

Himachal Pradesh Panchayati Raj (Amendment) Act, 2001

22 of 2001

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Himachal Pradesh Panchayati Raj (Amendment) Act, 2001

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An Act further to amend the Himachal Pradesh Panchayati Raj act, 1994 (4 of 1994). Be it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-second Year of the Republic of India, as follows:-

1. Short Title :-

This Act may be called the Himachal Pradesh Panchayati Raj (Amendment) Act, 2001.

2. Amendment Of Section 8 :-

In section 8 of the Himachal Pradesh Panchayati Raj act, 1994 (4 of 1994) (hereinafter referred to as the principal Act), after the second proviso, the following shall be added, namely:-

"Provided further that the member of the Panchayat Samiti, representing a part or whole of the Gram Sabha area shall also be the member of the concerned Gram Panchayat(s) and shall have the right to vote".

3. Amendment Of Section 11 :-

In section 11 of the principal Act,-

(a) for sub-section (1), the following shall be substituted, namely:-

"(1) The Gram Panchayat shall perform the functions specified in Schedule-I"; and

(b) in sub-section (2), for the words and sign "specified in Schedule-II", the words and sign "including those matters specified in Schedule-II and the Gram Panchayat shall perform such functions" shall be substituted.

4. Substitution Of Section 23 :-

For section 23 of the principal Act, the following shall be substituted, namely:-

"23. Constitution and functions of Standing Committees. - (1) Every Gram Panchayat shall from amongst its members constitute by election, following Standing Committees:-

(i) Public Works Committee for performing functions relating to rural roads and public buildings to be headed by the Pradhan and the Up-Pradhan shall be the member of this Committee;

(ii) Health and Family Welfare Advisory Committee for performing functions relating to Health and Family Welfare Department, welfare of women, children, Scheduled Castes and Scheduled Tribes to be headed by the Pradhan;

(iii) Village Education Committee for performing functions relating to education to be headed by the Pradhan;

(iv) Forest Committee for performing functions relating to afforestation, soil conservation, prevention of forest fire to be headed by the Pradhan;

(v) Agriculture Production Committee for performing functions relating to Agriculture/Horticulture production, Animal Husbandry to be headed by the Up-Pradhan;

(vi) Irrigation and Public Health Committee for performing functions relating to Irrigation and Public Health to be headed by the Up-Pradhan;

(vii) Food, Civil Supply and Consumers Committee to be headed by Up-Pradhan.

(2) Each Committee shall consist of not less than two and not more than three members from Gram Panchayat including the Pradhan or the Up-Pradhan, as the case may be:

Provided that the Health and Family Welfare Advisory Committee

and Forest Committee shall have at least three women members including co-opted members:

Provided further that if the Up-Pradhan acts as the Pradhan of the Gram Panchayat, the members of the Standing Committees mentioned in clauses (v), (vi) and (vii) of sub-section (1) shall elect its Chairman from amongst themselves;

(3) Each Committee shall co-opt, in such manner as may be prescribed, members of Farmers Club, Mahila Mandals, Yuvak Mandals, Co-operative Societies and the concerned departments. The rights and liabilities of the co-opted members shall be such as may be prescribed:

Provided that each Standing Committee shall also co-opt not more than two members from Gram Sabha having knowledge of the subject for which the said committee had been constituted:

Provided further that the same person may not be co-opted for more than two Standing Committees:

Provided further that each committee shall consist of not less than five and not more than twenty members including the co-opted members.

(4) Notwithstanding anything contained in this section, the Village Education Committee shall be the same as notified by the Primary Education Department under the Himachal Pradesh Compulsory Primary Education Rules, 2000.

(5) The Standing Committees shall perform such functions under sub-section (1) as are entrusted to them by the Gram Panchayat".

5. Amendment Of Section 78 :-

In section 78 of the principal Act, in sub-section (1), after proviso to clause (d), the following shall be added, namely:-

"(e) the member of the Zila Parishad, representing the ward which comprises wholly or partly the Panchayat Samiti area".

6. Amendment Of Section 118 :-

In section 118 of the principal Act, after sub-section (2), the following proviso shall be added, namely:-

"Provided that the Director may, with the prior approval of the State Government, also authorise private agencies/persons, who are specialised in audit to conduct audit, on payment basis, if considered essential".

7. Amendment Of Section 161 :-

In section 161 of the principal Act, -

- (a) in clause (ii), after the words "in the case of", the words "members of" shall be added; and
- (b) after clause (ii), the following shall be added, namely:-
"(iii) in the case of Chairman and Vice-Chairman of Zila Parishad, by the Commissioner".

8. Amendment Of Section 184 :-

In section 174 of the principal Act, in sub-section (1), -

- (a) for clause (b), the following shall be substituted, namely:-
"(b) declaring election of all or any of the elected persons to be void; or"; and
- (b) after clause (b) so substituted, the following clause (c) shall be added, namely:-
"(c) declaring the election of all or any of the elected persons to be void and the petitioner or any other candidate to have been duly elected".

9. Amendment Of Section 175 :-

In section 175 of the principal Act,-

- (a) for the existing heading, the following shall be substituted, namely:-
"Grounds for declaring elections to be void";
- (b) in sub-section (1), for the words "set aside the election of the elected person", the words "declare the election of the elected persons to be void", shall be substituted; and
- (c) for sub-section (2), the following shall be substituted, namely:-
"(2) Subject to the provisions of section 175-A, when an election of an elected person has been declared to be void under sub-section (1), a fresh election shall be held under the provisions of this Act and the rules made thereunder".

10. Insertion Of Sections 175-A And 175-B :-

After section 175 of the principal Act, the following shall be substituted, namely:-

"175-A. Grounds for which a candidate other than the elected person may be declared to have been elected - If any person who has lodged a petition has, in addition to calling in question the election of the elected persons, claimed a declaration that he

himself or any other candidate has been duly elected and the authorised officer is of opinion,-

(a) that in fact the petitioner or such other candidate received a majority of valid votes; or

(b) that but for the votes obtained by the elected person by corrupt practice, the petitioner or such other candidate would have obtained a majority of the valid votes,

the authorised officer shall after declaring the election of the elected person to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

175-B. Procedure in case of equality of votes. - If during the trial of an election petition, it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then-

(a) any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision, the authorised officer shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote".

11. Amendment Of Section 181 :-

In section 181 of the principal Act, for the existing clause (i) and (ii), the following shall be substituted, namely:-

"(i) in case the order is passed by the Sub Divisional Officer, to the Deputy Commissioner and his orders passed under this clause shall be final;

(ii) in case the original order is passed by the Deputy Commissioner, to the Financial Commissioner (Revenue) to the Government of Himachal Pradesh; and

(iii) in case the order is passed by the Commissioner, to the Financial Commissioner (Revenue) to the Government of Himachal Pradesh,

and he shall hear and dispose of the appeal within a period of 90 days whose decision shall be final".

12. Substitution Of Schedule-I :-

For Schedule-I appended to the principal Act, the following shall be

substituted, namely:-

"SCHEDULE-I

[See Section 11(1)]

FUNCTIONS OF GRAM PANCHAYATS

1. sanitation, conservancy and prevention and abatement of nuisance;
2. construction, repair and maintenance of public wells, ponds, tanks and conventional/traditional sources of water;
3. construction and maintenance of village paths, mule roads and rural roads, culverts, bridges and bunds which are not constructed or maintained by the Public Works Departments;
- 4 . construction, maintenance and cleaning of public streets, latrines, drains, tanks, wells and other public places;
5. regulating the construction of buildings, latrines, urinals, drains and water closets;
6. collection and disposal of refuse and earmarking places for dumping of refuse;
7. filling of disputed wells, in sanitary ponds, pools, ditches and pits and conversion of step wells into sanitary wells;
8. lighting of village streets and other public places;
9. removing of obstructions and projections in public streets or places and in sites not being private property or which are open to use of public, whether such sites are vested in the Panchayat or belong to the State Government;
10. management of public land and management and development of village site, grazing lands and other lands vested in or under the control of the Gram Panchayat;
11. maintenance of ancient and historical monuments other than those declared by or under law made by Parliament to be of national importance;
12. maintenance of Gram Panchayat property;
13. Plantation and preservation of Panchayat Forests;
14. regulating places for disposal of dead bodies, carcasses and other offensive matters;
15. disposal of unclaimed corpuses and carcasses;
16. regulation of sale and preservation of meat;
17. establishment and management of cattle ponds and maintenance of records relating to cattle;
18. establishment, management and regulation of markets and fairs; and
19. maintenance of records of birth, deaths and marriages".

