the opinion that it is necessary so to do, it may, by order and for reasons to be mentioned therein, extend, from time to time, the period so specified; so however that the notification shall not in any case remain in force for more than one year in the aggregate.

(3) On the issue of a notification under subsection (1) in relation to any panchayat, with effect from such date (not being earlier than the date on which the panchayat is or has become liable to be reconstituted) as the State Government may, by order, specify and so long as that notification remains in force, all the powers and duties of the panchayat shall be exercised and performed by such officer of the State Government as may be specified in the said

order.

(4) The State Government shall, before the expiry of the period specified in the notification issued under sub-section (1) or extended under the proviso to sub-section (2), as the case may be, take steps for the purpose of reconstituting the panchayat in the manner provided in this Act.

**303C. Power of State Government to empower officer to exercise and perform the powers and duties of Sarpanch, etc., in certain cases :-**

Where a notification has been issued under sub-section (i) of section 303A or sub-section (1) of section 303B in relation to any panchayat, the State Government may, notwithstanding anything contained in this Act or the rules or by-laws made thereunder by order, empower such officer of the State Government as it may think fit, to exercise and perform, all the powers and duties conferred or imposed on a Sarpanch, Chairman or as the case may be. President or any Committee of that panchayat under this Act and upon the issue of such order the Sarpanch, Chairman or, as the case may be, President shall cease to carry on the current duties of his office].

**304. Inquiry by officers of panchayat :-**

(1) The State Government may from time to time cause inquiry to be made by any of its officers in regard to any panchayat or matters concerning it or to any matters with respect to which the sanction , approval, consent or order of the State Government is required by this Act.

(2) The officer holding such inquiry shall have the powers of a Court under the Code of Civil Procedure, 1908, (V of 1908) to take evidence and compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

(3) The State Government may make orders as to the cost of inquiries under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and any such order may, on the application of the State Government or of any persons named therein, be executed as if it were a decree of a civil court.

**305. State Government may call for proceedings :-**

The State Government may call for and examine the record of proceedings of any panchayat [or of any committee thereof] or of

any officer (except any proceedings of the Nyaya Panchayat or of the District or the Session Court in judicial proceedings in revision or reference or reference from the proceedings of a Nyaya Panchayat) for the purpose of satisfying itself as to the legality or propriety of the order passed and revise or modify the order as it shall deem just.

#### CHAPTER 16

##### Specified areas

#### **305A. Constitution of specified areas :-**

(1) The State Government may, by notification in the Official Gazette, declare that with respect to some or all of the matters upon which a gram or nagar fund may be expended under this Act, improved arrangements are required within a specified area, having population of not more than twenty thousand, which, nevertheless, it is not expedient to constitute as a gram or nagar under section 9.

(2) An area in regard to which a notification has been issued under sub-section (1) is hereinafter called a specified area.

#### **305B. Power of State Government to apply Act to specified areas :-**

"

(1) The State Government may, by notification in the Official Gazette-.-

(a) apply to any specified area the provisions of any section of this Act or part of any such section, or of any rules in force in any gram or

(b) impose in any such area a y tax, which might be imposed therein under the provisions of this Act, if the said area were a gram or nagar;

(c) appoint a local development committee for any such area for the purposes of the assessment and recovery of any tax imposed under clause (b), and in order to arrange for the due expenditure of the proceeds of such taxes, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any section or rules applied under clause (a):

Provided that no notification in respect of the matters specified in clause (a) or (b) shall be issued except in consultation with the district pancchayat having jurisdiction over the specified area.



(2) The proceeds of any tax levied in any specified area under this section shall be expended only in such manner in which, if the specified area were a gram or nagar; the fund thereof might be expended.

(3) A local development committee appointed under clause (c) of sub-section (1) shall be known by the name of The".....Local Development Committee" and it shall consist of number of members as the State Government may, having regard to the population of the specified area and the nature and extent of the powers, functions and duties conferred or imposed on the committee, fix, out of which-

(a) two thirds of members shall be appointed by the State Government, and

(b) one third of members shall be appointed by the district panchayat having jurisdiction over the specified area of whom atleast one shall be a resident of the specified area and the others shall be from the qualified voters of the district.

(4) The local development committee shall exercise its powers and perform its functions and duties, subject to the control of the State Government.

**305C. Local development commttee to be deemed panchayat :-**

For the purposes of any section of this Act which may be applied to a specified area, the committee appointed 'for such area under section 305B shall be deemed to be a panchayat under this Act, and the area shall be deemed to be a gram or nagar.

**305D. Preliminaries lo notification :-**

(1) Before issuing any notification under sub section (1) of section 305A or under clause (a) or (b) of sub-section 305B, the State Government shall, so far as may be, follow the procedure prescribed in section 9.

(2) The State Government may at any time cancel any notification issued under section 305A or 305B.

**305E. Vesting, recovery and application of property, rights and liabilities of committee appointed for area ceasing to be specified area :-**

(1) When by reason of the cancellation under sub-section (i) of section 305D, of a notification issued under section 305A, any area ceases to be a specified area, the property (including arrears of taxes) and rights which, prior to such cancellation, vested in the committee appointed for such area under clause (c) of sub-section (1) of section 305B shall, subject to all charges and liabilities affecting the same, vest in the local authority, if any, constituted for such area or within the limits of which such area is included, or, if there be no such authority, in the State Government.

(2) Any arrears of taxes vesting in a local authority under subsection (1) shall be recoverable under the provisions of the Act under which such local authority is constituted as if the taxes were imposed and recoverable under that Act

(3) Where any property and rights vest in the State Government under sub-section (1) the proceeds thereof shall, after satisfying all charges and liabilities affecting the same, be applied for the benefit of the inhabitants of the said area in such manner, as the State Government may think fit.]

#### CHAPTER 16A

Provisions for conversion of a Municipality into a Panchayat and for amalgamation and division of Panchayats

### **306. Interpretation :-**

For the purposes of this Chapter, unless the context otherwise requires-

(a) "municipal district" means a municipal district within the meaning of the Bombay District Municipal Act, 1901 or that Act as adapted and applied to the Saurashtra area of the State of Gujarat;

(b) "municipal borough" means a municipal borough within the meaning of the Bombay Municipal Boroughs Act, 1925, as applied to the Kutch area of the State of Gujarat:

(c) "municipality" means a municipality constituted for a municipal district or municipal borough and includes a person or persons authorised to exercise the powers and perform the functions of a municipality under section 179 of the Bombay District Municipal Act, 1901 (Bom III of 1901) or that Act as adapted and applied to the Saurashtra area of the State of Gujarat or under section 1[219] of the Bombay Municipal Boroughs Act, 1925 (Bom XVIII of 1925) as applied to the Kutch area of the State of Gujarat (the aforesaid Acts, being hereinafter in this Chapter referred to as "the

municipal laws");

(d) ["panchayat" includes] a person or persons appointed to exercise the powers and to perform the functions of a panchayat under section 297.

**307. Effect of conversion of municipality into panchayat :-**

Where any local area is declared to be a gram or nagar under section 9 and immediately before such declaration, the local area was co-extensive with the limits of a municipal district or a municipal borough or included an area comprising a municipal district or municipal borough as well as any other area], then with effect from the date on which such local area is so declared to be gram or nagar (in this section referred to as "the said date"), the following consequences, shall, notwithstanding anything in the relevant municipal law, ensue, that is to say-

(a) the municipality '[functioning in such local area or part thereof] shall cease to exist;

(b) there shall, notwithstanding anything contained in any law for the time being in force, constituted for the gram or nagar, as the case may be, an interim gram panchayat or, as the case may be, interim nagar panchayat consisting of persons vacating office as councillors of the municipality or members of the committee thereof and the President and Vice- President of the Municipality shall respectively, be deemed to be the Sarpanch and Upa-Sarpanch or, as the case may be. Chairman or Vice- Chairman of the interim panchayat- .,

[Provided that if immediately before the municipality so ceasing to exist, there be a person or persons appointed under section 179, or, the case as may be, 219 of the relevant municipal law referred to in clause (c) of section 306 to exercise the powers and perform the duties of the municipality, there shall be an interim gram panchayat or, as the case may be, an interim nagar panchayat for the local area and the person or persons so appointed shall be deemed to be a person or persons appointed under clause (a) of sub-section (4) of section 297 to exercise all the powers and perform all the duties of such interim gram panchayat or as the case may be, interim nagar panchayat;]

(c) the unexpended balance of the municipal fund and property including arrears of rates taxes and fees, belonging to the

municipality, and all rights and powers, which prior to such notification, vested in the municipality shall subject to all charges and liabilities affecting the same, vest in the interim panchayat as the gram or nagar fund until the new panchayat is constituted in pursuance of the provisions of subsections (1) of section 3011;

(d) any appointment notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under any municipal law immediately before the said date in respect of such local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the gram or nagar until it is superseded or modified by any other appointment, notification, notice, tax fee, cess order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted under this Act.

(e) all budget estimates assessments, assessment lists, valuations or measurements made or authenticated under any of the municipal laws immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act;

(f) all debts and obligations incurred and all contracts made by or on behalf of the municipality immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the interim panchayat in exercise of the powers conferred on it by or under this Act;

(g) all officers and servants in the employ of the municipality immediately before the said date shall be officers and servants of the interim panchayat under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the interim panchayat subject however to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirement of the service of the interim panchayat, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive

on being invalidated, out of service as if the municipality in the employ of which he was, had not ceased to exist.

(h) all proceedings pending at the said date before the municipality shall be deemed to be transferred to, and continued by, the interim panchayat;

(i) all appeals pending at the said date before the municipality shall, so far as may be practicable, be disposed of as if such local area had been included in the gram or nagar when they were filed;

(j) all prosecutions instituted by or on behalf of the municipality and all suits or other legal proceedings instituted by or against such municipality or any officer of such municipality pending at the said date shall be continued by or against the interim panchayat as if such local area had been included in the gram or nagar when such prosecutions, suits or proceedings were instituted.

[(k) any law (other than the municipal law) or any rule, by-law, notification or order issued under such law. which was applicable to and in force in the local area immediately before it was declared as a gram or nagar under section 9, shall continue to apply to and to be in force in the local area until it is superseded [\* \* \*].

**307A. Validating provisions in respect of certain local area as declared as grams or nagars :-**

Where any local area declared as gram or nagar under sub-section (i) of section 9 before the commencement of the Gujarat Panchayats (Amendment) Ordinance, 1962, (Guj.Ord.Xof 1962) consisted of an area within the limits of a municipal district or municipal borough and an area outside such limits, the provisions of section 30 shall apply and shall be deemed always to have been applied to such local area, as if the area outside such limits when the local area was so declared as gram or nagar and as interim panchayat constituted, if any, for the gram or nagar, as the case may be, under clause (b) of section 307 shall be deemed to have been constituted for the whole of the gram or nagar comprising the local area so declared, and accordingly the consequences ensuing under section 307 shall be deemed to have ensued in respect of the local area so declared and shall be valid and shall not be called in question merely on the ground that the local area so declared was not co-extensive with the limits of the municipal district or municipal borough.]

**308. Term of office of members of interim panchayat and**

**their powers :-**

(1) The District Development Officer shall, within a period not exceeding one year from the date on which the interim panchayat has been constituted take steps to hold election for a new gram panchayat or nagar panchayat, as the case may be.

(2) The members of the interim panchayat shall hold office until the day immediately preceding the day of the first meeting of the new panchayat.

(3) Any vacancy in the office of the interim panchayat shall be filled as soon as conveniently may be, by appointment by the district panchayat.

(4) During the period for which the members of the interim panchayat are in office as provided in sub-section (2), no Nyaya Panchayat shall have jurisdiction over the gram or nagar.

(5) All arrears of rates, taxes and fees vesting in the interim panchayat shall be recoverable under the provisions of this Act, as if the rates, taxes and fees were imposed and recoverable under this Act:

(6) In other respects the provisions of this Act shall, mutatis mutandis, apply to the interim panchayat and its members.

(7) If any difficulty arises,

(i) in the constitution of the interim panchayat which succeeds it, or

(ii) in giving effect to the provisions of this section, the State Government may by order, as occasion may require, do notwithstanding anything contained in this Act or in any municipal law, anything which appears to it to be necessary to remove the difficulty.

**309. Effect of amalgamation of grams :-**

(1) When two or more grams cease to be grams and the local areas constituting such grams are amalgamated and declared to be one gram (hereinafter in this section referred to as "the amalgamated gram"), by virtue of a notification under section 9, with effect from the date on which such notification is issued (hereinafter in this section referred to as "the said date") the following consequences shall ensue, that is to say -

(a) the panchayats of such local areas shall cease to exist and all the members of such panchayats shall vacate office;

(b) all powers and duties of such panchayats shall be exercised and performed by such person or persons (hereinafter referred to as the administrator or administrators) as the State Government appoints in this behalf;

(c) the members elected by such panchayats shall cease to be the members of the Nyaya Panchayat or Nyaya Panchayats concerned and the State Government shall appoint a person to be a member of the Nyaya Panchayat of the groups in which the amalgamated gram has been included;

(d) the Nyaya Panchayats affected by an amalgamation of grams under this section shall continue to function unless the number of the grams included in the group is rendered less than three;

(e) the expended balance of the gram funds and all the properties including an ears of rates, taxes and fees belonging to such panchayats and all rights and powers which prior to the said date, vested in such panchayats shall, subject, to all charges and liabilities affecting the same, vest as the gram fund,-

(i) in the administrator or administrators untill the panchayat for the amalgamated gram is constituted and holds its first meeting under subsection (1) of section 44, and

(ii) thereafter, in the amalgamated panchayat;

(f) the unexpended balance of the gram funds and all the properties (including an ears of rates, taxes and fees belonging to such panchayats and

(g) any appointment, notification, notice, tax, fee, cess order. scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have beed made, issued, imposed or granted in respect of the amalgamated gram until it is superseded or, modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted under this Act;

(h) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated bysuch panchayats

immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated gram under this Act;

(i) all debts and obligations incurred and all contracts made by or on behalf of such panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated panchayat in exercise of the powers conferred on it by this Act;

(j) all officers and servants in the employ of such panchayats immediately before the said date shall be officers and servants of the amalgamated panchayat and shall, until other provision is made in accordance with this Act, receive salaries and allowances, and be subject to the conditions of service to which they were entitled or subject on such date :

Provided that it shall be competent to the administrator or administrators or the amalgamated panchayat. subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servants who, in his, their or its opinion is not necessary or suitable to the requirements of the service of the amalgamated gram, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity, as he would have been entitled to take or receive on being invalidated out of service as if the panchayat in the employ of which he was, had not ceased to exist;

(k) all proceedings pending at the said date before such panchayats shall be deemed to be transferred to, and continued by, the administrator or administrators or the amalgamated panchayat, as the case may be.

(l) all appeals pending before such panchayats at the said date shall so far as may be practicable, be disposed of by the administrator or administrators or the amalgamated panchayat, as the case may be.

(m) all prosecutions instituted by or on behalf of such panchayat and all suits or other instituted by or against such panchayat, or any officer of such panchayats, pending at the said date shall be continued by or against the amalgamated panchayat.



(2) Within one year of the said date a panchayat for the amalgamated gram, shall be constituted in accordance with the provisions of this Act.

**310. Effect of conversion of gram into nagar; division of gram, etc :-**

(1) Where by virtue of a notification issued under sub-section (2) of section 9, any gram ceases to be a gram or any nagar ceases to be a nagar, and

(i) the local area comprised in the gram is declared to be a nagar or is split up into a nagar and a new gram or into two or more grams, or

(ii) the local area comprised in the nagar is declared to be a gram or split up into two or more grams 2[or into a nagar and a gram] with effect from the date on which the local area is so declared or split up (hereinafter referred to as "the said date") the following consequences shall ensue, that is to say-

(a) the panchayat constituted in respect of such local area shall stand dissolved and all the members of the panchayat shall vacate office;

(b) until for the nagar or, as the case may be, the respective new gram, a nagar panchayat or as the case may be a gram panchayat is constituted, the State Government shall appoint an administrator or administrators to exercise the powers and perform the functions of the respective panchayat of the nagar or, as the case may be, new gram:

(c) the members elected by the panchayat dissolved under clause (a) (hereinafter referred to as "the dissolved panchayat") to the Nyaya Panchayat functioning in the local area shall cease to be members of the Nyaya Panchayat and until the respective panchayat is constituted as aforesaid, the State Government shall-

(i) in the case of a new gram, appoint from amongst persons qualified under section 214 a person to be a member of the Nyaya Panchayat of the group in which such gram has been included; and

(ii) in the case of the nagar, appoint from amongst persons qualified under section 214 members of the Nagar Nyaya Panchayat of the Nagar and a standing member of the conciliation panch of the nagar;

(d) the Gram Nyaya Panchayat affected by the dissolution of a panchayat under section 9 shall continue to function in the area of the group of grams which continue within its jurisdiction after the exclusion of any area therefrom under section 9 unless the number of grams included in the group is rendered less than three;

(e) the unexpended balance of the gram fund or, as the case may be, nagar fund and all properties, including arrears of rates, taxes and fees belonging to the dissolved panchayat shall, subject to all charges and liabilities affecting the same, vest in such proportion and in such manner as the State Government may direct in the respective panchayat of the nagar or new gram:

Provided that until the respective panchayat for the nagar or new gram is constituted and it holds its first meeting under sub-section (1) of section 44, the unexpended balance of the fund and other properties vesting in the panchayat shall be held by the administrator of the nagar or, as the

(f) any appointment, notification, notice, tax, fee, cess, order, scheme licence, permission, rule, by-law, or form made, issued, imposed or granted in respect of the area within the jurisdiction of the dissolved panchayat and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the nagar or new gram formed out of the said area until it is superseded or modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted under the law applicable thereto;

(g) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by the dissolved panchayat immediately before the said date shall, in so far as they relate to the nagar or, as the case may be, new gram. be deemed to have been made or authenticated in respect of the nagar or new gram;

(h) all debts and obligations incurred and all contracts made by or on behalf of the dissolved panchayat immediately before the said date and subsisting on the said date shall in so far as they relate to the nagar or any new gram formed in the area within the jurisdiction of the dissolved panchayat be the debts and obligations incurred by and the contracts made by the panchayat of the nagar or, as the case may be, new gram;

(i) all officers and servants in the employ of the dissolved panchayat immediately before the said date shall be allocated to the,panchayat ofthe nagar or, as the case may be, new be, new gram or new grams by the State Government in such manner as it may direct and until other provision is made in accordance with this Act, they shall receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on the said date;

(j) all proceedings (including appeals) pending at the said date before the dissolved panchayat shall be deemed to be transferred to and continued by the panchayat of the nagar or new gram before which they would have been instituted had the nagar or new gram been formed when the proceedings were instituted:

Provided that until the panchayat for the nagar or new gram is constituted the administrator appointed for the nagar or as the case may be, new gram may deal with such proceedings and dispose them of;

(k) all prosecutions instituted by or on behalf of and all suits or other legal proceedings instituted by or against the dissolved panchayat or any officer thereof and pending at the said date shall be continued by or against the panchayat of the nagar or new gram by, on behalf of or against which they would have been instituted had the nagar or new gram been formed when the prosecutions, suits or legal proceedings were instituted and until such panchayat is constituted, shall be continued by or against the administrator appointed for the nagar, or as the case may be, new gram.

(2) Within one year of the said date, the panchayat for the respective nagar or as the case may be, new gram shall be constituted in accordance with the provisions of this Act].

**310A. Consequences of alteration of limits of district or taluka :-**

(1) When, on account of the constitution of a new district or taluka under the Land Revenue Code, or for any other reason, the limits of a district, or as the case may be, taluka are, during the term of office of the members of the district panchayat or, as the case may be, the taluka panchayat, altered so as to-

(a) include any area therein, or

(b) exclude any area therefrom, the State Government may,

notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the Official Gazette provide for all or any of the following matters, namely:-

(i) in a case falling under clause (a), the interim increase in the number of members of the district panchayat or, as the case may be, the taluka panchayat, and the appointment of such additional members from amongst persons qualified to be elected under the provisions of this Act as such members from the area so included:

Provided that where the area so included had been a part of a district or taluka for which a panchayat has been established, the members of such panchayat who are elected from that area shall be appointed as additional members:

(ii) in a case falling under clause (b), the interim reduction in the number of members of the district panchayat, or, as the case may be, the taluka panchayat and the termination of office of the elected members of the district panchayat or, as the case may be, taluka panchayat who are elected as such members from the area so excluded;

(iii) the term for which additional members so appointed shall hold office and the manner of filling casual vacancies of such members;

(iv) allocation of any officer or servant of the panchayat affected by the alteration of the limits;

(v) the removal of any difficulty which may arise on account of any change referred to in clause (a) or clause (b).

(2) The district panchayat or the taluka panchayat, if any, functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue for function until the expiry of its term under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

(3) If the consequence of the alteration of the limits of any district or taluka, the area excluded therefrom is included in any other district or taluka, then-

(a) such portion of the district or taluka fund, and other property of the district or taluka panchayat of the district taluka from which the area is so excluded shall vest in, and be transferred to, the district panchayat, or as the case may be, the taluka panchayat in which

the area is included, as the State Government may, by order in writing, direct;

(b) the rights, assets and liabilities of the district or taluka panchayat of the district or taluka from which the area is so excluded in respect of any contracts, agreements and other matters and things arising in or relating to the area so excluded, shall vest in, and be transferred to, the district or taluka panchayat of the district or taluka in which the area is included;

(c) any notification, notice tax, fee, cess, rule, bye-law, order, licence or permission issued, imposed, made or granted by the district or taluka panchayat in respect of the area so excluded shall be deemed to have been issued, imposed, made or granted by the district or taluka panchayat of the district or taluka in which the area is so included and shall continue in force until it is superseded in accordance with law;

(d) all proceedings relating to the area excluded from the district or taluka and pending before the panchayat on the date of such exclusion shall be transferred to and disposed of by the district or taluka panchayat of the district or taluka in which the area is included."

#### CHAPTER 17

Special Provisions for the district of Dangs

### **311. Application of the Act to Dangs subject to this Chapter :-**

The provisions of this Act shall apply to the district of Dangs subject to the provisions of this Chapter.

### **312. Grouping of gram panchayats and each gram to select one Sarpanch :-**

(1) For the purpose of constituting a district panchayat for the district of Dangs, the State Government shall divide the gram panchayat in that district into groups. The number of such groups shall not exceed ten and each group shall consist of not more than eight grams.

(2) The gram panchayats included in each group shall elect from amongst the Sarpanchas thereof one Sarpanch to be a member of the district panchayat.

### **313. Constitution of district panchayat of Dangs :-**

(1) The district panchayat for the district of Dangs shall consist of the following members, namely:- (A) Elected members

(i) Sarpanchas elected by all the groups of the gram panchayats under section 312;

(ii) Members elected by the qualified voters of the district of Dangs from amongst themselves'

Provided that the numbers to be so elected shall be equal to the number of Sarpanchas to be elected under sub-section (2) of section 312 and out of such number-

(a) two seats shall be reserved for women, and

(b) two seats shall be reserved for Scheduled Castes.

(iii) Two persons having practical experience in respect of matters pertaining to education and residing in the District.

(iv) Member or members of the House of People elected from the areas within the jurisdiction of the district panchayat or part thereof.

(v) Members of the Council of State residing in the area within the jurisdiction of the district panchayat.

(vi) Members of the Gujarat Legislative Assembly of the State of Gujarat elected from the area within the jurisdiction of the district panchayat.

(vii) The Collector of the district.

(viii) The Mamlatdar in the district.

(2) The district panchayat shall have a President and a Vice-President elected by its elected and co-opted members from amongst themselves.

(3) Where the Sarpanch of gram panchayat is elected as the President of panchayat, he shall vacate his office of the Sarpanch of the Gram Panchayat but shall continue to be a member of the district panchayat.

**314. District panchayat to exercise powers of taluka panchayats in addition to its own powers :-**

In the District of Dangs, notwithstanding anything contained in this Act, the district panchayat shall, in addition to its own powers,

functions and duties as a district panchayat, shall exercise all the powers and perform all the functions and duties of a taluka panchayat under this Act.

#### CHAPTER 17A

Special Provisions for the District of Gandhinagar

#### **314A. Application of Act to Gandhinagar district subject to provisions of this Chapter :-**

The provisions of this Act shall apply to the district of Gandhinagar subject to the provisions of this Chapter.

#### **314B. Authority of Gandhinagar district panchayat :-**

(1) Notwithstanding anything contained in sub-section (2) of section 8 a district panchayat constituted for the district of Gandhinagar shall have authority for the purpose of this Act over the area for which it is constituted except that portion of the area which for the time being is within the limits of the new capital as defined in clause (c) of section 2 of the Gujarat New Capital (Periphery) Control Act, 1960 (Guj. 10 of 1960).

(2) For the purposes of this Act, the headquarters of the district panchayat for the district of Gandhinagar shall be located within the limits of the new capital.

#### **314C. Gandhinagar district panchayat :-**

(1) Notwithstanding anything contained in section 15,-

(a) the elected members of the district panchayat for the district of Gandhinagar (hereinafter in this section referred to as "Gandhinagar district panchayat") shall consist of-

(i) thirty one members elected from amongst the qualified voters of the district of Gandhinagar,

[x x x]

(b) the Gandhinagar district panchayat, shall have a President and a Vice President elected by its elected members [from amongst themselves]

[x x x]

#### **314D. District Panchayat to exercise powers of taluka Panchayat in addition to its own powers :-**

Notwithstanding anything contained in this Act, in the district of

Gandhinagar,-

(1) there shall not be constituted a taluka panchayat for any taluka in the district of Gandhinagar, and

(2) the district panchayat shall, in addition to its own powers, functions and duties as a district panchayat, exercise all the powers and perform all the functions and duties of a taluka panchayat under this Act.]

#### CHAPTER 18

##### (1) Miscellaneous Provisions

### **315. Joint committees of two or more local bodies :-**

(1) A panchayat may, from time to time, concur with any other panchayat or with any local body or with more than one such local body -

(a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may subject to the sanction of the State Government, from time to time, enter into an agreement with any other panchayat, local body or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local body under the provisions of sub section (1) or (2) in respect of any matter and such other local body has refused to concur, the State Government may pass such orders as it may deem fit requiring the concurrence of such other local body (not being a cantonment authority) in the matter aforesaid and such other local body shall comply with such orders.



(4) If any difference of opinion arises between local bodies acting under this section, the decision thereon of the State Government, or of such officer as it appoints in this behalf, shall be final :

Provided that, where one of the local bodies is a cantonment authority the decision of the State Government, or of the officer, shall be subject to the concurrence of the Central Government.

**316. Constitution of State Council for panchayats, its functions, etc :-**

(1) There shall be a State Council for panchayats consisting of the following members, namely :-

(A) Chairman.

(i) Minister in charge of the Department dealing with the Panchayats Organization of the State.

(B) Vice-Chairman

((ii) The Minister of State dealing with the Panchayats Organisa-

Provided that where there is no person holding any of such offices. the Vice-Chairman shall be elected by the Council from amongst its members.]

(C) Members

(iii) Presidents of the district panchayats;

(iv) Seven members to be nominated by the State Government from amongst persons taking interest in the development of panchayats. Out of these one shall be a woman and one shall be a person from Scheduled Castes and one shall be a person from amongst the Scheduled Tribes if none of the members falling under clause (iii) is a person belonging to a Scheduled Tribe;

(v) Three officers to be nominated by the State Government;

(vi) Three members to be elected by the Members of the Gujarat Legislative Assembly from amongst themselves.

(2) Such officer as the State Government may appoint in this behalf shall act as a Secretary to the Council.

(3) The functions of the Council so constituted shall be as under:-

(a) to advise the State Government on all general questions

pertaining to panchayats;

(b) to advise the State Government in respect of a scheme for the training of Secretaries and other servants of panchayats;

(c) to review the administration of panchayats and to suggest ways of co-ordinating the activities of panchayats in the State;

(d) to suggest ways and means to remove the difficulties experienced by the panchayats in the State in their administration;

(e) to make suo motu recommendations to the State Government in regard to any matter relating to the administration of the panchayats'

(f) to report to the State Government on such matters as may be referred to it by the State Government for its opinion.

(4) The State Government by general or special order provide for-

(a) the calling of the meetings of the Council and the procedure of meetings;

(b) duties of the Secretary for the Council;

(c) sub-committees of the Council;

(d) the term of office of nominated members of the Council, travelling allowance and daily allowance to the members of the Council and the rate thereof.

[(5) The term of office of the member elected by the Members of the Gujarat Legislative Assembly shall expire on the expiry of his term as the member of the Gujarat Legislative Assembly or if he otherwise ceases to be such member.

(6) Any elected or nominated member of the Council may resign from membership by tendering his resignation in writing to the Chairman and the resignation shall take effect from the date on which it is received by the Chairman who shall give intimation of the vacancy-

(a) to the State Government in the case of the resignation of a nominated member, and

(b) to the Secretary to the Gujarat Legislative Assembly in the case of the resignation of a member elected by that Assembly].

### **317. Liability of members for loss, waste or mis-application**

:-

(1) [Every member of a panchayat or of its Committee] shall be personally liable for the loss, waste, or misapplication of any money or other property of panchayat to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross negligence on his part, the officer so authorised, shall by an order in writing, direct such member to pay to the panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication.

(3) If the amount is not so paid, it shall be recovered as an arrears of land revenue and credited to the fund of the relevant panchayat.

(4) Any person aggrieved by the decision or action of the officer so authorised may apply to the District Court as provided in sub-section (6) of section 109, within the like time for redress of his grievance and that Court may pass any order thereon which it can pass under this section.

**318. power of authorised officer to recover record and money :-**

(1) Where, [ \* \* \* [ \* \* \* ], the officer authorised in this behalf by the State Government is of the opinion that any person, who in his capacity as member, officer, servant, or secretary of a panchayat had, in his, custody [any record, money or other property] belonging to [after his retirement, removal] or suspension from office, as the case may be, not likely to deliver [such record or property] or pay such money; the officer so authorised may, by a written order, require that [the record, property or money] so detained be delivered or paid to the panchayat forthwith.

(2) If any such person as aforesaid shall not [deliver the record or property] or pay the money as directed, the officer so authorised may cause him to be apprehended and may send him with a warrant in such form as may be prescribed to be confined in a civil jail till he delivers the record or property] or pays the money:

Provided that no such person shall be so detained in confinement for a period longer than one calendar month.

(3) It shall be lawful for the officer so authorised-

(a) for recovering any such money to direct that such money be recovered as an arrear of land revenue and on such direction being given, such money shall be recoverable as an arrear of land revenue from such person,

(b) for recovering any [such record or property] to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1898 (V of 1898).

(4) No action under sub-section (1), (2) or (3) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

[Explanation-In this section the word "member" includes a Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman, President and Vice-President of a panchayat.]

**319. Liability to pay rent for unauthorised occupation or possession of property of panchayat :-**

(1) Whoever not being duly authorised in that behalf occupies or is in possession of any property vesting in, or under the control of, a panchayat shall without prejudice to any other action may be taken under this Act, be liable to pay to the panchayat a sum upto four times the amount of rent which would have been payable to the panchayat for the period of such occupation or possession, had the property been let by the panchayat.

(2) The sum so payable shall be determined by the panchayat in the prescribed manner and thereafter the sum shall become due to the panchayat and the provisions of Chapter IX shall mutatis mutandis apply to the recovery thereof.

**320. Bar of action against panchayat etc, and previous notice before institution :-**

(1) No action shall be brought against any panchayat, conciliation panch or Nyaya Panchayat or any member, officer, servant or agent of a panchayat, [any member of a committee of a panchayat], conciliation panch or Nyaya Panchayat, acting under its direction, in

respect of anything in good faith done under this Act or any rule or bye-law.

(2) No action shall be brought against any panchayat, conciliation panch or Nyaya Panchayat or any member, officer, servant or agent of such panchayat. [any member of a committee of a panchayat], conciliation panch, or Nyaya Panchayat acting under its direction for anything done or purporting to have been done by or under this Act, until expiration of one month next after notice in writing has been left or delivered at the office of the panchayat, conciliation panch or Nyaya Panchayat and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought, the notice shall, state the cause of action, the nature of the relief sought; the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of cause of action and not afterwards

(4) If any panchayat, conciliation panch, Nyaya Panchayat or person to whom the notice under sub-section (2) is given shall, before an action is brought, tender sufficient amount to the plaintiff, and pay into Court the amount so tendered, the plaintiff shall not recover more than the amount so tendered; the plaintiff shall also pay all costs incurred by the defendant after such tender.

### **321. Delegation of powers :-**

(1) The State Government may, by notification in the Official Gazette, authorise any officer of Government to exercise any of the powers exercisable by the State Government under this Act.

(2) Subject to the rules made in this behalf, the District Court may delegate to any Civil Court subordinate to it the powers exercisable by the District Court in regard to suit under this Act in respect of a Nyaya Panchayat in a gram or nagar within the jurisdiction of the said Civil Court.

(3) Subject to rules made in this behalf, the Sessions Court may delegate to a Magistrate [\* \* \*]

(4) Subject to the general or special orders which the State Government may issue from time to time-

(i) a district panchayat may delegate to a District Development

Officer,

(ii) a taluka panchayat may delegate to a Taluka Development Officer, and

(iii) a competent authority may delegate to any officer subordinate to it, any powers exercisable by it under this Act.

**322. Members etc. of panchayats, Nyaya Panchayats and servants etc., to public servants :-**

Every member of a panchayat or of its committee], conciliation panch Nyaya Panchayat and every officer and servant maintained by or employed under a panchayat, conciliation panch or Nyaya Panchayat shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

**322A. Previous sanction for prosecution against Sarpanch, Chairman, President etc :-**

When any person who is or had been a Sarpanch, UpaSarpanch, Chairman, Vice-Chairman, President or Vice-President of a panchayat [or a Chairman of the Education Committee of district panchayat] is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the State Government or any officer authorised by the State Government in this behalf.]

**322B. Application of Judicial Officers Protection Act, 1850 :-**

The provisions of the Judicial Officers' Protection Act 1850 (XVIII of 1850.) shall apply to members of a conciliation panch and to members of Nyaya Panchayat in the discharge of their official duties as they apply to judges and magistrates.]

**323. Power of Government to make rules :-**

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made-

(a) for the whole or any part of the State of Gujarat and for all or any panchayat,

(b) to provide for all matters expressly required or allowed by this Act to be prescribed by rules, and

(c) to provide that a contravention of any rule prescribing the duties and obligations of any person liable to pay any tax or fee made under subsection (2) of section 178 or sub-section (1) of section 189 shall be punishable with fine which may extend to fifty rupees and in the case of a continuing contravention with fine which may extend to five rupees for every day during which the contravention continues after conviction for the first contravention.

[(2A) Such rules may also provide for the levy of fees for the inspection or search of any document issued under this Act or any record maintained under or for the purposes of this Act and for giving copies of or extracts from such document or record and the scale of such fees.]

["(2B) The power to make rules in respect of matters required to be determined by rules under sub-section (4) of section 56 and sub-section (4) section 68, and sections 112 and 133A may be exercised either prospectively or retrospectively".]

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication [except where the rules provide for any of the matters specified in Chapter XI].

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

### **324. Bye-laws :-**

(1) A district panchayat may, with the previous sanction of the State Government make bye laws for a gram panchayat or nagar panchayat generally for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the district panchayat may make bye-laws-

(i) for the purification and protection from pollution of all sources of water used for drinking purposes and the regulation of water supply;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank, or well, or by any other methods which may be considered advisable;

(iii) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience;

(iv) for the regulation of offensive callings or trades;

(v) for the disposal of corpses by burning or burial;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to the health or offensive to the neighbourhood;

(vii) for the removal of noxious vegetation;

(viii) for the repair and removal of dangerous or ruinous buildings;

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation or the laying out and location of streets;

(x) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart stands;

(xi) for the inspection and destruction of unfit food and drink exposed for sale;

(xii) for the general regulation of sanitation and conservancy and the disposal of carcasses of dead animals;

(xiii) for the temporary erection on, or projection over, or temporary occupation of, any public street or place:

[(xiv) for the regulation of any matter specified in Schedule I by the issue of licences or permits or in any other manner]

(3) Any bye-law made under this section may provide for the levy of fees in respect of any matter provided for in the bye-law.

(4) Any bye-law made under this section, may provide that a contravention thereof shall be punishable -

(a) with a fine which may extend to fifty rupees; and



(b) in the case of a continuing contravention with a fine, which may extend to five rupees per day after conviction for the first contravention during the period within which such contravention continues.

**325. Repeal of the Bombay Village Panchayats Act, 1958 :-**

(1) The Bombay Village Panchayats Act, 1958 is hereby repealed.

(2) Notwithstanding the repeal of the said Act-

(i) any local area declared to be a village immediately before the [date of the coming into force of this section] shall be deemed to be a gram under this Act;

(ii) the panchayats constituted under the said Act immediately before the said date (hereinafter called "the old village panchayats") shall be deemed to be panchayats of the respective grams (hereinafter called "the new gram panchayats.");

(iii) the Sarpanch or Upa-Sarpanch and the members or panchas elected or appointed for the old village panchayats and holding office immediately before the said date shall respectively be deemed to be the Sarpanch, the Upa-Sarpanch and the members of the new panchayats;

(iv) the said Sarpanch, the Upa-Sarpanch and the members shall hold office as such Sarpanch, the Upa-Sarpanch and members for the period for which they would have held office under the said Act, subject however to the provisions relating to disqualification, resignation, removal and vacancy provided in this Act;

(v) any Nyaya Panchayats constituted by or for the old village panchayats shall be deemed to have been constituted by or for the said gram or grams for the new gram panchayat thereof and shall continue to exercise the powers conferred on them as if they had been conferred under this Act until they are reconstituted under this Act and the chairman and deputy chairman, members or panchas elected or appointed for the N. P. of the old village panchayats and holding office immediately before the said date shall respectively be deemed to be the chairman, deputy chairman, and the members or panchas of the Nyaya Panchayats of the new gram panchayats;

(vi) the unexpended balance of the village fund and all the properties (including arrears of rates, taxes and fees) vesting in the

old village panchayats shall from the said date vest in the new gram panchayats and such arrears of rates, taxes and fees shall be recoverable under the provisions of of this Act as if they had been imposed and recoverable under the provisions of this Act;

[(via) the unexpended balance of the District Village Development Fund established in a district under section 133 of the Act so repealed shall be transferred to and shall form part of the District Development Fund established under section 199 of this Act, in the corresponding district.]

(vii) all debts and obligations incurred and all contracts made by or on behalf of the old village panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the new gram panchayats in exercise of the powers conferred on them by this Act;

(viii) any appointment, notification, notice, tax, fee, order scheme, licence, permission, rule, bye-law, or form made, issued, imposed, or granted in respect of the said villages and in force immediately before [the said date] shall in so far as they are not inconsistent be deemed to have been made, issued, imposed or granted under this Act in respect of the village and shall continue in force until it is superseded or modified by any appointment, notification, notice, tax, fee order, scheme, licence, permission, rule, bye-law, or form made, issued, imposed or granted under this Act;

(ix) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated immediately [before the said date] by the old village panchayats shall be deemed to have been made or authenticated by the new gram panchayats under this Act;

(x) the Secretaries, all officers and servants in the employ of the old village panchayats immediately before the said date shall be Secretaries, officers and servants of the new gram panchayats and shall until other provision is made in accordance with the provisions of this Act, receive the salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the State Government, after giving a Secretary such notice as is required to be given by the terms of his employment, to discontinue his services if in the opinion of the Government he is not necessary or suitable to the

requirements of the panchayat service; and every Secretary whose services are so discontinued shall be entitled to such leave, pension, provident fund, gratuity, other rights and privileges as he would have been entitled to take or receive on being invalided out of service if he had continued in the employ of the panchayat or panchayats after the said date;

(xi) all proceedings pending before the old village panchayats and Nyaya Panchayats of the old village panchayats shall be deemed to have been instituted and to be pending before the New panchayats and Nyaya Panchayats of the new gram panchayats, as the case may be, and shall be heard and disposed of by the said panchayats or Nyaya Panchayats as the case may be, under this Act;

(xii) all prosecutions instituted by or on behalf of the (Ad village panchayats and all suits or other legal proceedings instituted by or

(xiii) [any reference in] any enactment or in any instrument to the Act hereby repealed or to any provision thereof or any authority elected or appointed thereunder shall be construed as a reference to the Gujarat Panchayats Act, 1961, (Guj.Vlofl962) or to the corresponding provision thereof or to the corresponding authority elected or appointed thereunder.

### **326. Repeal of the Bombay Local Boards Act, 1923 and saving :-**

With effect on and from such date as the State Government may, by notification in the Official Gazette, appoint (hereinafter referred to in this section as "the appointed day") the Bombay Local Boards Act. 1923 (hereinafter referred to as " the said Act") shall stand repealed and the following consequences shall ensue, that is to say-

(a) every district local board constituted under the said Act for a local area and functioning immediately before the appointed day (hereinafter referred to in this section as "the existing board") shall stand dissolved and the President, Vice-President and all other members shall be deemed to have vacated their office;

(b) all property, movable and immovable, and all interests of whatsoever nature and kind therein, which vested in an existing board immediately before the appointed day, shall be deemed to be transferred to, and shall vest in the district panchayat constituted for the said local area under this (hereinafter referred to

in this section as "the successor panchayat"), subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day;

(c) all rights, liabilities and obligations of an existing board (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the corresponding panchayat;

(d) all sums due to an existing board, whether on account of any tax or otherwise, shall be recoverable by the successor panchayat and for

(e) the unexpended balance in the local fund constituted under the said Act and all sums due to an existing board and recovered by the successor panchayat and such sums of any other body or bodies as the State Government may direct shall form part of, and be paid into, the district fund of the successor panchayat;

(f) all contracts made with, and all instruments executed on behalf of, an existing board shall be deemed to have been made with, or executed with, or by or on behalf of successor panchayat and shall have effect accordingly;

(g) all proceedings and matters pending before any authority of an existing board under the said Act immediately before the appointed day, shall be deemed to be transferred to the successor panchayat or to such authority as the successor panchayat may direct;

(h) in all suits and legal proceedings pending on the appointed day in or to which an existing board was a party, the successor panchayat shall be deemed to be substituted therefor;

(i) any appointment, notification, notice, tax, order, scheme, licence permission, rule, bye-law, regulation or form made, issued, imposed or granted by or in respect of an existing board established or constituted under the said Act or any other law in force in the area of such existing board and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted in respect of the corresponding area of the successor panchayat until superseded by an authority competent to do so;

(j) all budget estimates, assessments, valuations, measurements and divisions made by or in respect of an existing board under the said Act or any other law in force in the area of such existing board and in force immediately before the appointed day shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made by or in respect of the corresponding area of the successor panchayat;

(k) all officers and servants in the employment of an existing board immediately before the appointed day, shall, subject to the provisions of this Act be deemed to be transferred to the service of the successor panchayat;

(L) any reference in any law or in any instrument to the provisions of the said Act, [or any authority constituted, elected or appointed thereunder] shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Act [or as the case may be, to the corresponding authority constituted, elected or appointed under this Act.]

(m) any reference in this Act to any law not in force, or to any officer, body or authority not functioning in the Bombay area, the Saurashtra area or the Kutch area, of the State of Gujarat shall, unless a different

(n) any reference in the [foregoing paragraphs] to an existing board shall in case such 2 \*[board has been superseded or dissolved, be deemed to be a reference to the person or persons appointed to exercise the powers or to perform the functions of such 2 [board.

### **327. Power of State Government to adapt laws :-**

(1) For the purpose of bringing the provisions of any law in force in the territory of this State into accord with the provisions of this Act, the State Government may by order published in the Official Gazette make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in sub-section (1) shall be deemed-

(a) to empower the State Government to make any adaptation or modification of any law after the expiration of [four years] from the [commencement of this section], or

(b) to prevent the State Legislature or other competent authority from repealing or amending any law adapted or modified by the State Government under this section.

Explanation.-The expression "law in force" in this section shall include a law passed or made by the State Legislature or other competent authority in the State before the [commencement of this section] and not previously repealed, notwithstanding that it or parts of it may not be then in operation either in all or any particular areas in the State.

**328. Removal of difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act or any Schedule the State Government may, as occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

**329. Powers and functions of taluka or district panchayat to be performed by State Government or authorised officer in certain cases :-**

(1) Until a taluka panchayat or district panchayat for a taluka or as the case may be, district is duly constituted under this Act for the first time and its first meeting is held, its powers functions and duties in relation to the gram panchayats and nagar panchayats in the taluka or district shall be exercised and performed by the State Government or such officer as may be authorised by the State Government.

(2) Anything done or any action taken by the State Government or the officer so authorised in the exercise of the powers and the performance of the functions and duties under sub-section (1) shall be binding on the taluka panchayat or, as the case may be, district panchayat, when it is so duly constituted.]

**330. . :-**

Vacancy to be filled by nomination, [Deleted by Guj. 35 of 1963, sec. 4 (2)].

**CHAPTER 19**

Provisions regarding Gramdan

**330. Application of Act to gramdan gram :-**

In respect of a Gramdan gram, the application of the foregoing provisions of this Act shall be subject to the provisions of this Chapter,

**331. Chapter not to apply to Devasthan, inams, public trusts, etc :-**

Nothing in this Chapter shall apply to any land-

- (a) which is held as Devasthan inam or inam by a religious or charitable institution within; the meaning of section 4 of the Gujarat Surviving Alienations Abolition Act, 1963, (Guj XXXIII of 1963) or held under any such inam;
- (b) which is the property of a trust registered under the Bombay Public Trusts Act, 1950, (Bom. XXIX of 1950).

**332. Definitions :-**

In this Chapter, unless the context otherwise requires-

- (a) "Gramdan" means a voluntary donation of Land in a gram for the purposes of this Chapter and in accordance with the provisions of this Chapter;
- (b) "Gramdan gram" means a gram declared to be a Gramdan gram under section 333;
- (c) "Gramdan Kisan" means a person who holds land on lease as a Gramdan Kisan under this Chapter and includes his heirs and successors in interest;
- (d) "Gramdan Movement" means the Gramdan Movement initiated by Acharya Vinoba Bhave;
- (e) "land" means land as defined in clause (17) of section 2 of the Gujarat Agricultural Lands Ceiling Act, 1960, (Gujarat XXVII of 1961);
- (f) "owner" in relation to land means a person holding the land as an occupant as defined in the Bombay Land Revenue Code, 1879 or (Bom. V of 1979) as lessee of Government and includes a person who has permanent and heritable rights of possession in the land; and the expression "to own" with its grammatical variations shall be construed accordingly;
- (g) "person interested" in relation to any land means any person claiming right, title or interest in the land and includes a person

having a right of easement over such land;

(h) "regulations" means regulations made under section 351.

**333. Declaration of gram to be Gramdan gram :-**

(1) Where in a gram-

(a) the extent of lands in respect of which the declarations filed under section 334 have been confirmed is not less than fifty one percent of the total extent of lands owned by persons residing in the gram;

(b) the number of persons whose declarations have been so confirmed is not less than seventy-five percent of the total number of persons owning land and residing in the gram;

(c) the number of persons in respect of whom the declarations made under clauses (a) and (b) of sub-section (1) of section 334 have been confirmed is not less than seventy-five per cent of the persons (excluding minors) residing in the gram and competent to make a declaration under section 334, the Collector may, by notification in the Official Gazette, declare the gram to be a Gramdan gram with effect from the date specified in the notification. Such notification shall be in the prescribed form.

(2) A copy of the notification published under sub-section (1) shall be displayed in a prominent place in the gram and another copy thereof shall be affixed on a conspicuous part in the office of the Collector.

(3) Where the conditions specified in sub-section (1) are not satisfied within a period not exceeding six months commencing on the prescribed date, the Collector may by order declare in the prescribed manner that the gram is not qualified to be Gramdan and thereupon every declaration made under section 334 shall, notwithstanding that it has been confirmed, cease to have effect.

**334. Declarations to be made by owner of land etc :-**

(1)

(a) Any owner (not being a minor) of land in a gram may file a declaration before the Collector that he donates by way of Gramdan all his land in the gram and voluntarily and without consideration agrees to transfer to the gram panchayat of the gram all the land specified in the declaration; and



(b) any person (not being a minor) residing in the gram, who does not own any land in the gram, may file a declaration undertaking to join the gramdan community in the gram and may agree to pay a periodic contribution equal to one-fortieth of his net annual income, whether in cash or kind or in value of labour as may be determined by regulations, to the gram panchayat for community purposes. Such declaration may be made either individually or collectively.

(2) A declaration under sub-section (1) shall be in the prescribed form and shall contain the prescribed particulars, including the following particulars, namely:-

(a) name of the gram, taluka and district,

(b) if the declaration is under clause (a) of sub-section (1)-

(i) survey number and assessment of the land;

(ii) the details of encumbrances in case any such land is subject to any encumbrances;

(iii) an undertaking to join the gramdan community of the gram and make a periodic contribution to the gram panchayat in accordance with the provision of clause (d) of sub-section (1) of section 344 for community purposes

**335. Power of Collector to confirm or refuse to confirm declaration :-**

(1) As soon as may be, after the receipt of a declaration under section 334, the Collector shall-

(a) if the declaration be a declaration made under clause (b) of subsection (1) of section 334 confirm the declaration, and

(b) if the declaration be a declaration made under clause (a) of subsection (1) of section 334 publish the same in the prescribed manner together with a notice requiring all persons interested in the land to submit to him in writing their objections, if any, within forty-five days of such publication.

(2) The Collector may, after considering the objections, if any, received under clause (b) of sub-section (1) and after making such enquiries as he may deem fit, by order in writing either confirm the declaration or refuse to confirm it.

(3) Any person aggrieved by an order made under sub-section (2)

may file an appeal to the State Government within forty-five days of the date of the order.

(4) An order made under sub-section (2) shall, subject to the decision of the State Government in an appeal filed under sub-section (3), be final.

(5) No order refusing to confirm a declaration shall be made under this section unless the person making the declaration is given a reasonable opportunity to show cause why such an order should not be made.

(6) A declaration, which the Collector has refused to confirm shall, unless it is confirmed in appeal under sub-section (3), be of no effect.

**336. Collector to hold meeting of gram sabha and other persons to ascertain wishes of people :-**

(1) As soon as the Collector is satisfied that having regard to the population of the gram, a sufficient number of declarations has been received under section 334, he may call a meeting of the gram sabha and also of persons who have donated lands in the gram but are residing outside the gram for ascertaining whether the persons attending the meeting are willing to constitute the gram a Gramdan gram by joining the gramdan community.

(2) The Collector shall fix the date, time and place of the meeting by a notice which shall be displayed in a prominent place in the gram. A copy of such notice shall be affixed on a conspicuous part in the office of the Collector and the substance of such notice shall be published in such other manner as is in the opinion of the Collector best calculated to bring the matter to the notice of persons concerned.

(3) The meeting shall be presided over by the Collector who shall have the right to speak and otherwise take part in the proceedings of the meeting but shall not be entitled to vote.

(4) The quorum for the meeting shall be fifty one percent of the total number of persons entitled to attend the meeting under subsection (1).

(5) The question before the meeting shall be decided by a majority of two thirds of the persons present in the meeting, such majority not being less than fifty one per cent of the persons entitled to

attend the meeting.

(6) Save as expressly provided, the procedure to be followed at the meeting shall be such as may be prescribed.

**337. Prohibition against transfer of lands :-**

(1) No person shall transfer any land in respect of which a declaration has been filed, until an order under section 335 refusing to confirm the declaration has become final or an order under section 333 declaring the gram in which the land is situate as not qualified to be a Gramdan gram is made, or an order under section 338 rescinding the donation by way of Gramdan is made.

(2) Any transfer of land made in contravention of the provisions of sub-section (1) shall be void and inoperative.

**338. Effect of declaration of gram as Gramdan gram :-**

Notwithstanding anything to the contrary contained in any other law for the time being in force, with effect from the date on which a gram is declared to be a Gramdan gram:-

(a) all the rights, title and interest of persons whose declarations have been confirmed under section 335 in or over the lands covered by such declarations, shall, save as otherwise provided in this Act, cease and shall stand transferred to, and vest in, the gram panchayat of the gram, (hereinafter to as "Gramdan Panchayat") but subject to any rights, encumbrances or equities lawfully subsisting in favour of any other person;

(b) the Gramdan Panchayat shall be entitled to receive the contributions referred to in section 334;

(c) the Gramdan Panchayat shall be liable for-

(i) the payment of land revenue, rent, cesses, rates and taxes in respect of lands vested in it which would have been payable by the donors but for the donation, irrespective of whether the liability arose before or after the date of the vesting; and

(ii) the discharge of all encumbrances created in respect of any land vested in the Gramdan Panchayat, prior to the date of the filing of the declaration in respect thereof under section 334:

Provided that, for the payment of any land revenue, rent, cesses, rates or taxes due on, or the discharge of any encumbrance created before the date of such vesting of the land. for which the Gramdan

Panchayat is so liable, the Gramdan Panchayat shall be competent to recover the amount either before or after such payment or discharge, from the owner who donated the land by way of Gramdan as if were an amount due to the Gramdan Panchayat:

Provided further that, where in any case it appears to the Gramdan Panchayat that the encumbrances and other liabilities in respect of land donated by way of Gramdan are excessive, for any other reason, it is of opinion that it is not desirable to undertake the discharge of such liabilities. the Gramdan Panchayat may, after giving the person to whom the land would belong for the Gramdan, an opportunity of being heard, rescind by order the donation, and thereupon all rights, title and interest in over those lands shall revert to such person and all liabilities of the Gramdan Panchayat in respect of those lands, except the liabilities, if any, that arose during the period the property remained vested in the Gramdan Panchayat, shall cease, and the declaration of donation filed under section 334 shall not continue in force;

(d) the land revenue, cesses, rates and taxes due in respect of the land situated in a Gramdan gram and in respect of which a donation by way of Gramdan has not been made under section 334 or section 345 shall be payable to the Gramdan Panchayat by the person liable for the same.

Provided that, all amounts so realised shall after deduction of such collection charges as may be prescribed, be remitted to the State Government within such time and in such manner as may be prescribed.

### **339. Exercise of powers, etc. by panchayat or its committee and control of gram sabha :-**

(1) A Gramdan Panchayat or its Production Committee to which any of its powers, functions and duties under this Chapter may be assigned by the panchayat under section 81, shall exercise the powers and perform the functions and discharge the duties under this Chapter, subject to the control of the gram sabha and save as expressly authorised by the gram sabha, no order shall be made and no decision shall be taken in any matter by the panchayat or the committee as the case may be, unless the same is submitted to the gram sabha for approval and is approved by

(2) All questions before the meeting of the gram sabha or of the Gramdan Panchayat or of the Production Committee shall be

decided by a majority of votes of not less than eighty per cent of the members present at the meeting.

**340. Powers and functions of Gramdan Panchayat :-**

(1) The Gramdan Panchayat shall manage the lands which are vested in it. including such lands as may come under its management, and undertake activities for the welfare of the village community and the members thereof, and do all other things incidental thereto.

(2) The provisions of sub-section (1) shall be without prejudice to the functions of the panchayat as specified in Schedule 1.

(3) For the purpose of this Chapter-

(a) section 81 shall have effect subject to the modification that in clause (i) of sub-section (1), after the word "industries" the words and figures "and relating to matters specified in Chapter XIX" shall be inserted;

(b) the following shall be added to Schedule I, namely:-

(1) Acceptance of donations of land for the purpose of Gramdan.

(2) Distribution of land to landless persons and to land owners to cultivate personally.

(3) Preparation and implementation of special schemes for the improvement of Gramdan land.

(4) Setting apart of land for community purpose.

(5) Preparation and implementation of special schemes for economic uplift of the inhabitants of the gram especially by providing employment to unemployed persons on a long term basis".

**341. Land-pool :-**

(1) All lands vesting in a Gramdan Panchayat by way of Gramdan shall constitute the land-pool.

(2) The Gramdan Panchayat shall, having regard to the declarations made under section 334, either set apart not less than five per cent of the area of lands out of the land-pool as the Gramdan Panchayat may determine for the benefit of landless persons, and the remaining land for return to their former owners, as hereinafter provided, or the Gramdan Panchayat may alternatively purchase a

compact block of land of an area not less than five per cent of all the donated lands at the cost of the donors, and each donor shall pay towards the purchase price a sum for an area equal to five per cent of land donated by him.

**342. Power of Gramdan Panchayat to grant leases :-**

Notwithstanding anything to the contrary contained in any law for the time being in force, but subject to the provisions of this Chapter, a Gramdan Panchayat shall have power to lease out lands vesting in it and the lessees shall not have and shall not be entitled to claim, any rights in relation to such lands except as are provided for, by or under this Chapter.

**343. Distribution of lands on lease :-**

(1) A Gramdan Panchayat shall in accordance with regulations made in that behalf-

(a) out of lands set apart or purchased for the benefit of landless persons under section 341 lease any landless persons or group of landless persons to cultivate personally;

(b) lease the remaining lands to their former owners to cultivate personally.

(2) Any persons aggrieved by any proposed lease under this section may make an application to the Gramdan Panchayat to that effect; and the Gramdan Panchayat shall, on receipt of such application, refer the matters for arbitration to an Arbitration Board constituted under sub-section (3).

(3) The Arbitration Board shall consist of three persons one to be nominated by each party and the third to be appointed jointly by the applicant and the Gramdan Panchayat; and if there be disagreement as regards the appointment of the third arbitrator, the third arbitrator shall be appointed by the Collector.

(4) The Arbitration Board shall regulate its own procedure.

(5) The decision of the Arbitration Board shall be final and binding on the parties.

Explanation-For the purposes of this Act the expression "to cultivate personally" shall have the meaning assigned to it in the Gujarat Agricultural Lands Ceiling Act, 1960, (Guj XXV II of 1961.)

**344. Conditions of lease :-**

(1) A person who is given land on lease under section 343 shall hold it on the following terms and conditions, namely-

(a) the lease hold rights shall, on the death of the lessee, pass to his heir;

(b) the lessee may transfer his interest in the land

(i) to a person who has joined the Gramdan community by a declaration made under section 334 in respect of the gram in which the land is situated on the terms and conditions agreed upon. between them;

(ii) to the Gram Panchayat, or

(iii) to a co-operative society or any institution approved by the State Government in this behalf or to Government, for securing payment of any money borrowed from any such society, institution or Government;

Provided that, a landless person shall not transfer his interest as aforesaid without the previous approval of the Gramdan Panchayat;

(c) the lessee shall pay to the Gramdan Panchayat an amount equal to the land revenue, rent cesses, rates and other taxes payable, if any, in respect of the land, before such date or dates as may be prescribed;

(d) the lessee shall annually contribute one-fortieth of his net annual agricultural income whether in cash or in kind as may be determined by regulations or such other lesser shares as the Gramdan Panchayat may determine in this behalf;

(e) the lessee shall not allow the land to remain uncultivated for a period exceeding two years;

(f) subject to the provisions of section 345, the Gramdan Panchayat shall not disturb possession of the land held by a lessee or his heir, except with his consent;

(g) in the case of land subject to any lease subsisting immediately before it was donated, the Gramdan Kisan shall have the right to recover possession thereof in accordance with the provision of any law for the time being in force relating to land tenures as if he continued to be the lessor thereof and pending termination of the lease, he shall also have the right to recover the rent payable by the lessee in respect of such land;

(h) in the case of land subject to a mortgage with possession immediately before it was donated, the Gramdan Kisan shall have right to obtain possession thereof after the redemption of the mortgage by the Gramdan Panchayat if he pays to the Gramdan Panchayat the amount paid for the purpose of redeeming the mortgage together with all expenses connected therewith;

(i) such other terms and conditions, as the Gramdan Panchayat may regard being had to the circumstances prevailing in relation to any Gramdan Panchayat, determine by an order made in that behalf.

(2) Nothing contained in sub-section (1) shall be deemed to confer-

(a) on a Gramdan Kisan any right which he did not possess,

(b) on a landless person any right which the Gramdan Panchayat did not possess, immediately before the Gramdan Kisan donated his land, or as the case may be, the Gramdan Panchayat leased it to the landless person.

**345. Power of Gramdan Panchayat to accept donations of land after establishment of Gramdan gram :-**

(1) Any owner of land (not being a minor), holding land in a Gramdan gram, may donate all his lands by way of Gramdan in the same manner and subject to the same conditions as are provided for in the case of a donation under section 334 and thereupon subject to the provisions of sub-section (2), the provisions of this Chapter shall, as far as may be, apply as if such donation were made under that section:

Provided that, no declaration made under this section shall be confirmed by the Collector without the approval of the Gramdan Panchayat.

(2) With effect from the date on which the declaration referred to in sub-section (1) is confirmed, all the rights, title and interest of any person whose declaration is so confirmed in or over the lands covered by such declaration, shall, save as otherwise provided by this Act. cease and shall stand transferred to, and vest in, the Gramdan Panchayat for the Gramdan gram; and thereupon, the provisions of this Chapter shall, as far as may be, apply, as if such declaration were confirmed under section 335,

(3) Any person (not being a minor) residing in a Gramdan who has



not made a donation by way of Gramdan under clause (a) of sub-section (1) of section 334 or sub-section (1) of this section, may join the Gramdan community in the same manner and subject to the same conditions as are provided in clause (b) of sub-section (1) of section 334, and thereupon the provisions of this Chapter shall, as far as may be, apply, as if such declaration were made under sub-section (1) of section 334.

**346. Power of Gramdan Panchayat to cancel lease, etc :-**

(1) Where any lessee from the Gramdan Panchayat-

(a) transfers his interest in the land in contravention of the provisions of clause (b) of sub-section (1) of section 344. or

(b) fails to pay dues in respect of the land leased to him, or

(c) fails to cultivate the land for two consecutive years, the Gramdan Panchayat may make an application to the Collector, for cancelling the lease, and if he is in possession thereof, for the eviction of the lessee therefrom; and thereupon . the Collector may, after making such inquiry as he deems fit and after giving the lessee an opportunity to be heard, cancel the lease or as the case may be, pass an order of eviction and in the latter case, restore possession of the land to the Gramdan Panchayat after evicting the lessee or any other person found in possession of the land:

Provided that the right of any person who is in lawful possession of such land shall not be affected thereby.

(2) Any order restoring possession of the land under this section shall be executed by the Mamlatdar within whose jurisdiction the land is situated in the manner provided in section 21 of the Mamlatdar Courts Act, 1906, (Bom. II of 1906) as if it were the decision of the Mamlatdar under this Act.

(3) Notwithstanding anything contained in sub-section (1) the Collector may instead of cancelling the lease or ordering his eviction on any of the grounds falling under clause (b) or clause (c) of that sub-section, by order direct the Gramdan Panchayat to assume management of the land in such manner, and for such period as he may specify; and make such further order as he may think fit for enabling the Gramdan Panchayat to assume management of the land.

(4) In any case where the management of any land is assumed

under sub-section (3), the Gramdan Panchayat shall, in such manner and at such intervals as may be prescribed, pay to the lessee the surplus income, if any, derived from the land during the period of management after deducting all amounts due to the Gramdan Panchayat from the lessee on account of land revenue, rent, cesses, rates, taxes and other dues and on account of encumbrances, if any.

(5) Any person aggrieved by any order of the Collector under this section may file an appeal to the State Government within forty-five days of the order. The State Government may, after giving the parties an opportunity of being heard, pass such order on appeal as it thinks just and proper. Subject to the decision of the State Government every order of the Collector made under this section shall be final.

**347. Gramdan Panchayat to recover dues as arrears of land revenue :-**

Any arrear of land revenue, cesses, rates or taxes or any other sum due to the Gramdan Panchayat by way of contribution or otherwise, shall, on a certificate issued to the Collector by the Gramdan Panchayat be recovered by the Collector as an arrear of land revenue and paid to the Gramdan Panchayat.

**348. Payment in gram fund :-**

(1) The following shall be paid into, and form part of the gram fund as constituted under section 99, namely:-

(a) all sums and moneys received by Gramdan Panchayat including the profits of any cultivation or any enterprise undertaken by it and the rent fee or other charges charged or imposed on persons to whom lands are leased under this Chapter and all sums received by way of loans from any Government for the purposes of this Chapter.

(b) all sums received by way of grants, donations, gifts, bequests or contributions.

(2) Amounts paid into the gram fund under sub.section (1) shall be utilised primarily for the purposes of this Chapter.

**349. Restriction on sale of lands held by Gramdhan Panchayat, Gramdan Kisan or landless person :-**

Where the interest of a Gramdan Kisan or a landless person in any

land donated to the Gramdan Panchayat or where the interest of the Gramdan Panchayat in any land, is sold on account of any default in the payment of any amounts due from the Gramdan Kisan, landless person or Gramdan Panchayat, as the case may be, such interest shall not be sold to any person other than the Gramdan Panchayat or a person who has joined the Gramdan community of the village in which the land is situated.

**350. Powers to exempt from stamp duty etc :-**

The State Government may, by notification in the Official Gazette,

(a) the stamp duty with which, under any law relating to stamp duty for the time being in force any declaration made under this Chapter or any instrument executed by or on behalf of a Gramdan Panchayat under this Chapter is chargeable,

(b) any fee payable, by any person in respect of any instrument transferring his land by way of Gramdan or on behalf of a Gramdan Panchayat under any law relating to the registration of documents for the time being in force.

**351. Regulation :-**

(1) A Gramdan Panchayat may, with the previous sanction of the State Government, make regulations not inconsistent with this Act or rules made thereunder generally for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, a Gramdan Panchayat may make regulations of provide for-

(a) payment of annual contribution in cash or kind for the purposes of sections 334 and 344;

(b) regulating leasing of land under section 343.

(3) All regulations made under this section shall be published in the Official Gazette and shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature, or such modification as the Legislature may make, during the session in which they are so laid, or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take

effect.

#### SCHEDULE 1

Matters in respect of which it is the duty of Gram Panchayat and Nagar Panehayats to make provision

#### **1. In the sphere of sanitation and health :-**

- (a) supply of water for domestic use and for cattle;
- (b) construction and cleaning of public roads, drains, ponds, tanks and wells other than tanks and wells used for irrigation purposes and other public places;
- (c) sanitation, conservancy, the prevention and abatement of nuisance;
- (d) preservation and improvement of public health, establishing and maintaining public hospitals and dispensaries and providing public relief;
- (e) regulation by licensing or otherwise of tea, coffee and milk shops;
- (f) provision, maintenance and regulation of burning and burial grounds;
- (g) ensuring systematic disposal of carcasses, provision of definite places for the purpose and other means for the disposal of unclaimed corpses and carcasses;
- (h) construction and maintenance of public latrines;
- (i) taking of measures to prevent the outbreak, spread and recurrence of any infectious disease;
- (j) reclaiming of unhealthy localities;
- (k) removal of rubbish heaps, jungle growth, prickly pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, the prevention of water-logging in irrigated areas and after improvements of sanitary conditions;
- (l) maternity and child welfare;
- (m) the encouragement of human and animal vaccination;
- (n) the provision and maintenance of compost pits;
- [(o) regulating the keeping of cattle and taking necessary steps

against stray cattle and dogs;

(p) regulating, checking and abating of offensive or dangerous trade or practices;

(q) watering public streets and places;

(r) cleansing public streets, places and sewers and all spaces not being private property, which are open to the enjoyment of the public whether such places are vested in the panchayat or not; removing the noxious vegetation, and abating all public nuisances;

(s) extinguishing fires, and protecting life and property when fires occur;

(t) removing obstruction and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the panchayat or belong to Government;

(u) securing or removing dangerous buildings or places;

(v) constructing, altering and maintaining public streets, culverts, panchayat boundary marvs, markets, slaughter-houses, latrines, privis. urinals, drains, sewers drainage, works, baths, washing places, drinking fountains. tanks, wells, dams and the like;

(w) obtaining a supply of an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost;

(x) paying the salary and the contingent expenditure on account of such police or guards as may be required by the panchayats for the purposes of this Act or for the protection of any panchayat property;

(y) constructing and maintaining residential quarters for the conser vancy staff of the panchayat;

(z) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute person within the limits of the panchayat.

## **2. In the sphere of public works :-**

(a) removing of obstructions and projections in public streets or

places and in sites not being private property which are open to the public whether such sites are vested in the panchayat or belong to Government.

(b) construction maintenance and repair of public roads, drains, bonds and bridges:

Provided that if the roads drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of that authority;

(c) maintenance and regulation of the use of buildings handed over to the panchayat or of Government buildings under the control of the panchayat, grazing lands, forests lands assigned under section 28 of the Indian Forest Act, 1927, (VI of 1927) and tanks and wells other than tank and wells for irrigation;

(d) lighting of the gram or nagar as the case may be;

(e) control of fairs, bazars, tanga stands and cart-stands;

(f) construction and maintenance or control of slaughter houses;

(g) planting of trees in market places and other public places and their maintenance and preservation;

(h) construction and maintenance of Dharamshalas;

(i) management and control of bathing and washing ghats which are not managed by any authority;

(j) establishment and maintenance of markets:

(k) construction and maintenance of houses for conservancy staff and village functionaries of the panchayat;

(l) provision and maintenance of camping grounds;

(m) establishment, control and management of cattle pounds;

(n) establishment and maintenance of works for the provisions of employment particularly in times of scarcity;

(o) extension of village sites or nagar sites as the case may be and the regulation of buildings and housing schemes in accordance with such principles as may be prescribed;

(p) construction and maintenance of buildings for warehouses, shops, purchasing centres and such others;

(q) construction and maintenance of buildings for common use and of buildings necessary for development activities;

(r) generation, distribution and supply of electrical energy and other matters connected therewith.

### **3. In the sphere of education and culture :-**

(a) spread of education;

(b) establishment and maintenance of akhada, parks, clubs and other places of recreation for the welfare of women and youth;

(c) establishment and maintenance of theatres for promotion of art and culture;

(d) establishment and maintenance of libraries and reading rooms;

(e) promotion of social and moral welfare of the village including prohibition propaganda, removal of untouchability, amelioration of the condition of the backward classes, the eradication of corruption and the discouragement of gambling and other anti-social activities,

(f) assisting the introduction of compulsory primary education as planned by the State;

(g) provision of school-building and of necessary equipment for education;

(h) pre-primary education and child-welfare activities;

(i) repairs and maintenance of school-buildings;

(j) maintenance of school funds;

(k) offering financial assistance to needy students;

(l) celebration of school functions and festivals;

(m) arranging cultural programmes for the purposes of popular education;

(n) provision for light meals for school-children, if possible;

(o) establishment, construction and maintenance of secondary schools.

### **4. In the sphere of self-defence and village-defence :-**

(a) watch and ward of the gram or nagar and of the crops therein

and raising volunteer organisation or organisations of any other kind, encouraging and assisting such organisations;

(b) providing for training facilities to the youth of the gram or nagar as the case may be for the purpose of self-defence and gram-defence and assisting such training that may be organised by the Government.

(c) preventing of fires rendering assistance in extinguishing fires and protecting life and property when fire occurs.

**5. In the sphere of planning and administration :-**

(a) the preparation of plans for the development of the gram or nagars as the case may be;

(b) assisting the implementation of soil improvement projects of the State Government;

(c) economic survey of the gram or nagar as the case may be accompanied by the provision of employment to the unemployed or underemployed residents thereof;

(d) preparation of budget, collection and maintenance of accounts, custody and utilization of funds, assessment and collection of taxes and maintenance of an Account Code;

(e) use of assistance given by the Central or State Government for any purpose of the village;

(f) making independent surveys of the gram or nagar as the case may be or assisting such surveys undertaken by the Central or State Government;

(g) recruitment, training and management of staff to be employed by the panchayat;

(h) control of cattle-stands, thrashing floors, grazing grounds and community lands;

(i) establishment, maintenance and regulation of fairs, pilgrimages, and festivals;

(j) reporting to proper authorities complaints which are not removable by the panchayat;

(k) preparation, maintenance and up-keep of the panchayat records;



(l) registration of births, deaths and marriages in such manner and in such form as may be laid down by the State Government by general or special order in this behalf;

(m) numbering of premises.

**6. In the sphere of Community Development :-**

(a) relief of the crippled, destitute and the sick;

(b) assistance to the residents when any natural calamity occurs;

(c) organising encouraging and assisting co-operative activities in the economic and social fields;

(d) propagation of family planning;

(e) organising voluntary labour for community works and works for the uplift of the gram or nagar as the case may be;

(f) opening fair-price shops.

**7. In the sphere of agriculture, preservation of forests and pasture lands :-**

(a) planned improvement of agriculture;

(b) securing minimum standards of cultivation in the gram or nagar as the case may be, with a view to increasing agricultural production;

(c) establishment and management of model agricultural farm;

(d) the establishment and maintenance of granaries;

(e) bringing under cultivation waste and fallow lands vested by the State Government in the panchayat;

(f) ensuring conservation of manurial resources, preparing composts and. sale of. manure;

(g) production of improved seeds, the establishing of nurseries of improved seeds and promoting the use of improved seeds;

(h) promoting the use of improved agricultural implements and making such implements easily available;

(i) the promotion of co-oprative farming;

(j) crop-protection and crop-experiments;

(k) minor irrigation, construction and maintenance of filled channels and distribution of water;

(l) raising preservation and improvement of village forests, pastures and orchards;

(m) taking steps against harmful animals with a view to protection of crops.

**8. In the sphere of Animal Husbandry :-**

(a) improvement of cattle and cattle-breedings;

(b) the general care of live-stock;

(c) providing and maintaining stud bulls for purposes of cattle breeding;

(d) promotion of dairy farming.

**9. In the sphere of Village Industries :-**

(a) surveying and harnessing industrial and employment potential of the gram or nagar as the case may be;

(b) promoting hand-spinning, hand weaving, dying printing embroidery, sewing, oil-pressing industry, lather industry, pottery, carpentry smithy, industries processing agricultural raw materials into finished products, other cottage industries and special arts of the village, if any, and protecting encouraging and assisting these with a view to improving and develop them;

(c) providing necessary raw materials for cottage industries and arts and crafts;

(d) making efforts for the production by the village craftsmen of modern and improved tools for cottage industries and making such tools easily available to them;

(e) encouraging and assisting artisans for training in cottage industries and handicrafts;

(f) providing for the organisation, management and development of cottage industries on a co-operative basis.

**10. In the sphere of collection of land revenue :-**

(a) collection of land revenue when so empowered by the State Government under section 149;

(b) maintenance of records relating to land revenue in such manner and in such form as may be prescribed from time to time by or under any law relating to land revenue. [\*\*\*\*]

#### SCHEDULE 1A

#### SCHEDULE

#### PART A

#### PART

#### **1. . :-**

A taluka, or as the case may be, district shall be divided into as many single member territorial constituencies as there are total seats to be filled and each constituency shall be named after giving it the name of a town or village having the largest population therein:

Provided that if the area of such town falls in more than one constituency, the constituencies covered by the area of such town shall be distinguished by adding to their names arithmetical figures. For example if "X" is a town having the largest population and its area extends to more than one constituency, such constituencies shall be distinguished by giving them names as X-1 and X-2 and so on.

#### **2. . :-**

The names of the constituencies shall be arranged in the English alphabetical order and shall be serially numbered.

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

The constituencies in a taluka or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Castes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Castes in accordance with provisions of subsection (4) of section 14, or, as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

#### **4. . :-**

The constituencies in a taluka, or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Tribes in each constituency starting with the highest percentage and the seats reserved for the

Scheduled Tribes in accordance with provisions of sub-section (4) of section 14, or as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

PART A

PART

**1. . :-**

The reserved seats for women shall first be distributed according to the allocation made under sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 to the women belonging to the Scheduled Castes, the Scheduled Tribes and to the women not belonging to the Scheduled Castes and the Scheduled Tribes.

**2. . :-**

If there are any seats allocable to the women belonging to the Scheduled Castes, or, as the case may be. Scheduled Tribes, then such seats shall be allotted by rotation serially to the constituencies to which seats reserved for the Scheduled Castes or, as the case may be. Scheduled Tribes are allotted, under paragraphs 3 and 4 of Part 1 of this Schedule.

**3. . :-**

The seats allocable to the women not belonging to the Scheduled Castes or Scheduled Tribes shall be allotted by rotation serially to the constituencies arranged under paragraphs 2 of Part I excluding therefrom the constituencies corresponding to those to which the reserved seats for Scheduled Castes and Scheduled Tribes allotted, under paragraphs 3 and 4 of Part I and paragraph 2 of this Part.

PART A

PART

**1. . :-**

Where the limits of any territorial constituency of a taluka or district are altered under section 20 for reasons amongst others of the change of the limits of a taluka or, as the case may be, a district or change of population therein and the territorial constituency the limits of which are altered is in the opinion of the State Government substantially the same as the territorial constituency existing before its limits are altered, then for the purposes of the first general election held after the limits of the territorial constituency are so altered, the said territorial constituency shall be ignored for allocation of seats for women by rotation under

paragraph 3 of Part II of this Schedule if in the previous general election any seats for women were allotted to it under the said paragraph.

**2. . :-**

In case where a seat for the Scheduled Castes and also for the Scheduled Tribe? becomes allocable to the same constituency, such constituency shall have a reserved seat for the Scheduled Castes and the seat for the Scheduled Tribes shall be shifted to the constituency which may be next in the serial order where a seat for the Scheduled Tribes would otherwise have to be reserved.

**3. . :-**

Fractions of a seat of one-half and above shall be counted as one and fraction below one-half shall be ignored.

**4. . :-**

If any question arises as to the constituency to which any seat reserved for women. Scheduled Castes or Scheduled Tribes should be or is capable of being allotted under this Schedule, it shall be competent for the State Government or the Development Commissioner authorised in this behalf by the State Government to decide the same and its or his decision shall be final".

SCHEDULE 2

SCHEDULE

PART

Matters in respect of which it is the duty of a Taluka Panchayat to make provision

**1. . :-**

A taluka, or as the case may be, district shall be divided into as many single member territorial constituencies as there are total seats to be filled and each constituency shall be named after giving it the name of a town or village having the largest population therein:

Provided that if the area of such town falls in more than one constituency, the constituencies covered by the area of such town shall be distinguished by adding to their names arithmetical figures. For example if "X" is a town having the largest population and its area extends to more than one constituency, such constituencies shall be distinguished by giving them names as X-1 and X-2 and so on.

**2. . :-**

The names of the constituencies shall be arranged in the English alphabetical order and shall be serially numbered.

**3. In the sphere of education and culture :-**

The constituencies in a taluka or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Castes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Castes in accordance with provisions of subsection (4) of section 14, or, as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

**4. In the sphere of social education :-**

The constituencies in a taluka, or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Tribes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Tribes in accordance with provisions of sub-section (4) of section 14, or as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

**5. In the sphere of community development :-**

(a) planning for increased employment and production, as well as for co-ordination of village institutions;

(b) training in self-help and self sufficiency among the village community on the principle of natural co.operation;

(c) utilising the surplus energy, resources and time of the village for benefit of the community;

(d) providing for the implementation of developmental programmes entrusted to it by the State Government.

**6. In the sphere of agriculture and irrigation :-**

(a) planning for agricultural improvement in the Taluka;

(b) use of land and water resources and preparation of improved agricultural methods according to the latest researches;

(c) construction and maintenance of irrigation works in the taluka;

- (d) reclamation and conservation of agricultural land in the taluka;
- (e) maintenance of seed multiplication farms, assisting registered seed producers and distribution of seed in the taluka;
- (f) raising the production of fruits and vegetables;
- (g) conservation of manurial resources, preparation of compost manure, organic manure and mixture and to arrange for making them easily available;
- (h) promoting the use of improved agricultural implements and arranging to make them easily available;
- (i) the protection of crops, fruit-trees and plants against disease;
- (j) establishment and management of model agricultural farms;
- (k) providing credit and other facilities for irrigation and agricultural development;
- (l) increasing the area of land under irrigation by construction and repairs of wells, digging and repairs of private ponds by undertaking minor irrigation works and by supervision of field channels;
- (m) increasing the use of sub-soil water by boring wells and giving assistance in regard to such wells;
- (n) providing for the timely and equitable distribution and full use of water available under irrigation schemes.

**7. In the sphere of animal husbandry :-**

- (a) improving cattle-breed by introduction of stud bulls, by castration of strayed bullocks and establishment and maintaining artificial insemination centres;
- (b) introducing improved breeds of cattle, sheep, poultry, etc., giving grants therefor and maintenance of small breeding centres;
- (c) controlling and checking infectious diseases;
- (d) introducing improved grass and cattle-feeds and providing for their storage;
- (e) starting and maintaining first-aid centres and veterinary dispensaries;

- (f) providing for milk supply;
- (g) solving the problem of stray cattle.

**8. In the sphere of village and small-scale industries :-**

To promote cottage, village and small scale industries with a view to providing increased employment and raising peoples' standard of living and especially:-

- (a) to establish and maintain production and training centres;
- (b) to improve the skills of artisans;
- (c) to popularise improved implements;
- (d) to ensure the implementation of scheme for Cottage, Village and Small-scale Industries run by the Khadi and Village Industries Board and other All-India Associations;
- (e) to establish industrial townships at the Taluka level;
- (f) to develop wool industry.

**9. In the sphere of co-operation :-**

To promote the idea of co-operation in different fields of life and to organise and encourage co-operative institutions in the economic and social fields and especially-

- (a) to establish and promote the development of multipurpose co-operative societies for credit, sale, industries, irrigation and agriculture;
- (b) promoting savings through thrift, small savings and insurance schemes.

**10. In the sphere of womens welfare :-**

Implementing of schemes for women's and Children's welfare and maintaining women's and children's welfare centres, education centres, craft centres and tailoring centres.

**11. In the sphere of Social welfare :-**

- (a) provision of hostels for students of backward classes and Scheduled Castes and Scheduled Tribes;
- (b) implementing schemes of rural housing;
- (c) maintaining necrepit baggers;



(d) sponsoring voluntary institutions of social welfare and co-ordinating assisting their activities;

(e) propaganda for prohibition and against drug addition.

**12. In the sphere of relief :-**

Providing immediate relief in cases of Hoods, fires, epidemics, and other natural calamities on a small or large scale.

**13. In the sphere of collection of statistics :-**

Collecting and co-ordinating statistics as may be required by the [gram panchayats,] nagar panchayats, taluka panchayats or district panchayats or by the State Government.

**14. In the sphere of trusts :-**

Managing trust in furtherance of the objects of any programme that may be carried out with the taluka fund.

**15. In the sphere of forests :-**

Promoting the development of village jungles and pastures. 16. In the sphere of rural housing- Development of village-sites and nagar-sites with the co-operation of the village population and planning of rural housing.

**17. In the sphere of information :-**

(a) Community radio listening programme;

(b) arranging exhibitions;

(c) publications.

PART

Functions and Duties of [\* \* \* \*] A Taluka Panchayat

**1. . :-**

The reserved seats for women shall first be distributed according to the allocation made under sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 to the women belonging to the Scheduled Castes, the Scheduled Tribes and to the women not belonging to the Scheed Castes and the Scheduled Tribes.

SCHEDULE 3

SCHEDULE

PART

Matters in respect of which it is the duty of district panchayatto make provision

**1. In the sphere of sanitation and health :-**

A taluka, or as the case may be, district shall be divided into as many single member territorial constituencies as there are total seats to be filled and each constituency shall be named after giving it the name of a town or village having the largest population therein:

Provided that if the area of such town falls in more than one constituency, the constituencies covered by the area of such town shall be distinguished by adding to their names arithmetical figures. For example if "X" is a town having the largest population and its area extends to more than one constituency, such constituencies shall be distinguished by giving them names as X-1 and X-2 and so on.

**2. In the sphere of public works :-**

The names of the constituencies shall be arranged in the English alphabetical order and shall be serially numbered.

**3. In the sphere of education and other cultural activities :-**

The constituencies in a taluka or, as the case may be, district named and numbered as provided in paragraphs I and 2 shall be given special numbers according to the percentage of the population of the Scheduled Castes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Castes in accordance with provisions of subsection (4) of section 14, or, as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

**4. In the sphere of administration :-**

The constituencies in a taluka, or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Tribes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Tribes in accordance with provisions of sub-section (4) of section 14, or as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

**5. In the sphere of community development :-**

(a) planning for increased employment and production, as well as for co-ordination of village institutions;

- (b) training in self-help and self sufficiency among the village community on the principle of natural co.operation;
- (c) utilising the surplus energy, resources and time of the village for benefit of the community;
- (d) providing for the implementation of developmental programmes entrusted to it by the State Government.

**6. in the sphere of agriculture :-**

- (a) planning for agricultural improvement in the Taluka;
- (b) use of land and water resources and preparation of improved agricultural methods according to the latest researches;
- (c) construction and maintenance of irrigation works in the taluka;
- (d) reclamation and conservation of agricultural land in the taluka;
- (e) maintenance of seed multiplication farms, assisting registered seed producers and distribution of seed in the taluka;
- (f) raising the production of fruits and vegetables;
- (g) conservation of manurial resources, preparian compost manure, organic manure and mixture and to arrange for making them easily available;
- (h) promoting the use of improved agricultural implements and arranging to make them easily available;
- (i) the protection of crops, fruit-trees and plants against disease;
- (j) establishment and management of model agricultural farms;
- (k) providing credit and other facilities for irrigation and agricultural development;
- (l) increasing the area of land under irrigation by construction and repairs of wells, digging and repairs of private ponds by undertaking minor irrigation works and by supervision of field channels;
- (m) increasing the use of sub-soil water by boring wells and giving assistance in regard to such wells;
- (n) providing for the timely and equitable distribution and full use of water available under irrigation schemes.

## **7. In the sphere of animal husbandry :-**

- (a) improving cattle-breed by introduction of stud bulls, by castration of strary bullocks and establishment and maintaining artificial insemination centres;
- (b) introducing improved breeds of cattle, sheep, poultry, etc., giving grants therefor and maintenance of small breeding centres;
- (c) controlling and checking infectious diseases;
- (d) introducing improved grass and cattle-feeds and providing for their storage;
- (e) starting and maintaining first-aid centres and veterinary dispensaries;
- (f) providing for milk supply;
- (g) solving the problem of stray cattle.

## **8. In the sphere of village and small scale industries :-**

To promote cottage, village and small scale industries with a view to providing increased employment and raising peoples' standard of living and especially:-

- (a) to establish and maintain production and training centres;
- (b) to improve the skills of artisans;
- (c) to popularise improved implements;
- (d) to ensure the implementation of scheme for Cottage, Village and Small-scale Industries run by the Khadi and Village Industries Board and other All-India Associations;
- (e) to establish industrial townships at the Taluka level;
- (f) to develop wool industry.

## **9. In the sphere of social welfare :-**

To promote the idea of co-operation in different fields of life and to organise and encourage co-operative institutions in the economic and social fields and especially-

- (a) to establish and promote the development of multipurpose co-operative societies for credit, sale, industries, irrigation and agriculture;

(b) promoting savings through thrift, small savings and insurance schemes.

**10. In the sphere of relief :-**

Implementing of schemes for women's and Children's welfare and maintaining women's and children's welfare centres, education centres, craft centres and tailoring centres.

**11. In the sphere of minor irrigation projects :-**

(a) provision of hostels for students of backward classes and Scheduled Castes and Scheduled Tribes;

(b) implementing schemes of rural housing;

(c) maintaining necrepit baggers;

(d) sponsoring voluntary institutions of social welfare and co-ordinating assisting their activities;

(e) propaganda for prohibition and against drug addition.

**PART**

Functions and duties of Education Committee of a District Panchayat

**1. It shall be the duty of the education committee ofa district panchayat :-**

The reserved seats for women shall first be distributed according to the allocation made under sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 to the women belonging to the Scheduled Castes, the Scheduled Tribes and to the women not belonging to the Scheed Castes and the Scheduled Tribes.