

## **Himachal Pradesh Panchayati Raj Act, 1994**

### **4 of 1994**

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### **Himachal Pradesh Panchayati Raj Act, 1994**

#### **4 of 1994**

(Received the assent of the Governor, Himachal Pradesh on 22 nd April, 1994 and was published in Hindi and English in R.H.P. Extra., dated the 23 rd April, 1994 at p. 813- 983). Amended, repealed or otherwise affected by:- (i) H.P. Ordinance No. 3 of 1997 replaced by H.P. Act No. 10 of 1997 2 , published in R.H.P. Extra., dated 3-5-1997, P. 1579- 1582, effective w.e.f. 16 th January, 1997. (ii)

H.P. Act No. 1 of 1998 3 , published in R.H.P. Extra., dated 9- 1-1998, P. 59-64. effective w.e.f. 24 th May, 2004 vide Not. No. PCH-HA(I)4/94-Loose-6025-6236, dated 24 th May, 2004 published in R.H.P. Extra., dated 24.5.2004, p. 475. (iii) H.P. Act No. 18 of 2000 4 , published in R.H.P. Extra., dated 8-6-2000, P. 1613-1646. (iv) H.P. Ordinance No. 1 of 2000 replaced by H.P. Act No. 4 of 2001 5 , published in R.H.P. Extra., dated 20-2-2001, P. 5677- 5683, effective w.e.f. 15 th day of November, 2000. (v) H.P. Act No. 22 of 2001 6 , published in R.H.P. Extra., dated 19-10-2001, P. 2937-2946. (vi) H.P. Act No. 10 of 2002 7 , published in R.H.P. Extra., dated 8-5-2002, P. 313-316. (vii) H.P. Act No. 17 of 2005 8 , published in R.H.P. Extra., dated 17-6-2005, P. 743-756, effective w.e.f. 30 th May, 2005 vide Not. No. PCH-HA(1)1/2004-9509-9683, dated 30 th May, 2005 published in R.H.P.Extyra., dated 30.5.2005, p. 958. 1 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 5.4.1994, p. 666 and 743. 2 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 31.3.1997, p. 1109 and 1112. 3 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 12.12.1997, p. 4722 and 4726. 4 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 17. 4.2000, p. 933 and 951. 5 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 26.12.2000, p. 4732 and 4737. 6 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 21.8.2001, p. 1966 and 1974. 7 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects .and Reasons see R.H.P. Extra., dated 26. 3.2002, p. 4635 and 4638. 8 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 4.4..2005, p. 231 and 241. (viii) H.P. Act No. 20 of 2006 1 , published in R.H.P. Extra., dated 12-10-2006, P. 5261-5264. (ix) H.P. Act No. 15 of 2007 2 , published in R.H.P. Extra., dated 20-09-2007, P. 5695-5696. (x) H.P. Act No. 10 of 2008 3 , published in R.H.P. Extra., dated 27.5.2008, P. 1197-1203, effective w.e.f. 13.6.2008. (xi) H.P. Act No. 17 of 2008 4 , published in R.H.P. Extra., dated 13.10.2008, P. 4247-4250. AN ACT to consolidate, amend and replace the law relating to Panchayats with a view to ensure effective involvement of the Panchayati Raj Institutions in the local



administration and developmental activities. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follows:-

CHAPTER 1  
PRELIMINARY

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

application] and commencement.-

(1) This Act may be called the Himachal Pradesh Panchayati Raj Act, 1994.

(2) It shall extend to the whole of the State of Himachal Pradesh, except the areas administered by a municipality. 6 (2-A) In their application to the scheduled areas in the State as referred to in clause (1) of Article 244 of the Constitution of India, the remaining provisions of this Act shall apply, subject to the provisions of Chapter VI-A of this Act.

(3) It shall come into force on such date 7 as the Government may, by notification, appoint.

**2. Definitions :-**

In this Act, unless the context otherwise requires,-

(1) "annual value" means,- 1 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 22.8.2006, p. 3710 and 3713. 2 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 22.8.2007, p. 3710 and 3713. 3 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated 8.4.2008, p.. 4 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects . and Reasons see R.H.P. Extra., dated -.200-, p.. 5 Inserted vide H.P. Act No. 1 of 1998 effective w.e.f. 24 th May, 2004. 6 Sub-section (2-A) ins. vide H.P. Act No. 1 of 1998 effective w.e.f. 24 th May, 2004. 7 Act came into force w.e.f. 23.4.1994 vide notification No. RDPR.III (Leg-I) 5/93 dated 23.4.1994 and published in R.H.P.Extra., dated 23.4.1994, Pages 985- 986.

(i) double the land revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(ii) where the land revenue has been permanently assessed, or has been wholly or in part compounded or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable; or

(iii) where no land revenue has been assessed, double the amount

which, would have been assessed if the average village rate had been applied: Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land revenue and rate has been imposed in respect of such improvement, that rate shall be added to the land revenue for the purpose of computing the annual value:

(2) "backward classes" means such classes of citizens other than Scheduled Castes and Scheduled Tribes as may be identified and notified for the purposes of reservation for appointments or posts in the services under the State Government;

(3) "block" means such area in a district as may be declared by the Government by notification to be a block;

(4) "building" means any shop, house, out-house, hut, shed, stable, whether used for the purpose of human habitation or otherwise and whether of stone, concrete, bricks masonry, wood, mud, thatch, metal or any other material whatever and includes a wall;

(5) "bye-laws" means bye-laws made by a Panchayat under this Act and includes model bye-laws framed by the State Government under section 188;

(6) "case" means "criminal proceedings" in respect of an offence triable by a Gram Panchayat; 1 [(6-A). "cattle" means domestic animals and includes elephants, camels, buffaloes, cows, oxen, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;]

(7) "collector", "Magistrate" or "Sub-Judge" with reference to a "Gram Sabha" or a "Gram Panchayat" means a Collector, a Judicial Magistrate or a Sub Judge of the District or the Sub Division, as the case may be, in which such Gram Sabha, or Gram Panchayat is constituted;

(8) "complaint" means any allegation made orally or in writing to the Gram Panchayat, with a view to its taking action under Chapter- 1 Clause (6-A) inserted vide Act No. 20 of 2006. IV of this Act, that some person, whether known or unknown has committed an offence; 1 [(8-A) deleted]

(9) "common land" means the land which is not in the exclusive use of any individual and has, by usage, custom, prescription or by law, been reserved for the common purposes of village community or has been acquired for such purposes;

(10) "decree", "decree holder", "judgment debtor" and "legal representative" shall have the same meanings as are assigned to

them in section 2 of the Code of Civil Procedure, 1908(5 of 1908);

(11) "Deputy Commissioner" means the Deputy Commissioner of a district and includes any officer specially appointed by the Government to perform the functions of a Deputy Commissioner under this Act: Provided that such officer shall not perform any function in respect of which the decision of the Deputy Commissioner under this Act is final; 2 [(11-A) "Divisional Commissioner" means the Divisional Commissioner of a Division and includes any officer specially appointed by the State Government to perform function of Divisional Commissioner;]

(12) "Director" means the Director of Panchayati Raj appointed under this Act and includes any other officer specially appointed by the Government to perform the functions of the Director under this Act;

(13) "district" means a revenue district; 3 [(13-A) "family" means a joint family of all persons descended from common ancestor including adoption, who live, worship and mess together permanently as shown in the parivar register of the Gram Panchayat;] 4 [(13-B) "Financial Commissioner" means the Financial Commissioner (Revenue) to the Government of Himachal Pradesh;]

(14) "Government" or "State Government" means the Government of Himachal Pradesh; 1 Clause (8-A) added vide Act No. 18 of 2000 and deleted vide Act No. 17 of 2008. 2 Clause (11-A) added vide Act No 17 of 2008. 3 Clause (13-A) added vide Act No. 4 of 2001 w.e.f. 15.11.2000. 4 Clause (13-B) added vide Act No 17 of 2008.

(15) "Gram Panchayat" means the Executive Committee of the Gram Sabha established under section 8 of this Act;

(16) "Gram Sabha" or "Sabha" means a Gram Sabha established under section 4 of this Act and "Sabha area" means an area declared to be a "Sabha area" under section 3 of this Act;

(17) "land" means land assessed to land revenue and includes land whereof the land revenue has been wholly, or in part released, compounded for, redeemed or assigned;

(18) "land holder" means any person responsible for the payment of the land revenue, if any, assessed on land and includes the proprietor of land, the land revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned;

(19) "land revenue" includes tirni or grazing dues levied for grazing on Government land;

(20) "member" means a member of the Gram Panchayat, Gram Sabha, Panchayat Samiti or Zila Parishad, as the case may be;

- (21) "municipality" means an institution of self-Government constituted under article 243-Q of the Constitution of India and includes a Cantonment Board set up under the Cantonments Act, 1924( 2 of 1924);
- (22) "offence", "bailable offence", "non-bailable offence", "cognizable offence", "Officer-in-charge of a police station" and "police station" shall have the same meanings as are assigned to them in section 2 of the Code of Criminal Procedure, 1973(2 of 1974);
- (23) "office-bearer" means a Member, Pradhan or Up-Pradhan of a Gram Panchayat and a Member, Chairman or Vice-Chairman of a Panchayat Samiti or of a Zila Parishad, as the case may be;
- (24) "Official Gazette" or "Gazette" means the Rajpatra of Himachal Pradesh;
- (25) "panch" means a member of Gram Panchayat while discharging the judicial functions of the Gram Panchayat under this Act and includes a Pradhan or Up-Pradhan;
- (26) "panchayat" means a Gram Panchayat, a Panchayat Samiti or a Zila Parishad, as the case may be;
- (27) "panchayat forest" means a forest which has been so declared by the State Government by notification issued in this behalf; 1 [(27-A) "Panchayat Sahayak" means a person appointed as Panchayat Sahayak by the Gram Panchayat under section 135 or an official deputed by the State Government under section 136, as 1 .Clause (27-A) ins. vide Act No. 10 of 2008.effective w.e.f. 13.6.2008 . the case may be, to perform the functions of Secretary of Gram Panchayat under this Act;]
- (28) "Panchayat Samiti" means a Panchayat Samiti constituted under section 78 of this Act and having jurisdiction over the block area;
- (29) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (30) "prescribed" means prescribed by rules made under this Act;
- (31) "prescribed authority" means the authority notified as such by the Government under this Act;
- (32) "proceedings" means a revenue matter triable by a Gram Panchayat;
- (33) "public place" means a space not being private property which is open to use or enjoyment of the public whether such space is vested in a Panchayat or not;
- (34) "public street" means any road, street, bridge, lane, square,

court, alley or passage which the public has a right to pass along and includes on either side, the drains or gutters and the land up to defined boundary of any abutting property, notwithstanding any projection over such land of any varandah or other superstructure;

(35) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860(45 of 1860);

(36) "schedule" means a schedule appended to this Act;

(37) "scheduled areas" means the areas specified and declared as scheduled areas in the State of Himachal Pradesh under paragraph 6 of the Fifth Schedule to the Constitution of India for the purposes of clause(1) of Article 244 of the Constitution;

(38) "Scheduled Castes" shall have the same meaning as assigned to it in clause (24) of article 366 of the Constitution of India;

(39) "Scheduled Tribes" shall have the same meaning as assigned to it in clause (25) of article 366 of the Constitution of India;

(40) "section" means the section of this Act;

(41) "Secretary" means a person, by whatever name called, appointed under section 133 and sub-section (1) of section 134 to discharge the functions of the Secretary of the Gram Panchayat, the Panchayat Samiti and the Zila Parishad concerned;

(42) "Sub-Divisional Officer" means the officer-in-charge of a SubDivision of a District constituted for revenue and general purposes and where a Sub-Division does not exist such other officer as may be declared by the Government as Sub-Divisional Officer, for the purposes of this Act;

(43) "suit" means a civil suit triable by a Gram Panchayat;

(44) "tax" includes a cess, duty, fee, rate or toll, leviable under this Act;

(45) "tenant", "rent", and "rates and cesses" shall have the same meanings as are assigned to them in section 4 of the Himachal Pradesh Land Revenue Act, 1954( 6 of 1954);

(46) "village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated or any other local area which the Government may, by general or special order, declare to be a village; 1 [(46-A) "ward" means a single member territorial constituency in a Panchayat area as determined under section 124 of the Act;]

(47) "water-courses" means a Kuhal or channel which is used for irrigation or providing drinking water and the management whereof has been partly or wholly entrusted to a Panchayat; and

(48) "Zila Parishad" means a Zila Parishad constituted under section 89 of this Act.

CHAPTER 2  
GRAM SABHA

**3. Declaration Of Sabha Area :-**

(1) The Government may, by notification, declare any village or group of contiguous villages with a population of not less than one thousand and not more than five thousand to constitute one or more Sabha areas for the purposes of this act and also specify its headquarter: Provided that in a Scheduled area the Government may by order declare any village or group of contiguous villages with a population of less than one thousand to constitute a Sabha area: Provided further that the Government may, after having due regard of the geographical location, lack of means of transport and communication and administrative convenience, declare an area comprising a village or group of contiguous villages having a population either less than one thousand or more than five thousand to constitute a Sabha area.

(2) The Government may, at the request of the Gram Sabha concerned or otherwise, and after previous publication of a proposal by a notification, at any time,-

(a) increase any Sabha area by including within such Sabha area any village or group of villages; or

(b) diminish any Sabha area by excluding from such Sabha area any village or group of villages; or 1 Clause (46-A) added vide Act No. 4 of 2001 w.e.f. 15.11.2000.

(c) alter the headquarter of any Sabha area; or

(d) alter the name of any Sabha area; or

(e) declare that any area shall cease to be a Sabha area: 1 [\*\*\*\*\*] 2 [(2-A) When on account of the reason that the Sabha area is, during the term of the Gram Panchayat, increased or diminished or ceased under subsection (2), the increase or diminution or cessation of the Sabha area shall not affect the term of the office bearers of Gram Panchayat, till the expiration of the duration of the Gram Panchayat specified in sub-section (1) of section 120 or its dissolution under section 140 of this Act.]

(3) If the whole of the Sabha area is included in a municipality, the Sabha area shall cease to exist and its assets and liabilities shall in the manner prescribed be disposed of.] 3

**3A. Diminution Of The Sabha Area Not To Affect The Term**

## **Of Certain Office Bearers :-**

Notwithstanding anything to the contrary contained in this Act, but subject to the provision of sub-section (2-A) of section 3, when on account of reason that the Sabha area or the portion thereof is included in a municipality or a portion of municipality excluded therefrom is included in a Sabha area, during the term of the office of the office bearers of a Panchayat Samiti or Zila Parishad, such increase or diminution of the Sabha area, shall not affect the term of the office bearers of the Panchayat Samiti or Zila Parishad, till the expiration of its duration specified in sub-section (1) of section 120 of this Act or its dissolution under section 140 of this Act.]

## **4. Establishment Of Gram Sabha :-**

(1) The Government may, by order, establish a Gram Sabha by name in every Sabha area.

(2) For every Gram Sabha established under sub-section (1), there shall be a list of voters which shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

(3) Every person who is qualified to be registered in the Legislative Assembly roll relatable to the Sabha area or whose name is entered therein and is ordinarily resident within the Gram Sabha area shall be entitled to be registered in the list of voters of that Sabha area: Provided that no person shall be entitled to be registered in the list of voters for more than one Sabha area. Explanation-I.- The expression "ordinarily resident" shall have the meaning assigned to it in section 20 of the Representation of the People Act, 1950 (43 of 1950) subject to the modification that reference to "Constituency" therein will be construed as a reference to "Sabha area". 1 Proviso omitted vide H.P. Act No. 10 of 1997 w.e.f. 16.1.1997. 2 Sub-section (2-A) added vide Act No. 10 of 1997 and further subs. vide Act. No. 10 of 2002. 3 Section 3-A added vide H.P. Act No. 10 of 1997 , w.e.f. 16.1.1997. Explanation-II.- A person shall be disqualified for registration in the list of voters of Sabha area if he is disqualified for registration in the Legislative Assembly roll.

## **5. Meeting And Quorum Of Sabha :-**

(1) Every Sabha shall hold 1 [four general meetings in each year and every meeting shall held on the first Sunday of January, April, July and October] and it shall be the responsibility of the Pradhan to convene such meetings: 2 [\*\*\*\*\*] Provided further that the Pradhan may, at any time or upon a requisition in writing of not less than one-fifth of the members of the Gram Sabha or if required by the Panchayat Samiti, Zila Parishad or the Deputy Commissioner, shall, within 30 days from the receipt of such

requisition, call an extraordinary general meeting: Provided further that where a Pradhan fails to convene the meetings under this subsection, the prescribed authority shall convene such meetings within a period of thirty days.

(2) The time and place of all the meetings of the Gram Sabha shall be published in the prescribed manner.

(3) For any general meeting of the Gram Sabha, 3 [representation of at least one-third of the total number of families represented by one or more members of the Gram Sabha] shall form a quorum and decision will be taken by a majority of members present and voting: Provided that for a meeting adjourned for want of quorum, 4 [representation of at least one-fifth of the total number of families represented by one or more members of the Gram Sabha] shall be required for holding the adjourned meeting.

(4) The meeting of the Gram Sabha shall be presided over by Pradhan or in absence of Pradhan by Up-Pradhan. In the event of both Pradhan and Up-Pradhan being absent, the meeting of Gram Sabha shall be presided over by a member of the Gram Sabha to be elected for the purpose by the majority of members present in the meeting.

#### **5A. Agenda :-**

(1) Every member of the Gram Panchayat shall, in respect of his ward, prepare agenda items in consultation with the Sabha members of such ward and shall submit the same to the Pradhan and the Secretary at least thirty days prior to the date of meeting of the Gram Sabha. 1 Subs. for the words "two general meetings in each year, one in the summer and the other in the winter" vide Act No. 4 of 2001 w.e.f. 15.11.2000. 2 Existing first proviso deleted vide Act No. 4 of 2001 w.e.f. 15.11.2000. 3 Subs. for the words "one-fifth of the total number of its members" vide Act No. 4 of 2001 w.e.f. 15.11.2000. 4 Subs. for the words "at least one-tenth of the total number of its members" vide Act No. 4 of 2001 w.e.f. 15.11.2000. 5 Section 5-A ins. vide Act No. 17 of 2005 w.e.f. 30.5.2005.

(2) Any department, other agency or organization shall submit its items, if any, to the Pradhan and the Secretary at least thirty days prior to the date of meeting of the Gram Sabha.

(3) The Secretary shall compile the agenda items received under subsections (1) and (2) and shall circulate the same, in the manner as may be prescribed, along with the notice of meeting.]

#### **6. Defect Or Omission In Enrolment Of Members Not To Vitate Act Or Proceedings Of The Gram Sabha :-**

No defect or omission in the enrolment of a member shall vitiate any act or proceeding of a Gram Sabha, if not less than two-thirds of the members at the time, the act is done, or the proceedings are taken, were duly qualified members thereof.

#### **7. Functions Of Gram Sabha :-**



- (1) the Gram Sabha shall perform the following functions, namely:-
- (a) mobilise voluntary labour and contribution in kind and cash for the Community Welfare Programmes;
  - (b) identification of beneficiaries for the implementation of developmental schemes pertaining to the village;
  - (c) rendering assistance in the implementation of developmental schemes pertaining to the village; 1 [(c-a) approve plans, programmes and budget, prepared by the Gram Panchayat, for economic development and social justice;
  - (c-b) authorise, after being satisfied, issuance of utilization certificate of funds spent on the implementation of the plans, projects and programmes of the Gram Panchayat;]
  - (d) promotion of unity and harmony among all sections of society in the Sabha area;
  - (e) seek clarifications from the Pradhan, Up-Pradhan and members of the Gram Panchayat about any particular activity, scheme, income and expenditure; and
  - (f) such other matters as may be prescribed.
- (2) The Gram Sabha shall consider the following matters, and make recommendations and suggestions to the Gram Panchayat, namely:-
- (a) the annual statement of accounts of the Gram Panchayat, the report of the administration of the preceding financial year and the last audit note and replies, if any, made thereto;
  - (b) the report in respect of development programmes of the Gram Panchayat relating to the preceding year and development programmes proposed to be undertaken during the current year; 1  
Clauses (c-a) and (c-b) ins. vide Act No. 17 of 2005 w.e.f. 30.5.2005.
  - (c) the promotion of unity and harmony among all sections of society in the village;
  - (d) the programme of adult education within the village;
  - (e) any other matter which the Panchayat Samiti, Zila Parishad, the Deputy Commissioner or any other officer authorised in this behalf may require to be placed before the Gram Sabha; and
  - (f) such other matters as may be prescribed.
- (3) The Gram Panchayat shall give due consideration to the recommendations and suggestions of the Gram Sabha.
- (4) The Gram Sabha may also form one or more vigilance committee(s) consisting of not less than five persons, who are not members of the Gram Panchayat, to supervise the Gram Panchayat

works, schemes and other activities and to put up reports concerning them in its meeting and shall also send a copy of the said report to such an authority as may be prescribed for this purpose. 1 [(5) The village level functionaries of the Agriculture, Animal Husbandry, Primary Education, Forest, Health and Family Welfare, Horticulture, Irrigation and Public health, Revenue and Welfare Departments shall attend the meetings of the Gram Sabha in whose jurisdiction they are posted, and if such village level functionaries fail to attend the meetings, the Gram Sabha shall report the matter to their controlling officer through the Gram Panchayat, who shall take disciplinary action against such functionaries within one month from the date of receipt of the report and shall intimate the action taken on such report to the Gram Sabha through the Gram Panchayat.]

### **7A. Constitution Of The Up-Gram Sabha :-**

- (1) There shall be a Up-Gram Sabha for each ward of a Gram Sabha.
- (2) All members of the Gram Sabha residing within the area of the ward shall be members of the Up-Gram Sabha.
- (3) Every Up-Gram Sabha shall hold two general meetings in each year, and it shall be the responsibility of the member of the Gram Panchayat representing the ward to convene such meetings. The meeting of the Up-Gram Sabha shall be presided over by the member of the Gram Panchayat representing the ward, who shall also record the proceedings.
- (4) The time and place of the meetings of the Up-Gram Sabha shall be fixed and notified by the member of the Gram Panchayat representing the ward.
- (5) The Up-Gram Sabha shall nominate its members to represent it in the general meeting of the Gram Sabha and these members shall be nominated in a manner so that 15% of the total families residing in the area of the ward get nominated provided that one-third of the nominations shall be of women: 1 Sub-section (5) ins. vide Act No. 17 of 2005 w.e.f. 30.5.2005. 2 Section 7-A inserted vide Act No. 4 of 2001 w.e.f. 15.11.2000. Provided that this nomination shall not debar any member of Up-Gram Sabha from attending the general meetings of the Gram Sabha.
- (6) The Up-Gram Sabha may deliberate on issues relating to its area and make recommendations to the Gram Panchayat or Gram Sabha.]

### **CHAPTER 3**

### **GRAM PANCHAYATS**

### **8. Constitution Of Gram Panchayats :-**

- (1) There shall be a Gram Panchayat for a Gram Sabha and every Gram Sabha shall, in the prescribed manner, elect from amongst its members a Pradhan 1 [and Up-Pradhan] of the Sabha who shall also be called the Pradhan 2 [and Up-Pradhan] of the Gram Panchayat and shall also elect from amongst its members an Executive Committee called the Gram Panchayat consisting of such

number of persons not being less than seven and more than fifteen, including Pradhan 3 [and UpPradhan], as the Government may by notification determine: 4 [Provided that the number of members excluding Pradhan [ 5 and UpPradhan] to be assigned to each Gram Sabha, shall be determined on the following scale:-

(a) with a population not exceeding 1750 .. five

(b) with a population exceeding 1750 but not exceeding 2750 .. seven

(c) with a population exceeding 2750 but not exceeding 3750 .. nine

(d) with a population exceeding 3750 but not exceeding 4750 .. eleven

(e) with a population exceeding 4750 ..thirteen:] Provided further that the number of members of a Gram Panchayat, excluding Pradhan 6 [and Up-Pradhan ], shall be determined in such a manner that the ratio between the population of the Gram Sabha and the number of seats of members in such a Panchayat to be filled by election shall, so far as practicable, be the same throughout the Sabha area: 7 [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.] 1 The words "and an Up-Pradhan" deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005 and agains ins. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008. 2 The words "and an Up-Pradhan" deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005 and agains ins. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008. 3 The words "and an Up-Pradhan" deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005 and agains ins. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008. 4 Proviso subs. vide Act No. 17 of 2005 w.e.f. 30.5.2005 . 5 .The words "and Up Pradhan" ins. vide Act No. 10 of 2008 effective w.e.f . 13.6.2008. 6 The words "and an Up-Pradhan" deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005. 7 Third Proviso added vide Act No. 22 of 2001. 1 [xxx.]

(2) Seats shall be reserved in a Gram Panchayat--

(a) for the Scheduled Castes, and

(b) for the Scheduled Tribes, and the number of seats so reserved shall bear, as nearly as may be, same proportion to the total number of seats in the Gram Panchayat as the population of the Scheduled Castes or the Scheduled Tribes in the Sabha area bears to the total population of the Sabha area: Provided that in case no reservation of seats is possible as aforesaid due to small population of the Scheduled Castes and the population of Scheduled Castes of

the Sabha area is atleast five percent of the total population of the Sabha area, one seat shall be reserved for the Scheduled Castes in such a Gram Panchayat: Provided further that where there is no eligible candidate belonging to the Scheduled Castes to be elected as a member of the Gram Panchayat, no seat shall be reserved for Scheduled Castes: Provided further that in non-tribal areas where there is Scheduled Tribes population in a Gram Sabha, seats shall be reserved for such members of the Scheduled Tribes within the reservation provided for the members of the Scheduled Castes and the determination of seats to be reserved amongst the Scheduled Castes and Scheduled Tribes shall be in proportion to their population in that Gram Sabha. Explanation.- The expression "non-tribal area" for the purpose of this proviso shall mean the areas other than the Scheduled Areas specified in relation to the State of Himachal Pradesh. 2 [(3) 3 [One-half] of the total number of seats reserved under subsection

(2) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.] 4 [(3-A) 5 [One-half] (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Gram Panchayat shall be reserved for women.]

(4) The State Government may, by general or special order, reserve such number of seats for persons belonging to Backward Classes in a Gram 1 Fourth Proviso ins. vide Act No. 17 of 2005 w.e.f. 30.5.2005 and deleted. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008. 2 Subs. vide Act No. 18 of 2000. 3 Subs. for the words "Not less than one-third" vide Act No. 10 of 2008 effective. w.e.f. 13.6.2008. 4 Subs. vide Act No. 18 of 2000. 5 Subs. for the words "Not less than one-third" vide Act No. 10 of 2008 effective. w.e.f. 13.6.2008. Panchayat, not exceeding the proportion to the total number of seats to be filled by direct election in the Gram Panchayat as the population of the persons belonging to Backward Classes in that Gram Sabha area bears to the total population of that area and may further reserve 1 [one-half] of the total seats reserved under this sub-section for women belonging to Backward Classes.

(5) The seats reserved under sub-sections

(2), 2 [(3), (3-A)] and (4) shall be allotted by rotation to different constituencies in the Sabha area in such manner as may be prescribed.

(6) If for any reason the election to any Gram Panchayat does not

result in the election of required number of persons as specified in subsection (1), the Deputy Commissioner, shall within one month from the date on which the names of the elected persons are published by him under section 126 arrange another election to make up the deficiency.

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

(1) The meeting of the Gram Panchayat shall be public and shall be held at least once a month at the office of the Gram Panchayat and at such time as the Pradhan may fix: Provided that the Pradhan, when required in writing by a majority of the members to call a meeting, shall do so within three days, failing which the said members shall, with the previous approval of the prescribed authority, be entitled to call a meeting after giving a notice of one week to the Pradhan and the other members.

(2) Subject to the provisions of this Act and the rules framed thereunder one-half of the 3 [office bearers] of the Gram Panchayat shall form a quorum.

(3) The decisions of the Gram Panchayat shall be by majority and when the voting is equal, the Pradhan, in his absence, the Up-Pradhan, shall have an additional or casting vote.

### **10. Maintenance Of Gram Panchayat Records Etc :-**

The Secretary of the Gram Panchayat, under the overall supervision of the Pradhan and in his absence under the supervision of the Up-Pradhan, shall be responsible for the custody and maintenance of all prescribed records and registers and other property belonging to or vested in the Gram Sabha or the Gram Panchayat.

### **11. Functions Of Gram Panchayat :-**

4 [(1) The Gram Panchayat shall perform the functions specified in Schedule-I.]

(2) Notwithstanding anything contained in this Act the State Government may, by general or special order, entrust to the Gram Panchayat preparation of plans and implementation of schemes for economic 1 .Subs. for the words "not less than on-third" vide Act No. 10 of 2008 effective w.e.f . 13.6.2008. 2 Subs. for the the bracket and figure "(3)" vide Act No. 18 of 2000. 3 Subs. for the words "members" vide Act No. 17 of 2005 w.e.f. 30.5.2005. 4 Existing Sub-section (1) subs. vide Act No. 22 of 2001. development and social justice 1 [including those matters specified in Schedule-II and the Gram Panchayat shall perform such

functions.]

(3) The State Government may, by general or special order, add to any of the functions of the Gram Panchayat or withdraw the functions and duties entrusted to such a Gram Panchayat, when the State Government undertakes the execution of any of the functions entrusted to the Gram Panchayat, the Gram Panchayat shall not be responsible for such functions so long as the State Government does not re-entrust such functions to the Gram panchayat.

(4) The Government may, by notification and subject to such conditions as may be specified therein , -

(a) transfer to any Gram Panchayat the management and maintenance of a forest situated in the Gram Sabha area ;

(b) make over the Gram Panchayat the management of waste lands, pasture lands or vacant lands belonging to the Government situated within the Gram Sabha area ;

(c) transfer to the Gram Panchayat the protection of any irrigation work and its execution and the regulation/distribution of water from any such work ;

(d) transfer to the Gram Panchayat any public property situated within the jurisdiction of the Gram Sabha ;

(e) entrust the gram Panchayat with the collection of land revenue on behalf of the Government and the maintenance of such records as are connected therewith; and

(f) entrust such other functions as may be prescribed: Provided that when any transfer of the management and maintenance of a forest is made under clause

(a) or the transfer of any irrigation work is made under clause (c), the Government shall direct that any amount required for such management and maintenance or an adequate portion of the income from such forest or irrigation work be placed at the disposal of the Gram Panchayat.

(5) A Gram Panchayat shall have powers to do all acts necessary for or incidental to the carrying out of the functions entrusted, assigned or delegated to it and, in particular, and without prejudice to the foregoing powers, to exercise all powers specified under this Act.

### **11A. Registration Of Cattle And Maintenance Of Record Therefor :-**

(1) Head of every family shall be responsible to give or cause to be given, either orally or in writing, the details of cattle owned by his family to the concerned

Pradhan or the Panchayat Secretary of the Gram Panchayat, within a period of one month from the commencement of the Himachal Pradesh 1 Subs. for the words "specified in Schedule-II" vide Act No. 22 of 2001. 2 Section (11-A) inserted vide Act No. 20 of 2006. Panchayati Raj (Amendment) Act, 2006, and thereafter every time as and when any change in the number of cattle takes place by any reasons.

(2) On receipt of the details of cattle under sub-section (1), the Gram Panchayat shall register cattle and shall maintain records thereof in such form as may be notified by the State Government: Provided that the Gram Panchayat may charge registration fee at such rate as may be fixed by the Gram Panchayat.

(3) It shall be the duty of the Gram Panchayat to assist the officials or persons engaged by the Animal Husbandry Department for applying appropriate identification mark on each cattle and to maintain the record of identification.

(4) It shall be the duty of every Gram Panchayat to assist the officials or representatives of the Animal Husbandry Department in identifying the stray cattle within its jurisdiction.

(5) If any cattle with identification mark is found stray, the owner of the cattle shall be identified by the Gram Panchayat from the record maintained by it and such owner shall be liable to a fine of three hundred rupees for the first offence and five hundred rupees in the event of second or subsequent offence, which shall be imposed by the Gram Panchayat.

(6) If the Gram Panchayat fails in identifying such stray cattle due to tampering with identification mark or mutilation thereof, it shall report the matter to the In-charge of the nearest Animal Husbandry Dispensary who shall lodge the stray cattle to the nearest Gosadan or Goshala.]

## **12. Power Of Removal Of Encroachments And Nuisance :-**

(1) A Gram Panchayat, on receiving a report or other information and on taking such evidence, if any, as it thinks fit, may make a conditional order requiring, within a time to be fixed in the order-

(a) The owner or the occupier of any building or land-

(i) to remove any encroachment on a public street, place or drain;

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

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

(iv) to remove any dirt, dung, nightsoil, manure or any noxious or offensive matter therefrom and to cleanse the land or building;

(b) the owner of any wall or building which is deemed by the Gram Panchayat to be in any way dangerous, to remove or repair such

wall or building;

(c) the owner or occupier of any building or property to keep his building or property in a sanitary state;

(d) the owner of any dog or other animal suffering or reasonably suspected to be suffering from rabbies or which is dangerous, to destroy or confine or cause to be destroyed or confined such dog or animal;

(e) the owner or occupier of any agricultural land to destroy harmful weeds from such land;

(f) the owner or occupier concerned to reclaim an unhealthy place;

(g) the owner or occupier of any building or land to maintain in proper repair the level and surface of any road or street passing in front of the building or through his land; and

(h) the owner or person-in-charge of a private water channel to keep it in a state of reasonable repair; or, if he objects so to do, to appear before it, at a time and place to be fixed by the order and to move to have the order set aside or modified in the manner hereinafter provided. If he does not perform such act or appear and show cause, the order shall be made absolute. If he appears and shows cause against the order, the Gram Panchayat shall take evidence and if it is satisfied that order is not reasonable and proper, no further proceedings shall be taken in the case. If it is not so satisfied, the order shall be confirmed or modified as it deems fit.

(2) if such act is not performed within the time fixed, the Gram Panchayat may cause it to be performed and may recover the costs of performing it from such person in the prescribed manner.

(3) Any person aggrieved by an order under sub-section

(1) may file an appeal within thirty days of the passing of such order before the SubDivisional Officer who after holding such enquiry as he may deem fit, may set aside, modify or confirm the said order and his decision thereon shall be final.

### **13. Power To Make General Orders :-**

A Gram Panchayat may by general order to be published in the manner prescribed, -

(a) prohibit the use of water of a well, pond or other excavation suspected to be dangerous to the public health;

(b) regulate or prohibit the watering of cattle or bathing or washing at or near wells, ponds or other excavations reserved for drinking water;

(c) regulate or prohibit the steeping of hemp or any other plant in



or near ponds or other excavations within two hundred and twenty metres of the residential area of a village;

(d) regulate or prohibit the dyeing or tanning of skins within four hundred and forty meters of the residential area of a village;

(e) regulate or prohibit the excavation of earth or stone or other materials, within two hundred and twenty meters of the residential area of a village: Provided that nothing shall be done under this clause to prevent excavations meant to be filled by the foundation of buildings or other structures;

(f) regulate or prohibit the establishment of brick kilns and charcoal kilns within eight hundred and eighty meters and pottery kilns within two hundred and twenty metres of the residential area of a village;

(g) direct that the carcasses of all animals dying within the village, except animals slaughtered for consumption shall not be disposed of within a radius of four hundred and forty metres of the residential area of the village;

(h) regulate the construction of new buildings or the extension or alterations of any existing building or the abadi;

(i) regulate with the previous permission of the Government, the parking of public vehicles;

(j) regulate such matters as may be necessary for the general protection of standing trees and trees on common land and the planting of such trees;

(k) regulate the observance of sanitation and taking curative and preventive measures to remove and prevent the spread of epidemics;

(l) regulate the maintenance of water courses meant for irrigation purposes;

(m) regulate the killing of stray dogs;

(n) regulate the slaughter of animals;

(o) prohibit beggary;

(p) direct the taking of measures for the prevention of water-logging;

(q) regulate the flaying and disposal of dead animals;

(r) prohibit the sale of harmful eatables within the Sabha area; and

(s) regulate offensive and dangerous trades or practices; 1 [(t) protect public property such as sign boards, mile-stones on public roads, paths, irrigation and water supply schemes, public taps, public wells, hand pumps, community centres, mahila mandal bhawans, school buildings, Health/Veterinary/Ayurvedic Institution buildings.]

#### **14. Control On Erection Of Buildings :-**

(1) The Gram Panchayat, after preparing a model plan for the village which has been approved by the Gram Sabha and the prescribed authority by written order, may-

(a) direct that before erecting, re-erecting or adding to a building, wall or a platform every person shall present an application to the Gram Panchayat and that no building, wall or platform shall be erected, re-erected or added to in conflict with the model plan or in advance of an alignment to be specified on land demarcated by the Gram Panchayat; and

(b) specify the space which shall intervene between any new or enlarged building and the building next adjacent or any road in the village.

(2) The Gram Panchayat shall have the power to modify, return for modification or reject the proposed plan for erection, re-erection or addition to a building, wall, or platform.

(3) Where any building, wall or platform has been erected, re-erected or added to in contravention of any order passed under sub-section (1), the Pradhan may report to the Sub-Divisional Officer and the said Officer may make an order-

(i) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished by the owner of the building, wall or platform or that it shall be altered by him to the satisfaction of the Gram Panchayat within such time as may be fixed by him; or

(ii) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished or altered by the Gram Panchayat at the expense of the owner within such time as may be fixed by him: Provided that the Sub-Divisional Officer shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(4) If any person to whom a direction to demolish or alter any building, wall or platform, is given under clause

(i) of sub-section (3) fails to obey the same, he shall be liable to fine which may extend to twenty-five rupees and when the failure is a continuing one, to further fine which may 1 Clause (t) added vide Act No. 4 of 2001 w.e.f. 15.11.2000.. extend in the case of a masonry building, wall or platform, to five rupees each day on which the failure continues; provided that the recurring penalty shall not exceed the sum of five hundred rupees.

### **15. Penalty For Disobedience Of A Special Or General Order Of The Panchayat :-**

Any person who disobeys an order of the Gram Panchayat made under sections 12 and 13 shall be liable to a penalty which shall be imposed by the Gram Panchayat and may extend 2 [one thousand rupees]; and if the breach is a continuing breach, with further penalty which may extend to ten rupees for every day after the first during which the breach continues: Provided that recurring penalty shall not exceed the sum of 3 [five thousand rupees]. The penalty, if not paid shall be recovered as arrears of land revenue.]

### **16. Power To Enquire And Make Report About Misconduct Of Certain Officials :-**

(1) On a complaint being made to the Gram Panchayat by any person that a peon, bailiff, constable, head constable, chaukidar, patrol of the Irrigation Department, forest guard, patwari, vaccinator, canal overseer, gram sewak, game watcher or any other class of public servants to which the Government may, by notification, extend the provisions of this section has misconducted himself in his official capacity, the Gram Panchayat may enquire into the matter and submit a report alongwith the prima facie evidence to the superior officer whom it may concern, or to the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, and the said officer shall, after such further inquiry as may be required, take suitable action under intimation to the Gram Panchayat and the Director.

(2) On the report being made by any person that a patwari, chaukidar, gram sewak, forest guard or any other class of public servants to which the Government may by notification extend the provisions of this section, has failed to perform any duty imposed upon him by any law or rules, the Gram Panchayat may, by notice fixing a reasonable period, require him to perform the duty and, on his failure to do so, shall report the matter to the superior officer whom it may concern, or to the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, and the said officer shall, after such enquiry as may be required, take suitable action under intimation to the Gram Panchayat and the Director.

### **17. Power To Contract For The Collection Of Taxes And Other Dues :-**

A Gram Panchayat may, notwithstanding any law to the contrary, in respect of any area within its jurisdiction, enter into contract with

the Government or a local body to collect land revenue or any tax or dues payable to the Government or a local body on being allowed such collection charges as may be prescribed. A Gram Panchayat may also within its jurisdiction, enter into a 1 .Section 15 subs. vide Act No.18 of 2000 . 2 Subs. for the words "two hundred and fifty rupees" vide Act No. 17 of 2005 w.e.f. 30.5.2005. 3 Subs. for the words "one thousand rupees" vide Act No. 17 of 2005 w.e.f. 30.5.2005. contract with all or any of the land owners to collect rent on his or their behalf on being allowed by the landowner such collection charges as may be prescribed.

#### **18. Power To Introduce Prohibition :-**

(1) A Gram Panchayat may by vote of at least two-third majority of members, direct that intoxicating liquor may not be sold at any licensed shop within the local area of the Gram Panchayat.

(2) When a resolution has been passed under sub-section (1), it shall take effect from the first day of April of the year next after such resolution.

(3) Notwithstanding anything contained in any Excise Act and the rules made thereunder, such a resolution will be binding upon the Excise and Taxation Commissioner subject to the approval by the Government.

#### **19. Power Of Entry And Inspection :-**

The Pradhan of the Gram Panchayat, and if authorized in writing in this behalf by the Gram Panchayat, Up-Pradhan or any other member may enter into or upon any building or land, with or without assistance or workmen in order to make an inspection or survey or to execute a work which a Gram Panchayat is authorised to make or execute by this Act or the rules or bye-laws made thereunder: Provided that-

(a) no such entry shall be made between sun-set and sun-rise;

(b) sufficient notice shall, in every instance, be given even when any premises can other-wise be entered without notice to enable the inmates of an apartment occupied by women to remove themselves to some part of the premises where their privacy shall not be disturbed; and

(c) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

#### **20. Power To Manage Fairs And Markets :-**

The Gram Panchayat may start, manage and regulate fairs and

markets within the Sabha area in the prescribed manner.

**21. Power Over Waterways Etc :-**

A Gram Panchayat shall have control of all public streets, waterways, other than canals as defined in any other enactment for the time being in force relating to a canal or a minor canal, situated within its jurisdiction, not being a private street or waterway and not being under the control of the Government or any other authority specified by the Government and may do all things necessary for the maintenance and repair thereof, and may-

- (a) construct new bridges or culverts;
- (b) divert, discontinue or close any public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve a public street, culvert or bridge with minimum damage to the neighboring fields;
- (d) deepen or otherwise improve water ways;
- (e) with the sanction of the prescribed authority undertake small irrigation projects;
- (f) cut any hedge or branch of any tree projecting on public street;
- (g) notify the setting apart of any public water course for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course so set apart: Provided that nothing shall be done under clause (g) which may affect a canal governed by any other enactment for the time being in force relating to a canal or a minor canal, without the prior permission of the authority prescribed by the Government in this behalf.

**22. Powers Regarding Naming Of Streets And Numbering Of Buildings :-**

(1) A Gram Panchayat may-

- (a) cause a name to be given to a street by affixing it to or painting it on any building or otherwise in such position or manner as it may think fit; and
- (b) cause a number to be affixed to or painted on any building in such a position or manner as it may think fit.

(2) The Gram Panchayat may require the owner or occupier of any building to paint thereon a number or itself cause such a number to be painted on any building.

(3) Any person destroying, pulling down, defacing or altering any name plate of a street or number affixed to or painted on a building under subsections (1) and (2) or affixing to or painting on a building a different name or number from that affixed or painted by

or under the order of the Gram Panchayat shall, on conviction, be liable to fine which may extend to 2 [one hundred rupees]. The fine shall be recoverable in the prescribed manner.

### **23. Constitution And Functions Of Standing Committees :-**

(1) Every Gram Panchayat shall, from amongst its members, constitute by election, following Standing Committees:-

- (i) Works Committee; and
- (ii) Budget Committee.

(2) One committee shall be headed by the Pradhan and the other by the Up-Pradhan, as may be decided by the Gram Panchayat by majority vote in its meeting. 1 Amended vide Act No. 18 of 2000. 2 Subs. for the words "ten rupees" vide Act No. 18 of 2000. 3 Section 23 subs. vide Act No. 22 of 2001 and further subs. vide Act No. 17 of 2005 w.e.f. 30.5.2005.

(3) Each committee shall consist of three members including the Pradhan or the Up-Pradhan, as the case may be.

(4) All developmental works of the gram Panchayat shall be executed by the Works Committee, in the manner as may be prescribed, and if considered necessary, the Gram Panchayat may form sub-committees to supervise and monitor performance of such works and to obtain accounts thereof.

(5) The Budget Committee shall prepare the annual budget of the Gram Panchayat and shall submit the same to the Secretary for placing it before the Gram Panchayat for consideration and approval.

(6) The Gram Panchayat may constitute more Standing Committees for performing such other functions as may be entrusted to them by the Gram Panchayat.]

### **24. Joint Committee :-**

Subject to such rules as may be prescribed two or more Gram Sabhas may combine by means of written instrument to appoint a Joint Committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested.

### **25. Work To Be Entrusted To Joint Committee Or Panchayat Samiti :-**

(1) If two or more Gram Sabhas are jointly interested in transacting any business, they may delegate to the joint committee, formed in accordance with the provisions of section 24

or to the Panchayat Samiti, power, with such conditions as they may think proper to impose, to frame any scheme binding on each Gram Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Sabha in relation to such scheme: Provided that the Gram Sabha shall pay the cost of the transaction of the business or the execution of the scheme as to the construction and maintenance of any joint work in such proportion as may be agreed upon in the written instrument.

(2) If any difference of opinion arises between the Gram Sabha acting under this section it shall be referred to the prescribed authority whose decision shall be final.

## **26. Maintenance And Improvement Of Schools, Hospitals And Dispensaries :-**

(1) The Gram Panchayat shall render such assistance as may be prescribed in the maintenance, improvement and efficient running of the schools, hospitals and dispensaries in or near its jurisdiction.

(2) The Gram Panchayat may contribute funds to any charitable or national cause or any work or scheme for removing distress and ameliorating the conditions of the people in the rural areas as approved by the Government.

## **27. Establishment Of School, Hospital Or Dispensary For Group Of Panchayats :-**

Where a group of neighbouring Gram Panchayat areas have no school, hospital or dispensary, the Gram Panchayat thereof shall, if so directed by the Government, combine to help in establishing such a school, hospital or Ayurvedic or Unani dispensary and it shall be managed in the manner prescribed: Provided that the Government shall place such funds, as may be necessary for the purpose, at the disposal of the Gram Panchayats concerned

## **28. Assistance To The Government Servants :-**

A Gram Panchayat shall, if so prescribed and so far as practicable, assist any Government servant in the performance of his duties within its area.

## **29. Power To Take Over Management Of Institutions Etc :-**

Subject to rules made under this Act and the conditions agreed upon in writing, a Gram Panchayat may receive from any person any property vested in him, or the execution or maintenance of any work, or the performance of any duty, within its area: Provided that

no work of more than five thousand rupees shall be entrusted to, or undertaken by, a Gram Panchayat except with the previous approval of the Deputy Commissioner.

#### CHAPTER 4

#### JUDICIAL FUNCTIONS AND POWERS OF GRAM PANCHAYAT

### **30. Bar For Panches To Take Part In Certain Cases :-**

(1) No Panch shall take part in any case, suit or proceedings to which he or she or his or her near relation, employed or employee, or partner in business is a party or in which any of them is personally interested.

(2) If by reason of the number of Panches disqualified under subsection

(1) there remains no quorum the Gram Panchayat shall send the case or the suit to the Judicial Magistrate or the Sub-Judge or the Collector having jurisdiction, as the case may be, for disposal in accordance with law. Explanation.- "near relation" means father, grand father, father-in-law, maternal or paternal uncle, son, grand-son, son-in-law, brother, nephew, brother-in-law, wife, sister , sister"s husband, mother, daughter, niece, mother-in-law, daughter-in-law and husband.

### **31. Territorial Jurisdiction :-**

(1) Notwithstanding anything contained in the Criminal Procedure Code, 1973( 2 of 1974), every case instituted under this Act shall be instituted before the Pradhan, or in his absence before UpPradhan, of the Gram Panchayat of the Sabha area in which the offence was committed.

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908( 5 of 1908) , or in the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974), every suit instituted under this Act shall be instituted before the Pradhan, or in his absence before Up-Pradhan, of the Gram Panchayat of the Gram Sabha area in which the defendant, or any of the defendants, where they 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.

(3) Notwithstanding anything contained in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), every proceeding specified under section 48 shall be transferred by the revenue court concerned to the Gram Panchayat within the local area in which the



land concerned is situated and the Gram Panchayat shall decide such proceedings in the manner prescribed: Provided that where land is included in the local area of more than one Gram Panchayats, the revenue court concerned shall transfer the proceedings to the Gram Panchayat within the area of which the greater part of the land is situated.

### **32. Offences Cognizable By Gram Panchayat :-**

(1) Offences mentioned in Schedule-III or declared by the State Government to be cognizable by a Gram Panchayat, if committed within the jurisdiction of a Gram Panchayat, and abetment of and attempts to commit such offences shall be cognizable by such Gram Panchayat.

(2) Application for maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be heard and decided by the Gram Panchayat. A Gram Panchayat may grant a maintenance allowance not exceeding five hundred rupees per month on such application without prejudice to any other law for the time being in force in this behalf.

### **33. Penalties :-**

A Gram Panchayat may impose a fine not exceeding one hundred rupees but shall not inflict a sentence of imprisonment either substantive or in default of payment of fine.

### **34. No Cognizance By Courts :-**

No Court shall take cognizance of any case suit or proceeding which is cognizable under this Act by a Gram Panchayat established for the area to which the case, suit or proceeding relates, unless an order has been passed under section 67.

### **35. Transfer Of Criminal Proceedings To The Gram Panchayat In Certain Cases :-**

If, at any stage of the proceedings in a criminal case pending before a Magistrate, it appears that the case is triable by a Gram Panchayat, he shall at once transfer the case to that Gram Panchayat which shall try the case de-novo.

### **36. Summary Disposal Of Complaint :-**

A Gram Panchayat may dismiss any complaint, if after examining the complainant and taking such evidence as he produces, it is satisfied that the complaint is frivolous, vexatious or untrue.

### **37. Return Of Complaints :-**

If, at any time, it appears to a Gram Panchayat,-

- (a) that it has no jurisdiction to try any case before it; or
- (b) that the offence is one for which it cannot award adequate punishment; or
- (c) that the case is of such a nature or complexity that it should be tried by a regular court, it shall return the complaint to the complainant directing him to file it before the Magistrate having jurisdiction to try such case.

### **38. Certain Persons Not To Be Tried By The Gram Panchayat**

**:-**

No Gram Panchayat shall take cognizance of any offence where the accused--

- (a) has been previously convicted of an offence punishable with imprisonment of either description for a term of three years or more; or
- (b) has been previously fined under section 379 of the Indian Penal Code (45 of 1860) by any Gram Panchayat or has been previously convicted and sentenced under the said section by a Court; or
- (c) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1973( 2 of 1974); or
- (d) has been previously convicted of gambling; or
- (e) is Government servant and act complained of is the one done in his official capacity.

### **39. Compensation To The Accused :-**

If a Gram Panchayat is satisfied after enquiry that a case brought before it was false, frivolous or vexatious, it may order the complainant to pay to the accused such compensation not exceeding two hundred rupees, as it thinks fit.

### **40. Enquiry In Cases Forwarded By A Magistrate :-**

A Magistrate may direct an inquiry to be made under section 202 of the Code of Criminal Procedure, 1973 (2 of 1974), by a Gram Panchayat in any case in which the offence was committed within the territorial jurisdiction of such Gram Panchayat and the Gram Panchayat shall inquire into the case and submit its report to the said Magistrate.

### **41. Extent Of Jurisdiction :-**

- (1) The jurisdiction of a Gram Panchayat shall extend to any suit of the following description if its value does not exceed two thousand rupees:-

- (a) a suit for money due on contract other than a contract in respect of immovable property;
- (b) a suit for the recovery of movable property or for the value thereof;
- (c) a suit for compensation for wrongfully taking or damaging a moveable property;
- (d) a suit for damages caused by cattle trespass; and
- (e) a suit under clauses (f) and (i) of sub-section (3) of section 58 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974).

(2) Notwithstanding anything contained in sub-section (1), the State Government or the prescribed authority may, by notification in the Official Gazette, extend the pecuniary jurisdiction of Gram Panchayat to five thousand rupees in respect of any or all the suits of the description mentioned in subsection (1).

#### **42. Extension Of Jurisdiction By Agreement Of Parties :-**

Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 59 to a Gram Panchayat for decision by it and the Gram Panchayat shall, subject to the rules prescribed, determine and dispose of such suit under this Act.

#### **43. Application For Transfer Of Cases From One Gram Panchayat To Another Gram Panchayat :-**

(1) Notwithstanding anything to the contrary contained in this chapter, if in any criminal case or civil suit or revenue proceeding before a Gram Panchayat any party intimates, at any stage before the pronouncement of the final order or decree, that it intends to put up an application under this section to the Judicial Magistrate or the Sub-Judge or the Collector, as the case may be, for transfer of the case, suit or proceeding, the Gram Panchayat shall direct the applicant to make such application within a reasonable time to be fixed by the Gram Panchayat, which shall not be less than fifteen days and adjourn the case, suit or proceeding for such period as will afford sufficient time for the application to be put up and an order to be obtained thereon: Provided that nothing herein contained shall require the gram Panchayat to adjourn the case, suit or proceeding upon a second or subsequent intimation from the same party.

(2) The Judicial Magistrate or the Sub-Judge or the Collector, as the case may be, may upon such application, for reasons to be recorded in writing, transfer the case, suit or proceeding to another

Gram Panchayat within his jurisdiction which shall try or hear the case, suit or proceeding, as the case may be.

**44. Exclusion Of Gram Panchayat Jurisdiction :-**

A Gram Panchayat shall have no jurisdiction to take cognizance of any of the following suits:-

- (a) a suit for a balance of partnership account;
- (b) a suit for a share or part of a share under intestacy or for a legacy or part of legacy under a will;
- (c) a suit by or against the State or a public servant for acts done in his official capacity; and
- (d) a suit by or against a minor, or a person of unsound mind.

**45. Suit To Include The Whole Claim :-**

(1) Every suit instituted before a Gram Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring it within the jurisdiction of the Gram Panchayat.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of the claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

**46. Limitation :-**

Every suit instituted before a Gram Panchayat after the period of limitation prescribed therefor in Schedule-IV shall be dismissed, even though limitation has not been set up as a defence: Provided that in computing the period of limitation prescribed for any suit the time during which the plaintiff has prosecuted with due diligence the suit against the defendant in any court shall be excluded where such suit is founded upon the same cause of action and was prosecuted in good faith in a court which from defect of jurisdiction or any cause of like nature was unable to entertain it.

**47. Effect Of Decision By Gram Panchayat :-**

The decision of the Gram Panchayat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

**48. Proceeding Under Section 46 Of The Himachal Pradesh Land Revenue Act :-**

(1) The revenue court concerned shall transfer to the Gram

Panchayat, if any, having jurisdiction, all applications under section 46 of the Himachal Pradesh Land Revenue Act, 1953( 6 of 1954) if the relief required is the restoration of possession to the lawful occupant who is found to have been wrongfully dispossessed of landed property within a period of three months previous to the date of filing the application in the office of the revenue court concerned: Provided that the revenue court concerned may for sufficient reasons to be recorded, forward any such application to the Sub-Divisional Officer who shall decide whether the application should or should not be transferred to the Gram Panchayat.

(2) A revenue officer may, in a proceeding under section 46 of the said Act, call for a report from the Gram Panchayat on a question of fact.

#### **49. Procedure In Revenue Proceedings :-**

In proceedings under the Himachal Pradesh Land Revenue Act, 1953( 6 of 1954) the Gram Panchayat shall follow the prescribed procedure.

#### **50. Resjudicata :-**

No Gram Panchayat shall try and suit, proceedings or issue in respect of any matter which is pending for decision, or has been heard or decided by a court of competent jurisdiction in a former suit between the same parties or between the parties under whom they or any of them claim.

#### **51. Double Jeopardy :-**

Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Gram Panchayat shall take cognizance of any such offence, or on the same facts, of any other offence, of which the accused might have been charged or convicted.

#### **52. Concurrent Jurisdiction :-**

Where a case, suit or proceeding is maintainable in more than one Gram Panchayats the plaintiff or the complainant or the applicant, as the case may be, may bring the case, suit or proceeding in any one of such Gram Panchayats. Any dispute regarding jurisdiction shall be decided by the judicial Magistrate, Sub-Judge or the Collector having jurisdiction, as the case may be.

#### **53. Institution Of Suits And Cases :-**

(1) Any person may institute a case, a suit or a proceeding before a

Gram Panchayat by an oral or written application to the Pradhan, or in his absence to the Up-Pradhan, of the Gram Panchayat and shall at the same time pay the prescribed fee. The Himachal Pradesh Court Fees Act, 1968 (8 of 1968) shall not apply to Gram Panchayat except as may be prescribed.

(2) In every suit the plaintiff shall state its value.

#### **54. Recording Of Substance Of The Complaints And Application And Appointment Of Benches :-**

(1) Where a case, suit or a proceeding is instituted orally, the Pradhan or the Up-Pradhan receiving the complaint or application shall record without delay the prescribed particulars and take the signature or thumb impression of the complainant or applicant thereon.

(2) On recording the substance of the complaint or application in the register under sub-section (1) the Pradhan or in his absence the Up-Pradhan, as the case may be, shall, or on a reference by a revenue court concerned, appoint a bench of the Gram Panchayat consisting of three Panches and refer the said complaint or application to that bench for disposal and shall also fix a date for the first hearing of the complaint or application before the said bench and give notice of the said date to the complainant or the applicant and to the Panches thereof: Provided that no Panch, who is a member of the Gram Sabha in the ward for election to the Gram Panchayat in which ward the place of occurrence of the case lies, or in which ward the cause of action for the suit arose, as the case may be, shall be included on the bench.

(3) On the date fixed for the first hearing of case, suit or proceedings the bench formed under sub-section (2), shall, unless the Pradhan or Up-Pradhan is a member of it, choose one of the Panches to be the Chairman of that bench to conduct the proceedings and shall take up and hear case, suit or proceedings, as the case may be, in the prescribed manner.

(4) For the purposes of judicial functions, a Gram Panchayat shall include a bench thereof.

#### **55. Absence Of Parties In Cases And Suits :-**

(1) If the complainant or the plaintiff or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Gram Panchayat may dismiss the case, suit or proceedings or pass such order as it may deem fit.

(2) The Gram Panchayat may hear and decide the suit or proceeding in the absence of the defendant or opposite party, if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

**56. Gram Panchayat Not To Revise Or Alter Its Decision :-**

(1) Except as provided in sub-section

(2) or to correct a clerical error, a Gram Panchayat shall have no power to cancel, revise or alter any decree or order passed by it.

(2) On an application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been affected, a Gram Panchayat, may for sufficient reasons to be recorded, restore any suit or proceedings which has been dismissed in default or set aside a decree or order which has been passed ex-parte.

**57. No Legal Practitioner To Appear :-**

No legal practitioner shall appear, plead or act, on behalf of any party in any suit, case or proceeding before a Gram Panchayat.

**58. Appearance In Person Or By Representative :-**

Subject to the provisions of section 57 any party to a suit, case or proceeding may appear before a Gram Panchayat either in person or by such servant (not being a tout or a petition writer), partner or relation authorized by him and permitted by Gram Panchayat to represent him.

**59. Compromise :-**

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, a Gram Panchayat may decide any civil or revenue dispute arising in its local area and not pending in any court in accordance with any settlement or promise or oath agreed upon by the parties and like-wise decide a case if compoundable.

(2) For the removal of doubts, it is hereby declared that a Gram Panchayat shall exercise the power vested in it under sub-section (1) in respect of such cases, suits or proceedings with reference to which it has power to decide.

**60. Procedure And Power To Ascertain Truth :-**

(1) The Gram Panchayat shall receive such evidence in a case, suit

or proceeding, as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points in issue.

(2) The Gram Panchayat may make local investigation in the village to which the dispute relates.

(3) It would be the duty of the Gram Panchayat to ascertain the facts of every case, suit or proceeding before it by every lawful means, in its power and thereafter to make such decree, or order, with or without costs as it may deem just and legal.

(4) The Gram Panchayat shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908 ( 5 of 1908), the Indian Evidence Act, 1872 ( 1 of 1872), the Code of Criminal Procedure, 1973 (2 of 1974) and the Limitation Act, 1963 (36 of 1963), shall not apply to any suit, case or proceedings before a Gram Panchayat except as provided in this Act or as may be prescribed.

#### **61. Majority To Prevail :-**

In the event of any disagreement between the Panches, while deciding a criminal case, suit or proceeding, the opinion of the majority shall prevail.

#### **62. Dismissal Of Suits Etc :-**

A Gram Panchayat may dismiss any suit or proceeding it after examining the plaintiff or the applicant it is satisfied that the suit or proceeding is frivolous, vexatious or untrue.

#### **63. Summons To Defendant Or Accused :-**

A Gram Panchayat, after an application is made under section 53, shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summon and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

#### **64. Failure Of The Accused To Appear :-**

(1) If the accused fails to appear or cannot be found, the Gram Panchayat shall report the fact to the nearest Magistrate.

(2) The Magistrate shall, on the receipt of a report under subsection (1), issue a warrant for the arrest of the accused and shall direct by an endorsement on the warrant that if such person



executes a bond with sufficient sureties for his attendance before himself in the manner provided by section 7 of the Code of Criminal Procedure, 1973, he shall be released from custody.

(3) When the accused appears before the Magistrate he shall direct him to execute a bond with or without sureties to appear before the Gram Panchayat, Pradhan or Up-Pradhan or any Panch on such date as he may direct and thereafter to continue to appear before the Gram Panchayat as directed by such person or the Gram Panchayat.

(4) On his failure to execute such bond the Magistrate shall order that the accused be produced in custody before the person mentioned in subsection (3) or the Gram Panchayat on such date not more than fifteen days later as he may direct.

(5) If the accused fails to appear before the Gram Panchayat after executing a bond under sub-section (3), the Gram Panchayat shall report the fact to the Magistrate before whom the bond was executed, and such Magistrate before whom the bond was executed, and such Magistrate shall proceed in accordance with the provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973 (2 of 1974).

#### **65. Issue Of Summons To Witnesses :-**

A Gram Panchayat may if it considers the evidence of, or the production of a document by, any person necessary in a suit, case or proceeding issue and cause to be served in the prescribed manner, summons on such person to compel his attendance or to produce or cause the production of such document and such person shall be bound to comply with the direction contained in the summons.

#### **66. Penalties For Failing To Appear Before The Gram Panchayat :-**

If any person who is summoned by a Gram Panchayat by a written order to appear, to give evidence or to produce any document before it, willfully disobeys such summons or notice or order, the Gram Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty five rupees: Provided that no women shall be compelled to appear in person before the Gram Panchayat, and she may be examined on commission in the manner prescribed: Provided further that if a document is produced in obedience to a summon issued under this section, the Gram Panchayat shall cause the document to be copied, mark the copy, after comparing with

the original, to be true copy and return the original document to the person producing the same.

**67. Appeal :-**

Any person aggrieved by an order or decree of a Bench of the Gram Panchayat may appeal within a period of thirty days from the date of such order or decree to the Judicial Magistrate/Sub-Judge in respect of any case or suit, as the case may be, and the Collector concerned in respect of any proceedings under the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954).

**68. Finality Of Decree Or Order Of The Gram Panchayat :-**

A decree or order passed by a Gram Panchayat in any suit, case or proceedings under this Act shall be final subject to the provisions of section 67.

**69. Frivolous Appeals :-**

If any application under section 67 is frivolous, the appellant may be fined upto rupees fifty by the Judicial Magistrate, Sub-Judge or Collector concerned, as the case may be.

**70. Payment Or Adjustment Of Decree To Be Recorded :-**

If on the application of the decree holder or the judgment debtor the Gram Panchayat which passed the decree finds after inquiry that the decree has been satisfied wholly or in part, the Gram Panchayat shall record the fact in the prescribed register.

**71. Execution Of Decrees :-**

(1) A decree or order passed by a Gram Panchayat shall be executed in such manner as may be prescribed. If the property of the defendant 1 [or respondent, as the case may be,] is situated outside the jurisdiction of the Gram Panchayat passing such order or decree, it may transfer the decree or order for execution in the prescribed manner to the Gram Panchayat within whose jurisdiction the property may be situated and if there be no such Gram Panchayat then to the court of the Sub-Judge 2 [or the Judicial Magistrate] within whose jurisdiction it may be situated and the said Gram Panchayat or the Sub-Judge 3 [or the Judicial Magistrate], as the case 1 .Inserted vide Act No. 10 of 2002 . 2 .Inserted vide Act No. 10 of 2002 . 3 .Inserted vide Act No. 10 of 2002 . may be, shall execute the decree or order as if it were a decree or order passed by it or him. 1 [(2) If a Gram Panchayat finds any difficulty in executing a decree or order, it may forward

the same to the Sub-Judge or the Judicial Magistrate concerned and the Sub-Judge or the Judicial Magistrate, as the case may be, shall than execute the decree or order as if it were a decree or order passed by him.]

(3) An order under the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954), shall, as far as possible, be executed as provided in sub-sections (1) and (2). Sub-section (2) shall be read and construed as if for the word "SubJudge" the words "Collector concerned" were substituted.

## **72. Recovery Of Fines :-**

The fine imposed in a case by a Gram Panchayat shall be recoverable in the manner prescribed. If the Gram Panchayat finds any difficulty in its recovery, it may request the Judicial Magistrate within whose jurisdiction the Gram Panchayat lies, to recover it and he shall recover it as if the sentence of fine had been passed by him.

## **73. Protection To Gram Panchayats :-**

The provisions of the Judicial Officers Protection Act, 1850 (18 of 1850) shall apply to the members of the Gram Panchayat, in respect of the acts done by it or them in judicial capacity.

## **74. Duty Of Police Towards Gram Panchayats :-**

Every police officer shall give immediate information in the prescribed manner to the Gram Panchayat of an offence coming to his knowledge which has been committed within the jurisdiction of the Gram Panchayat and is triable by the Gram Panchayat and shall assist all Panches and servants of the Gram Panchayat in the exercise of their lawful authority.

## **75. Proceeds Of Fee And Fines Etc :-**

All sums realised by way of court fees in any case, suit or proceeding or by way of fine in cases tried and disposed of by Gram Panchayat shall be handed over by the State Government to the Gram Panchayat in the prescribed manner.

## **76. Conviction By Gram Panchayat Not To Be A Previous Conviction :-**

No conviction by a gram Panchayat shall be deemed to be a previous conviction for the purpose of section 75 of the Indian Penal Code, 1860 (45 of 1860) or section 356 or 360 of Code of Criminal Procedure, 1973 (2 of 1974).

**77. Establishment Of Panchayat Samiti :-**

(1) For each Block there shall be a Panchayat Samiti, having jurisdiction, over the entire block excluding such portions of the block as are included in a Municipality constituted under any law for the time being in force. 1 .Existing sub-section

(2) subs. vide Act No. 10 of 2002 .

(2) 1 [xxx]

**78. Constitution Of Panchayat Samiti :-**

(1) Every Panchayat Samiti shall consist of-

(a) the directly elected members from territorial constituencies as determined under the Act;

(b) the Members of the House of the people and the Members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Panchayat Samiti area;

(c) the Members of the Council of States, where they are registered as electors within the Panchayat Samiti area;

(d) one-fifth of the Pradhans of Gram Panchayats in the Panchayat Samiti area, by rotation, for such period as the prescribed authority may determine, by lot: Provided that a Pradhan who was a member under this clause for one term shall not be eligible to become member for a second term during the remainder of his term of office as Pradhan; 2 [(e) the member of the Zila Parishad, representing the ward which comprises wholly or partly the Panchayat Samiti area.]

(2) The Pradhans of Gram Panchayat and other members of the Panchayat Samiti whether or not chosen by direct election from territorial constituencies in the Panchayat Samiti shall have the right to vote in the meetings of the Panchayat Samiti except in the election and removal of the Chairman or Vice-Chairman only the elected members shall have the right to vote.

(3) The number of elected members of a Panchayat Samiti under clause

(a) of sub-section (1) shall consist of persons elected from the territorial constituencies in the Samiti area as may be notified from time to time by the Government at the rate of one member for every 3 [three thousand five hundred] population or part thereof: Provided that in a Panchayat Samiti area having a population of not exceeding 4 [fifty two thousand five hundred] there shall be

minimum of 15 elected members: Provided further that where the population of a Panchayat Samiti area is more than 5 [one lakh and forty thousand], it shall be divided into territorial constituencies in such manner that the total number of constituencies shall not exceed forty and the population of each constituency shall, as far as practicable, be the same in each constituency: Provided further that the Government may, irrespective of the population of the Panchayat Samiti area, declare, by a notification, that the provisions of this section shall apply to a Panchayat Samiti in a scheduled area, subject to such exceptions and modifications as may be specified by it in such a notification. Explanation.- For the purpose of sub-section (3) of this section the word part thereof shall mean the calculation to the nearest multiple of one-half ignoring less than one-half and counting one-half or more as one for determining the population for fixing the seats.

(4) Seats shall be reserved in a Panchayat Samiti for the:-

(a) Scheduled Castes; and

(b) the Scheduled Tribes; and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat Samiti as the population of the Scheduled Castes in that Panchayat Samiti area or of the Scheduled Tribes in that Panchayat Samiti area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat Samiti in such manner, as may be prescribed. 1 [(5) 2 [One-half] of the total number of seats reserved under subsection

(4) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.] 3 (5-A) 4 [One-half] (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat Samiti shall be reserved for women.]

(6) The State Government may, by general or special order, reserve such number of seats for persons belonging to Backward Classes in a Panchayat Samiti, not exceeding the proportion to the total number of seats to be filled by direct election in the Panchayat

Samiti as the population of the persons belonging to Backward Classes in that Panchayat Samiti area bears to the total population of that area and may further reserve 5 [one-half] of the 1 Subs. vide Act No. 18 of 2000. 2 Subs. for the words "Not less than on-third" vide Act No. 10 of 2008 effective . w.e.f. 13.6.2008. 3 Sub-section (5-A) ins. vide Act No. 18 of 2000. 4 Subs. for the words "Not less than on-third" vide Act No. 10 of 2008 effective . w.e.f. 13.6.2008. 5 .Subs. for the words "not less than on-third" vide Act No. 10 of 2008 effective w.e.f . 13.6.2008. total seats reserved under this sub-section for women belonging to Backward Classes.

(7) The seats reserved under sub-sections (4), 1 [(5), (5-A)] and (6) shall be allotted by rotation to different constituencies in the Samiti area in such manner as may be prescribed.

### **79. Election Of Chairman And Vice-Chairman Of Panchayat Samiti :-**

(1) After the declaration of result of election of the elected members of the Panchayat Samiti in the prescribed manner, the Deputy Commissioner concerned or any Gazetted Officer appointed by him in this behalf shall as soon as possible but not later than one week of such declaration call under his Presidentship a meeting of al elected members for the purpose of oath, or the affirmation of allegiance under section 127.

(2) Immediately after oath or affirmation of allegiance under section 127 is administered or made, the elected members of a Panchayat Samiti shall, in the prescribed manner, elect one of its members to be the Chairman and another member to be the Vice-Chairman of the Panchayat Samiti: 2 [Provided that if the office of the Chairman or Vice-Chairman, as the case may be, is vacated or falls vacant during the tenure on account of death, resignation or no-confidence motion, a fresh election within a period of two months from the date of occurrence of vacancy shall be held from the same category, in the prescribed manner.]

### **80. Meetings :-**

(1) A meeting of a Panchayat Samiti shall be either ordinary or special and, except as otherwise provided under this Act, the meetings of the Panchayat Samiti shall be convened by the Chairman and in his absence by the Vice-Chairman.

(2) A Panchayat Samiti shall ordinarily meet at its headquarters atleast four times in each year for the transaction of its business

and not more than three months shall be allowed to elapse between any two successive meetings.

(3) Notice of every meeting specifying the time and date thereof and the business to be transacted there at shall be sent to every member of the Panchayat Samiti and exhibited at the office of the Panchayat Samiti not less than ten clear days before an ordinary meeting and seven clear day before special meeting: Provided that wherever it is considered expedient to do so in the public interest the requirement of the time limits specified in this sub-section may be relaxed with the approval of the prescribed authority.

(4) The Chairman, or in his absence the Vice-Chairman, may whenever he thinks fit, and shall, on requisition made in writing by not less than one-third of the total members of the Panchayat Samiti or if required by 1 Subs. for the bracket and figure "(5)" vide Act No. 18 of 2000. 2 Proviso added vide Act No. 18 of 2000. the Zila Parishad or the Deputy Commissioner, convene a special meeting within two weeks of the receipt of the written requisition.

(5) Any meeting of a Panchayat Samiti may, with the consent of the majority of the members present, be adjourned to any other date; but no business other than that left over at the adjourned meeting shall be transacted at the next following meeting: 1 [Provided that additional agenda may be included for the adjourned meeting if the same is notified on the day of adjournment of the meeting or at least one week before the date fixed for the adjourned meeting: Provided further that when a special meeting is adjourned for want of quorum, fresh adjourned special meeting shall be convened by giving fifteen days notice to the members within one month from the date of adjournment of special meeting.]

(6) At every meeting of a Panchayat Samiti, the Chairman if present, or in his absence the Vice-Chairman, and if there be no Chairman or ViceChairman present, then such one of its members, as the members may elect, shall preside.

(7) Except as otherwise provided by this Act or the rules made thereunder all questions coming up before any meeting of a Panchayat Samiti shall be decided by a majority of votes of the members present and voting and, in case of an equality of votes, the authority presiding at the meeting shall have a second or casting vote.

(8) Any matter finally disposed of by a Panchayat Samiti shall not be reconsidered unless the recorded consent of not less than two-thirds of its total members has been obtained there to or unless the

Zila Parishad, or the Director has directed its reconsideration.

(9) Subject to the provisions of this Act and the rules framed thereunder for the transaction of business at a meeting of a Panchayat Samiti, the quorum shall be:-

(a) if it is an ordinary meeting one-half of its members having right to vote; and

(b) if it is a special meeting, two-thirds of its members having right to vote.

### **81. Functions Of The Panchayat Samiti :-**

Subject to the provisions of this Act and the rules made thereunder, and subject to general or special orders, as may be issued by the State Government, from time to time, it shall be the duty of a Panchayat Samiti so far as the Panchayat Samiti funds allow to make reasonable provision in the Samiti area for the following matters:-

(a) Integrated Rural Development, Agriculture, Social Forestry, Animal Husbandry and Fisheries, Health and Sanitation, Adult Education, Communication and Public Works, Co-operation, 1 Provisos added vide Act No. 18 of 2000. Cottage Industries, Welfare of Women, Youth and Children, Welfare of disabled and the destitutes and welfare of Backward Classes, family planning and sports and rural employment programmes;

(b) provision of emergency relief in cases of distress caused by fires, floods, drought, earthquake, scarcity, locust, swarms, epidemics and other natural calamities;

(c) arrangement in connection with local pilgrimage and festivals;

(d) management of public ferries;

(e) management of public markets, public melas and exhibitions; and

(f) any other function with the approval of the State Government or Zila Parishad.

### **82. Entrustment Of Certain Functions Of State Government To A Panchayat Samiti :-**

(1) The State Government may entrust, to a Panchayat Samiti functions in relation to any matter to which the executive authority of the State Government extends or in respect of functions which, have been entrusted to the State Government by the Central Government and the Panchayat Samiti shall be bound to perform such functions. It shall have necessary powers to perform such functions.



(2) Where functions are entrusted to a Panchayat Samiti under subsection

(1), the Panchayat Samiti shall in the discharge of those functions, act as an agent of the State Government.

(3) There shall be paid by the State Government to the Panchayat Samiti such sum as may be deemed necessary for discharging the functions entrusted to it under this section.

(4) The Panchayat Samiti shall, for the purposes of discharging the functions entrusted to it under this section, be under the general control of the State Government or any other authority appointed by it and shall comply with such directions as may from time to time, be given to it.

### **83. Power Of The State Government In Relation To Functions Of Panchayat Samiti :-**

(1) Notwithstanding anything contained in the Act the State Government may, by general or special order, entrust to the Panchayat Samiti preparation of plan and implementation of schemes for economic development and social justice including those in relation to the matters listed in Schedule-II.

(2) The state Government may, by general or special order, add to any of the function of the Panchayat Samiti or withdraw the functions and duties entrusted to such a Panchayat Samiti when the State Government undertakes the execution of any of the functions entrusted to the Panchayat Samiti. The Panchayat Samiti shall not be responsible for such functions so long as the State Government does not re-entrust such functions to the Panchayat Samiti.

### **84. Standing Committees :-**

(1) The Panchayat Samiti shall have the following Standing Committees:-

(a) General Standing Committee.

(b) Finance, Audit and Planning Committee.

(c) Social Justice Committee.

(2) Each Standing Committee shall consist of such number of members not exceeding seven, including the Chairman, as specified by the Panchayat Samiti, elected by the members of the Panchayat Samiti from amongst the elected members: 1 [Provided that the term of each Standing Committee shall be two and a half years.]

(3) The Chairman shall be the ex-officio member and also Chairman

of the General Standing Committee and the Finance, Audit and Planning Committee. The Vice-Chairman shall be the ex-officio member and Chairman of the Social Justice Committee: Provided that if the Vice-Chairman acts as the Chairman of Panchayat Samiti the members of the Social Justice Committee shall elect its Chairman from amongst themselves.

(4) No elected member of the Panchayat Samiti shall be eligible to serve on more than two Standing Committees.

(5) The Executive Officer shall be the ex-officio Secretary of every Standing Committee.

### **85. Functions Of The Standing Committees :-**

(1) The General Standing Committee shall perform functions relating to the establishment matters, communications, buildings, rural housing, village extension, relief against natural calamities, water supply and all residuary matters.

(2) The Finance, Audit and Planning Committee shall perform the functions relating to the finance of the Panchayat Samiti framing of budgets, scrutinising proposals for increase of revenue, examination of receipts and expenditure statement, consideration of all proposals affecting the finances of the Panchayat Samiti and general supervision of the revenue and expenditure of the Panchayat Samiti and co-operation, small savings schemes and any other function relating to the development of the Block.

(3) The Social Justice Committee shall perform functions relating to-

(a) promotion of education, economic, social, cultural and other interests of the Scheduled Castes, Scheduled Tribes, Backward Classes, women and other weaker sections of the society;

(b) protecting them from social injustice and all other forms of exploitation; 1 Proviso added vide Act No. 18 of 2000.

(c) amelioration of the Scheduled Castes, Scheduled Tribes, Backward Classes, women and other weaker sections of the society; and

(d) securing social justice to the Scheduled Castes, Scheduled Tribes, women and other weaker sections of the society.

(4) The Standing Committees shall perform the functions referred to above to the extent the powers are delegated to them by the Panchayat Samiti.

### **86. Procedure Of Standing Committees :-**

(1) Subject to the provisions of section 187, the Panchayat Samiti may frame bye-laws relating to election of members of committees, conduct of business therein and all other matters relating thereto.

(2) The Chairman of every committee shall in respect of the work of the committee be entitled to call for any information, return, statement, account or report from the office of the Panchayat Samiti and to enter on and inspect any immovable property of the Panchayat Samiti or work in progress connected with the work of the committee.

(3) Each committee shall be entitled to require attendance at its meetings of any officer of the Panchayat Samiti who is connected with the work of committee. The secretary shall under instructions of the committee, issue notices and secure the attendance of the officer.

### **87. Consultative Committees :-**

(1) In addition to the Standing Committees under section 84 a Panchayat Samiti may from time to time appoint from amongst its members one or more committees consisting of such number of persons and may refer to such committees for enquiry and report or for opinion such special subjects relating to the purpose of this Act, as it thinks fit.

(2) For any part of the area of a Panchayat Samiti, it may appoint committees consisting of persons who are residing within such area, for the purpose of inspection and supervision of any institution under its charge or the execution of any local works or measures carried on by it in such area.

(3) The constitution, term of office, duties and procedure of and powers to be exercised by such committees shall be such as may be laid down by bye-laws made by the Panchayat Samiti.

(4) Notwithstanding anything contained in any bye-law made under sub-section

(3), the Panchayat Samiti may, at any time, dissolve a committee constituted under sub-section (2) and may reconstitute any other committee in its place.

### **CHAPTER 6**

### **ZILA PARISHAD**

### **88. Establishment Of Zila Parishad :-**

(1) For each district there shall be a Zila Parishad, having jurisdiction, over the entire district excluding, such portions of the

district as are included in a Municipality constituted under any law for the time being in force.

(2) 1 [xxx]

## **89. Constitution Of Zila Parishad :-**

(1) Every Zila Parishad shall consist of-

- (a) the directly elected members from territorial constituencies in the district as determined under this Act;
- (b) the Members of the House of People and the Members of the State Legislative Assembly representing a part or whole of the district whose constituencies lie within the district;
- (c) the members of the Council of States, where they are registered as electors within the district; and
- (d) the Chairmen of the all Panchayat Samitis in the district: Provided that when the total number of members under clauses (b), (c) and (d) exceed the total number of members under clause (a), only onefifth of the members under clause (d) shall be selected by rotation for such period as the prescribed authority may determine, by lot. Subject to the condition that a Chairman who was a member under this clause for one term shall not be eligible to become member for a second term during the remainder of his term of office as the Chairman of Panchayat Samiti.

(2) The number of elected members of a Zila Parishad under clause (a) of sub-section (1) shall consist of persons elected from the territorial constituencies in the district as may be notified from time to time by the Government at the rate of one member for every 2 [twenty five thousand] population or part thereof : Provided that in a district having population of not exceeding 3 [two lakhs and fifty thousand], there shall be minimum of ten elected members in a Zila Parishad: Provided further that the Government may irrespective of the population of the district, declare, by a notification, that the provisions of this section shall apply to a Zila Parishad in a scheduled area, subject to such exceptions and modifications as may be specified by it in such a notification.

(3) All members of Zila Parishad, whether or not elected by direct election from territorial constituencies in the district shall have the right to vote in the meeting of the Zila Parishad except in the election or removal of the Chairman and Vice-Chairman only the elected members shall have the right to vote.

(4) Seats shall be reserved in the Zila Parishad- 1 Sub-clause (2) omitted vide H.P. Act No. 10 of 1997 w.e.f. 16.1.1997. 2 Subs. for

the words "twenty thousand" vide Act No. 17 of 2005 w.e.f. 30.5.2005. 3 Subs. for the words "two lakhs" vide Act No. 17 of 2005 w.e.f. 30.5.2005.

(a) for the Scheduled Castes; and

(b) for the Scheduled Tribes; and number of seats so reserved shall bear, as nearly may be, the same proportion to the total number of seats to be filled by direct election in the Zila Parishad as the population of the Scheduled Castes in the district or of the Scheduled Tribes in the district bears to the total population of the district. 1 [(5) 2 [One-half] of the total number of seats reserved under subsection

(4) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes. (5-A) 3 [One-half] (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Zila Parishad shall be reserved for women.]

(6) The State Government may, by general or special order, reserve such number of seats for persons belonging to Backward Classes in a Zila Parishad, not exceeding the proportion to the total number of seats to be filled by direct election in the Zila Parishad as the population of the persons belonging to Backward Classes in that district bears to the total population of that district and may further reserve 4 [one-half] of the total seats reserved under this sub-section for women belonging to Backward Classes.

(7) The seats reserved sub-sections (4), 5 [(5), (5-A)] and (6) shall be allotted by rotation to different constituencies in the district in such manner as may be prescribed.

## **90. Election Of The Chairman And Vice-Chairman :-**

(1) After the declaration of the results, the Deputy Commissioner shall, as soon as possible but not later than one week of such declaration, call under his presidentship a meeting of elected members of the Zila Parishad for the purposes of oath or affirmation or allegiance under section 127.

(2) Immediately after oath or affirmation of allegiance under section 127 is administered or made, the elected members of a Zila Parishad shall, in the prescribed manner, elect from amongst themselves one of its members to be the Chairman and another to be the Vice-Chairman of the Zila Parishad: 6 [Provided that if the office of the Chairman or Vice-Chairman, as the case may be, is

vacated or falls vacant during the tenure on account of death, resignation or no-confidence motion, a fresh election within a period of two 1 Subs. for sub-section

(5) vide Act. No. 18 of 2000. 2 Subs. for the words "Not less than on-third" vide Act No. 10 of 2008 effective . w.e.f. 13.6.2008. 3 Subs. for the words "Not less than on-third" vide Act No. 10 of 2008 effective . w.e.f. 13.6.2008. 4 .Subs. for the words "not less than on-third" vide Act No. 10 of 2008 effective w.e.f . 13.6.2008. 5 Subs. for the bracket and figure "(5)" vide Act No. 18 of 2000. 6 Proviso added vide Act. No. 18 of 2000. months from the date of occurrence of vacancy shall be held from the same category, in the prescribed manner.]

## **91. Meetings Of Zila Parishad :-**

(1) A meeting of a Zila Parishad shall be either ordinary or special and except as otherwise provided under this Act, the meetings of the Zila Parishad shall be convened by the Chairman and, in his absence by the Vice-Chairman.

(2) A Zila Parishad shall ordinarily meet at its headquarters at least four times in each year for the transaction of its business and not more than three months shall be allowed to elapse between any two successive meetings.

(3) Notice of every meeting specifying the time and date thereof and the business to be transacted thereat shall be sent to every member of the Zila Parishad and exhibited at the office of the Zila Parishad not less than ten clear days before an ordinary meeting and seven clear days before a special meeting: Provided that wherever it is considered expedient to do so in the public interest the requirement of the time limits specified in this sub-section may be relaxed with the approval of the prescribed authority.

(4) The Chairman, or, in his absence, the Vice-Chairman may whenever he thinks fit, and shall, on requisition made in writing by not less than one-third of the total members of the Zila Parishad, or if required by the Government or the Director, convene a special meeting within two weeks of the receipt of the written requisition.

(5) Any meeting of a Zila Parishad may, with the consent of the majority of the members present, be adjourned to any other date; but no business other than that left over at the adjourned meeting shall be transacted at the next following meeting: 1 [Provided that additional agenda may be included for the adjourned meeting if the same is notified on the day of adjournment of the meeting or at

least one week before the date fixed for the adjourned meeting: Provided further that when a special meeting is adjourned for want of quorum, fresh adjourned special meeting shall be convened by giving fifteen days notice to the members within one month from the date of adjournment of special meeting.]

(6) At every meeting of a Zila Parishad the Chairman if present, or in his absence the Vice-Chairman, and if there be no Chairman or ViceChairman present, then such one of its members, as the members may elect, shall preside.

(7) Except as otherwise provided by this Act or the rules made thereunder all questions coming up before any meeting of a Zila Parishad shall be decided by a majority of votes of the members present and voting 1 Provisos added vide Act. No. 18 of 2000. and, in case of an equality of votes, the authority presiding at the meting shall have a second or casting vote.

(8) Any matter finally disposed of by a Zila Parishad, shall not be reconsidered unless the recorded consent of not less than three-fourth of its total members has been obtained thereto, or, unless the Government or the Director has directed its reconsideration.

(9) Subject to the provisions of this Act and the rules framed thereunder for the transaction of business at a meeting of a Zila Parishad, the quorum shall be-

(a) if it is an ordinary meeting one-half of its members having right to vote; and

(b) if it is a special meeting, two-third of its members having right to vote.

## **92. Functions Of The Zila Parishad :-**

(1) Subject to the provisions of this Act and rules made thereunder, it shall be duty of the Zila Parishad to-

(i) control, co-ordinate and guide, the Panchayat Samiti and Gram Panchayat within the district;

(ii) co-ordinate and consolidate the Panchayat Samiti plans;

(iii) co-ordinate the demands for grants for special purpose received from the Panchayat Samiti and forward them to the State Government;

(iv) secure the execution of the plans, projects schemes, or other works common to two or more Panchayat Samitis in the district;

(v) advise the State Government in the developmental activities, social forestry, family welfare, welfare of the disabled, destitutes, women, youth and children and sports;

(vi) exercise and perform such other powers and functions as the State Government may, confer on or entrust to it; 1 [(vii) distribute grants received from the Government for development works and to monitor the implementation of such works.]

(2) The Zila Parishad of two or more adjacent districts may jointly undertake and execute any development schemes on such terms and conditions as may be mutually agreed upon.

### **93. Entrustment Of Certain Functions Of State Government To A Zila Parishad :-**

(1) The State Government may entrust, to a Zila Parishad functions in relation to any matter to which the executive authority of the State Government extends or in respect of functions which have been entrusted to the State Government by the Central Government and the Zila 1 .Clause

(vii) added vide Act. No. 18 of 2000 . Parishad shall be bound to perform such functions. It shall have necessary powers to perform such functions.

(2) Where functions are entrusted to a Zila Parishad under subsection (1), the Zila Parishad shall in the discharge of those functions, act as an agent of the State Government.

(3) There shall be paid by the State Government to the Zila Parishad such sum as may be deemed necessary for discharging the functions entrusted to it under this section.

(4) The Zila Parishad shall, for the purposes of discharging the functions entrusted to it under this section, be under the general control of the state Government 1 [\*\*\*\*\*] and shall comply with such directions as may from time to time, be given to it.

### **94. Power Of The State Government In Relation To Functions Of Zila Parishad :-**

(1) Notwithstanding anything contained in the Act the State Government may, by general or special order, entrust to the Zila Parishad preparation of plans and implementation of schemes for economic development and social justice including those in relation to the matters listed in Scheduled-II.

(2) The State Government may, by general or special order, add to any of the functions of Zila Parishad or withdraw the functions and duties entrusted to such a Zila Parishad, when the State Government undertakes the execution of any of the functions entrusted to the Zila Parishad. The Zila Parishad shall not be



responsible for such functions so long as the State Government does not re-entrust such functions to the Zila Parishad.

### **95. Standing Committees :-**

(1) The Zila Parishad shall have the following Standing Committees, namely:-

- (a) General Standing Committee;
- (b) Finance, Audit and Planning Committee;
- (c) Social Justice Committee;
- (d) Education and Health Committee;
- (e) Agriculture and Industries Committee.

(2) Each Standing Committee shall consist of such number of members not exceeding five including the Chairman, as specified by the Zila Parishad, elected by the members of the Zila Parishad from amongst the elected members: 2 [Provided that the term of each Standing Committee shall be two and a half years.] 1 The words "or any other authority appointed by it" deleted vide Act No. 18 of . 2000. 2 Proviso added vide Act No. 18 of 2000.

(3) The Chairman shall be the ex-officio Member and Chairman of the General Standing Committee and the Finance, Audit and Planning Committee. The Vice-Chairman shall be the ex-officio Member and Chairman of the Social Justice Committee. The other Standing Committees shall elect the Chairman from amongst themselves: Provided that if the Vice-Chairman of the Zila Parishad acts as the Chairman of the Zila Parishad, the members of the Social Justice Committee or any other Standing Committee of which the Vice-Chairman of the Zila Parishad, is the ex-officio member and Chairman, shall elect its Chairman from amongst themselves.

(4) No member of the Zila Parishad shall be eligible to serve on more than three Standing Committees.

(5) The Secretary shall be the ex-officio Secretary of the General Standing Committee and the Finance, Audit and Planning Committee and he may nominate any other person to act as ex-officio Secretary for each of the remaining Standing Committees. The Secretary shall be entitled to attend the meeting of all the Standing Committees.

### **96. Functions Of The Standing Committees :-**

(1) The General Standing Committee shall perform functions relating to the establishment matters and functions relating to communications, buildings, rural housing, village extension, relief

against the natural calamities and allied matters and all residuary matters.

(2) The Finance and Planning Committee shall perform the functions relating to:-

(a) the finances of the Zila Parishad, framing of budgets, scrutinizing proposals for increase of revenue, examination of receipts and expenditure statements, consideration of all proposals affecting the finances of the Zila Parishad and general supervision of the revenue and expenditure of the Zila Parishad;

(b) the plan priorities allocation of outlays to developments, horizontal and vertical linkages, implementation of guidelines issued by the Government, regular review of planning programmes, evaluation of important programmes and small savings schemes.

(3) The Social Justice Committee shall perform functions relating to-

(a) promotion of education, economic, social, cultural and other interests of the Scheduled Castes and Scheduled Tribes and Backward classes;

(b) protecting them from social injustice and all other forms of exploitation;

(c) amelioration of the Scheduled Castes and Scheduled Tribes and Backward Classes;

(d) securing social justice to the Scheduled Castes and Scheduled Tribes, Women and other weaker sections of the society.

(4) The Education and Health Committee shall perform the following functions-

(a) be in charge of all education activities of the Zila Parishad;

(b) undertake the planning of education in the district within the framework of the national policy and the national and State plans;

(c) survey and evaluate the educational activities of the Zila Parishad;

(d) perform such other duties pertaining to education, audit literacy and cultural activities as the Zila Parishad may assign to it;

(e) health services, hospitals, water supply family welfare and other allied matters.

(5) The Agriculture and Industry Committee shall perform function relating to:-

(a) agriculture production, animal husbandry, co-operation, contour bunding and reclamation;

(b) village and cottage industries;

(c) promotion of industrial development of the district.

(6) The Standing Committees shall perform the functions referred

to above to the extent the powers are delegated to them by the Zila Parishad.

(7) The Committees shall perform in respect of matters assigned to them such additional duties as may be prescribed.

### **97. Procedure Of Committees :-**

(1) Subject to the provision of section 187 the Zila Parishad may frame bye laws relating to election of members of committees, conduct of business therein, and all other matters relating to them.

(2) The Chairman of every committee shall in respect of the work of that committee be entitled to call for any information, return, statement or report from the officers of the Zila Parishad and to enter on and inspect any immovable property of the Zila Parishad or any work in progress concerning the committee.

(3) Each committee shall be entitled to require attendance at its meetings of any officer of the Zila Parishad who is connected with the work of the Committee. The Secretary shall under instructions of the Committee, issue notices and secure the attendance of the officer. CHAPTER-VI-A CHAPTER-VI-A insvide H.P. Act No. 1 of 1998 effective w.e.f. 24 th May, 2004. SPECIALPROVISIONS RELATING TO THE GRAM PANCHAYATS, PANCHAYAT SAMITIS AND ZILA PARISHADS LOCATED IN THE SCHEDULED AREAS.

### **97A. Application Of This Chapter :-**

(1) The provisions of this Chapter shall apply to the Gram Panchayats, Panchayat Samitis and Zila Parishads constituted in the scheduled areas in the state.

(2) The provisions of this Chapter shall prevail over anything inconsistent therewith elsewhere in this Act.

### **97B. Declaration Of Village In Scheduled Areas :-**

For the purposes of section 3, a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets thereof comprising a community of communities and managing their affairs in accordance with traditions and customs.

### **97C. Functions Of Gram Sabha :-**

(1) Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and without detriment to any law for the time being in force, the customary mode of dispute resolution.

(2) Every Gram Sabha shall,-

(i) approve plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Gram Panchayat, at the village level;

(ii) be responsible for the identification or selection of persons as beneficiaries under poverty alleviation and other programmes.

(3) Every Gram Panchayat shall obtain from the Gram Sabha, a certification of utilization of funds by that Panchayat for the plans, programmes and project referred to in sub-section (2).

### **97D. Reservation Of Seats Of Office Bearer In Panchayats :-**

The reservation of seats in the scheduled areas to every Gram Panchayat and Panchayat Samiti shall be in proportionate to the population of the communities in that Gram Panchayat or the Panchayat Samiti, as the case may be: Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats: Provided further that all seats of Pradhan of Gram Panchayats and Chairman of Panchayat Samitis shall be reserved for the Scheduled Tribes.

### **97E. Nomination Of Persons :-**

The Government may nominate persons belonging to such scheduled Tribes who have no representation in Panchayat Samitis or the Zila Parishad, as the case may be: Provided that such nomination shall not exceed one-tenth of the total members to be elected in the Panchayat Samiti or Zila Parishad, as the case may be.

### **97F. Acquisition Of Land In The Scheduled Areas :-**

The Gram Sabha shall be consulted before making the acquisition of land in the scheduled areas for development of projects and before re-settling or rehabilitating persons evicted by such projects in the scheduled areas; the actual planning and implementation of the projects in the scheduled areas shall be co-ordinated at the State level.

### **97G. Management Of Minor Water Bodies In The Scheduled Areas :-**

Planning and management of minor water bodies in the scheduled areas shall be entrusted to Gram Panchayats, Panchayat Samitis or the Zila Parishads, as the case may be, in such manner as may be prescribed.

### **97H. Minor Minerals In The Scheduled Areas :-**

(1) The recommendations of the Gram Sabha, made in such manner as may be prescribed, shall be taken into consideration prior to grant of prospecting license or mining lease, for minor minerals in the scheduled areas.

(2) The prior recommendation of the Gram Sabha, made in such manner as may be prescribed, shall be taken into consideration for grant of concession for the exploitation of minor minerals by auction.

### **97I. Powers And Functions Of Gram Panchayats And Panchayat Samitis :-**

(1) The Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of the following matters, namely:-

- (a) the ownership of minor forest produce;
- (b) enforcement of prohibition or regulation or restriction of the sale and consumption of any intoxicant;
- (c) management of village markets by whatever name called; and

- (d) exercising control over money lending to the Scheduled Tribes.
- (2) The Panchayat Samiti shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed, in respect of the following matters, namely:-
  - (a) exercising control over institutions and functionaries in all social sectors; and
  - (b) control over local plans and resources for such plans including tribal sub-plans.]

## CHAPTER 7

### FINANCE, TAXATION AND RECOVERY OF CLAIMS

#### **98. Finance Commission For Panchayats :-**

(1) The government shall within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 and thereafter at expiration of every fifth year constitute a Finance Commission to review the financial position of Panchayats and to make recommendations to the Government as to-

- (a) the principles which should govern
  - (i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the Government which may be divided between them and allocation between the Panchayats of their respective shares of such proceeds;
  - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Panchayats;
  - (iii) the grants-in-aid to Panchayats from the Consolidated Fund of the State.
- (b) the measures needed to improve the financial position of the Panchayats;
- (c) any other matter referred to the Finance Commission by the Government in the interest of the sound finance of the Panchayats.

(2) The Finance Commission shall consist of a Chairman and two other members.

(3) The Chairman and members of the Finance Commission shall possess such qualifications and shall be paid such salary and allowances and shall be appointed in such manner as may be prescribed.

(4) The Chairman or a member of the Finance Commission may resign his office by writing under his hand and addressed to the Government, but he shall continue in office until his resignation is accepted.

(5) The casual vacancy created by the resignation of the member or Chairman under sub-section (4) or for any other reasons may be filled by fresh appointment and a member or Chairman so appointed shall hold office for the remaining period for which the

member or Chairman in whose place he was appointed would have held office.

(6) The Finance Commission shall determine its procedure.

(7) The Commission shall have the following powers in the performance of its functions, namely:-

(a) to call for any record from any officer or authority;

(b) to summon any person to give evidence or produce record; and

(c) such other powers as may be prescribed.

(8) The Government shall cause every recommendation made by the Finance Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the State Legislative Assembly.

### **99. Panchayat Fund :-**

(1) Every Panchayat shall establish a fund to be called the Panchayat Fund and all sums received by the Panchayat, shall form part of the said Fund.

(2) Subject to the provisions of this Act and the rules made thereunder, all property vested in the Panchayat and the Panchayat fund shall be applied for the purposes of this Act or for other purposes connected with the activities for the development of Panchayat generally or for such other expenses as the State Government may approve on an application of Panchayat or otherwise in the public interest. The Panchayat Fund shall be kept in the nearest Government Treasury or Sub-Treasury or Post Office or Co-operative Bank or Scheduled Bank.

(3) An amount allotted to the Panchayat by the State Government or any other person or local authority for any specified work or purpose shall be utilized exclusively for such work or purpose and in accordance with such instructions as the State Government may either generally or specially issue in this behalf. 1 [(4) The amount from the Gram Panchayat Fund shall be withdrawn, only under the joint signatures of the 2 [Secretary or the Panchayat Sahayak] of Gram Panchayat and Pradhan, if there is casual vacancy in the office of the Pradhan, under the joint signatures of the 3 [Secretary or the Panchayat Sahayak] of Gram Panchayat and the Up-Pradhan and, if there are casual vacancies simultaneously in the offices of both the Pradhan and the UpPradhan, under the joint signatures of the 4 [Secretary or the Panchayat Sahayak] of Gram Panchayat and any member of the Gram Panchayat authorised by the Gram Panchayat in this behalf:] 5 [Provided that the Panchayat Sahayak

shall not withdraw the amount from the Gram Panchayat fund as joint signatory unless authorized by the Director for this purpose: Provided further that in a particular Gram Panchayat, the Panchayat Sahayak shall withdraw the amount from the Gram Panchayat Fund as joint signatory only in case there is no Panchayat Secretary posted in that Panchayat.]

(5) The amount from the Panchayat Samiti Fund shall be withdrawn only under the joint signatures of Executive Officer, by whatever name called, of the Panchayat Samiti and Chairman or any other member of the Panchayat Samiti authorized by the Panchayat Samiti.

(6) The amount from the Zila Parishad Fund shall be withdrawn only under the joint signatures of the Secretary, by whatever name called, of the Zila Parishad and Chairman or any other member of the Zila Parishad authorized by the Zila Parishad.

#### **100. Levy Of Taxes And Fees By Gram Panchayats :-**

(1) Subject to such maximum rates as the Government may fix and the provisions of the 1 Sub-section (4) subs. vide Act No. 17 of 2005 w.e.f. 30.5.2005. 2 .Subs. for the word "Secretary" vide Act No. 10 of 2008 effective w.e.f. 13.6.2008 . 3 .Subs. for the word "Secretary" vide Act No. 10 of 2008 effective w.e.f. 13.6.2008 . 4 .Subs. for the word "Secretary" vide Act No. 10 of 2008 effective w.e.f. 13.6.2008 . 5 .Provisos ins. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008 . rules made under this Act or any order made by the Government in this behalf, a Gram Panchayat shall impose-

(a) a house tax payable by the occupier or, where a house is vacant, by the owner: Provided that if any house remains vacant for a period of one year or more, it shall be exempted from payment of the house tax;

(b) with the previous approval of the Government, a tax on persons carrying on any profession, trade, calling and employment other than agriculture in the Sabha area; provided such tax has not been imposed in the Sabha area by any other local authority under any law for the time being in force;

(c) if so authorized by the Government, a duty on transfers of property in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899 (2 of 1899) in its application to Himachal Pradesh, on instruments of sale, gift and mortgage with possession of immovable property situated in the Sabha area at such rate as may be fixed by the Government not exceeding two percent on, as

the case may be, the amount of the consideration, the value of the property or the amount secured by the mortgage, as set forth in the instrument; and

(d) if so authorized by the Government, any other tax, duty or cess which the Legislative Assembly of Himachal Pradesh has power to impose: Provided that if the Gram Panchayat fails to impose the tax, duty or cess, the Government may take necessary steps to impose it and the tax, duty or cess so imposed shall be deemed to have been imposed by the Gram Panchayat: Provided further that the Government may at any time withdraw the authorisation under clause (c) or clause (d) whereupon the tax, duty or cess shall cease to be levied.

(2) Subject to such maximum rates as the Government may prescribe, a Gram Panchayat may levy the following fees, namely:-

- (i) teh-bazari from the shop-keepers in fairs;
- (ii) service fee including fee on cleaning of streets and lighting of streets and sanitation;
- (iii) fees for registration of animals sold in the Sabha area; and
- (iv) water rate where water is supplied by the Gram Panchayat.

#### **101. Special Tax For Community Services :-**

A Gram Panchayat may, with the 1 [prior approval of the Gram Sabha], impose a special tax on the 1 Subs. for the words "previous permission of the Deputy Commissioner" vide Act No. 18 of 2000. adult male members of the Gram Panchayat area for the construction of any public work of general utility for the inhabitants of the said area: Provided that it may exempt any member from payment of this tax in lieu of doing voluntary labour or having it done by another person on his behalf. Explanation.- For the purposes of this section, the expression "adult male member" means a male member who has attained the age of 21 years.

#### **102. Commutation Of Tax By Labour :-**

A Gram Panchayat may with the consent of the person by whom any tax is payable under this Act, commute the payment into a contribution of labour not exceeding twenty four units of labour in any one year, at such intervals, for such period of time and on such conditions, as may be prescribed. Explanation.- One unit of labour means four hours of manual labour.

#### **103. Local Rate :-**

- (1) Except as hereinafter provided all land shall be subject to



payment of a rate to be called the "local rate" at such rate of its annual value not exceeding twenty five per cent as Government may determine from time to time. (2) The Government may, by notification, abolish, reduce or exempt any land or any class of land from the levy of the local rate.

**104. Levy Of Taxes By Panchayats :-**

Subject to the general direction and control of the Government, a Panchayat may, with the previous permission of the Government and in the prescribed manner, impose any tax which the Legislative Assembly of Himachal Pradesh has power to impose under the Constitution of India: Provided that no tax under this section shall be imposed in respect of any property subject to the local rate.

**105. Power Of State Government To Regulate Taxes :-**

(1) The State Government may make rules to regulate the imposition, assessment, collection and sharing of taxes under this Act.

(2) No objection shall be taken to any assessment nor shall be the liability of any person to be assessed or taxed be questioned otherwise than in accordance with the provisions of this Act or the rules made thereunder.

**106. Power Of State Government In Regard To Relief In Taxes :-**

(1) If it appears to the State Government that any tax imposed by Panchayat is excessive in its incidence on tax-payer it may, after calling a report from the Panchayat in this regard, abolish any tax or suspend or reduce the amount or rate of any tax.

(2) The State Government may, on its own motion or otherwise after giving the Panchayat an opportunity of expressing its view in the matter, by order, exempt from the payment of any tax in whole or in part any person or class of persons or any property subject to such conditions as may be specified in such order.

**107. Assignment Of Funds To Panchayats :-**

The State Government may assign to a Panchayat such taxes, tolls and fees levied and collected by the State Government and may make grants-in-aid from the Consolidated Fund of the State for such purposes and subject to such conditions and limits as the State Government may deem fit.

**108. Grants-In-Aid To Panchayats :-**

The State Government shall make grants-in-aid to the Panchayats as may be decided by it on the basis of the recommendations of the State Finance Commission.

**109. Disbursement Of Local Rate And Stamp Duty Amongst Panchayats :-**

(1) The proceeds of the duty imposed by the Gram Panchayat under clause

(c) of sub-section (1) of section 100 and local rate under subsection (1) of section 103 shall first be credited to the Consolidated Fund of the State in such manner as may be prescribed and the State Government shall at the commencement of each financial year if the Legislative Assembly by appropriation made by law in this behalf so provides, withdraw from the Consolidated Fund of the State an amount equivalent to the proceeds of the duty and the local rate realised by the State Government in the preceding financial year and place the same to the credit of separate Fund to be called the Himachal Pradesh Panchayati Raj Fund hereinafter referred to in this section as "the said Fund".

(2) The State Government shall also credit to the said Fund an amount equivalent to twenty percent of the total land revenue collected during the preceding financial year.

(3) Any sum credited into the said Fund under sub-sections (1) and (2) shall be an expenditure charged on the Consolidated Fund of the State of Himachal Pradesh.

(4) From and out of the said Fund, there shall be paid every year, subject to such rules as may be made in this behalf, grant-in-aid,-

(a) to all Gram Panchayats, from and out of the amount in the said Fund pertaining to extra stamp duty;

(b) to Panchayat Samitis from and out of the amount in the said Fund pertaining to local rate realised under sub-section (1) of section 103.

(c) to all Panchayats, from and out of the amount in the said Fund pertaining to land revenue.

**110. Power Of Panchayat To Borrow Money :-**

Subject to such rules as may be made in this behalf and the restriction contained in any law for the time being in force relating to raising of loans by local authorities a Panchayat may, with the previous sanction of the State Government, raise a loan for carrying out the purposes of this Act: 1 [Provided that if loan is to be raised

for creation of income generating assets and the project is assessed by the lending institution as economically/financially viable, previous sanction of the State Government shall not be essential for taking a loan. It shall, however, be mandatory to inform the Government about the details of the project which will include the particulars of the project: Provided further that the Gram Panchayat shall be required to obtain prior approval of the Gram Sabha for raising a loan.]

**111. State Government May Vest Certain Property In Panchayats :-**

(1) The State Government may, by notification and subject to such conditions and restrictions as it may think fit to impose, vest in a Panchayat, any property vested in the State Government.

(2) The State Government may resume any property vested in the Panchayat under sub-section (1). No compensation other than the amount paid by the Panchayat for such transfer or the market value at the date of resumption of any building or works erected or executed on such property by the Panchayat shall be payable: Provided that no compensation shall be payable in respect of building, structure or works constructed or erected in contravention of the terms and conditions of the vesting.

**112. Transfer Of Immovable Property :-**

(1) No immovable property vested in or belonging to a Panchayat shall be transferred by sale, gift, mortgage or exchange or by lease or otherwise except with the sanction of the State Government or any officer authorized by it in this behalf.

(2) The procedure of transfer of immovable property shall be such as may be prescribed.

**113. Mode Of Executing Contracts :-**

The mode of the executing the contract by the Panchayats shall be such as may be prescribed.

**114. Penalty For Evasion :-**

(1) Any person evading the payment of any tax, fee, rate or any amount due shall be punishable with fine which may extend to 2 [one hundred rupees].

(2) When any fee has been imposed under this Act or the right to collect it has been leased thereunder, any person employed by the

Panchayat concerned or any person duly authorised in this behalf by it or by the lessee to collect such fees, may subject to the condition of the lease to collect the fee expel from the place for the use of which a fee is payable, any person who is liable to pay the fee but refuses to pay it.

**115. Recovery Of Arrears :-**

Any arrear of tax, or fee and fines imposed, or any amount due under this Act shall be recoverable as if it were an arrear of land revenue. 1 Provisos added vide Act No. 4 of 2001 w.e.f. 15.11.2000. 2 Subs. for the words "fifty rupees" vide Act No. 18 of 2000.

**116. Appeal Against Taxation :-**

An appeal against any tax, imposed under this Act, may be preferred to the prescribed authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

**117. Budget And Annual Accounts :-**

(1) Every Panchayat shall prepare annually in such form and in such manner and by such date, as may be prescribed, budget estimates, of its receipts and expenditure for the next financial year.

(2) The budget estimates prepared under sub-section (1) shall be approved by such authorities and in such manner as may be prescribed.

(3) The annual accounts and report of administration by Panchayat shall be presented to the prescribed authority in the prescribed manner.

**118. Audit Of Panchayats :-**

(1) There shall be separate and independent Audit Agency under the control of the Director to perform audit of accounts of Panchayats.

(2) The Audit Agency shall consist of such officers and servants, to be appointed by the Director, as the State Government may deem fit from time to time: 1 [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.]

(3) The manner of audit of Panchayat accounts, payment of audit

fees and action on such audit reports shall be such as may be prescribed.

#### CHAPTER 8

#### GENERAL PROVISIONS RELATING TO INCORPORATION, DURATION, TERRITORIAL CONSTITUENCIES OF PANCHAYATS AND QUALIFICATION ETC. OF OFFICE BEARERS

##### **119. Incorporation Of Panchayats :-**

Every Gram Panchayat, Panchayat Samiti and Zila Parishad shall be a body corporate by the name specified, therefor in the notification under section 3 or section 77 or section 88, as the case may be, having perpetual succession and a common seal and shall by the said name, sue and be sued and shall subject to the provisions of this Act and the rules made thereunder, have power to acquire, hold or transfer property movable or immovable, to enter into contracts and to do all other things necessary for the purposes of this Act.

##### **120. Duration Of Panchayats :-**

(1) Every Panchayat shall continue for five years from the date appointed for its first meeting and no longer unless sooner dissolved under this Act.

(2) An election to constitute a Panchayat shall be completed- 1  
Proviso added vide Act No. 22 of 2001.

(a) before the expiry of its duration specified in sub-section (1);  
and

(b) before the expiration of a period of six months from the date of its dissolution: Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(3) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayats, would have continued under sub-section (1) had it not been so dissolved.

##### **121. Qualification To Vote And To Be A Candidate :-**

(1) Every person whose name is included in the list of voters of a Sabha area shall be qualified to vote at the election of an office bearer of a Panchayat within whose area the Sabha area situates.

(2) Every such person unless disqualified under this Act or any

other law for the time being in force shall be qualified to be elected as an office bearer, of a Panchayat.

### **121A. Account Of Election Expenses And Maximum Limit Thereof :-**

(1) Every candidate at an election of member of Zila Parishad shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

(2) The account shall contain such particulars, as may be prescribed by the State Government in consultation with the State Election Commission.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed by the State Government in consultation with the State Election Commission.

### **121B. Lodging Of Account :-**

Every contesting candidate at an election of member of Zila Parishad shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the officer, as may be appointed by the State Election Commission, an account of his election expenses which shall be a true copy of the account kept by him or his election agent, under section 121-A.]

### **122. Disqualifications :-**

(1) A person shall be disqualified for being chosen as, and for being, an office bearer, of a Panchayat- 1 Sections 121-A and 121-B inserted vide Act No. 18 of 2000.

(a) if he is so disqualified by or under any law for the time being in force for the purposes of the election to the State Legislature: Provided that no person shall be disqualified on the ground that he is less than 25 years, if he has attained the age of 21 years;

(b) if he has been convicted of any offence involving moral turpitude, unless a period of six years has elapsed since his conviction; or 1 [(bb) if he has been found to have been guilty of any corrupt practices under section 180 of this Act; or] 2 [(c) if he or any of his family member(s) has encroached upon any land belonging to, or taken on lease or requisitioned by or on behalf of, the State Government, a Municipality, a Panchayat or a Co-operative Society unless a period of six years has elapsed since the date on which he or any of his family member, as the case may be, is ejected therefrom or ceases to be the encroacher. Explanation.- For the purpose of this clause the expression "family member" shall mean the spouse, their son(s), unmarried daughter(s) and adopted

son and unmarried daughter; or]

(d) if he has been convicted of an 3 [electoral offence under Chapter XA of this Act or] under any law for the time being in force; or

(e) if he has been ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1973 (2 of 1974); or

(f) if he has been 4 [removed from public service or] disqualified for appointment in public service, except on medical grounds; or

(g) if he is in the employment or service under any Panchayat or of any other local authority or Co-operative Society or the State Government or Central Government or any Public Sector Undertaking under the control of the Central or the State Government: 5 [Provided that an office bearer shall not be disqualified for being an office bearer of the Panchayat if he is directly or indirectly engaged in any work being executed by another Panchayat of which he is not the office bearer.]

Explanation.- For the purposes of this clause the expression "service" or "employment" shall include persons appointed, engaged or employed on whole time, part time, casual, daily or contract basis. 1 Clause (bb) added vide Act No. 18 of 2000. 2 Clause (c) subs. vide Act No. 17 of 2005 w.e.f. 30.5.2005. 3 Subs. for the words "election offence" vide Act No. 18 of 2000. 4 Ins. vide Act No. 10 of 2002. 5 Proviso added vide Act No. 18 of 2000.

(h) if he is registered as a habitual offender under the Himachal Pradesh Habitual Offenders Act, 1969 (8 of 1970); or

(i) if, save as hereinafter provided, he has directly or indirectly and share or interest in any work done by a order of a Panchayat, or in any contract or employment with, or under, or by, or on behalf of, the Panchayat; or

(j) if he has not paid the arrears of any tax imposed by a Panchayat or had not paid the arrears of any kind due from him to the Sabha, Samiti or Zila Parishad Fund; or has retained any amount which forms part of, the Sabha, Samiti or Zila Parishad Fund;

(k) if, he is a tenant or lessee holding a tenancy or lease under a Panchayat is in arrears of rent of lease or tenancy held under the Panchayat;

(l) if he has been convicted of an offence punishable under the Protection of Civil Rights Act, 1955 (22 of 1955), unless a period of six years has elapsed since his conviction;

(m) if he is so disqualified by or under any other law made by the

State Legislature; and 1 [(n) if he has made any false declaration as required under this Act of the rules made thereunder:] 2 [Provided that section 11 of the Himachal Pradesh Panchayati Raj (Amendment) Act, 2005 shall not have the effect on the office bearers of existing Panchayats.] 3 [\*\*\*\*\*] (2) The question whether a person is or has become subject to any of the disqualifications under sub-section (1), shall after giving an opportunity to the person concerned of being heard, be decided- (i) if such question arises during the process of an election, by an officer as may be authorized in this behalf by the State Government, in consultation with the State Election Commission; and (ii) if such question arises after the election process is over, by the Deputy Commissioner.

### **123. Bar To Hold More Than One Office :-**

(1) If any person is elected to more than one office in a Panchayat he shall within 15 days from the date of declaration of result of such election, inform the prescribed authority in writing about holding one of the office of his choice. If such information is 1 Clause (n) added vide Act No. 18 of 2000. 2 Proviso inserted vide Act No. 17 of 2005 w.e.f. 30.5.2005. 3 Clause (o) and Proviso added vide Act No. 18 of 2000 deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005. not received within the said period, he shall be deemed to hold one office only in the following order of priority to the exclusion of the remaining-

- (a) a member of Zila Parishad;
- (b) a member of Panchayat Samiti;
- (c) a Pradhan of Gram Panchayat;
- (d) an Up-Pradhan of Gram Panchayat; and
- (e) a member of Gram Panchayat.

(2) If a person who is chosen as an office bearer of a Panchayat or becomes a Member of the House of the People, the Council of States, the State Legislative Assembly, or is or becomes an office bearer of a Municipality, then at the expiration of a period of fifteen days from the date of publication of the election result of, as the case may be within fifteen days from the date of the commencement of term of office of a Member of the House of People, the Council of States, the State Legislative Assembly or the office bearer of Municipality, his seat in a Panchayat shall become vacant unless he has previously resigned his seat in the House of



People, the Council of States, the State Legislative Assembly or the Municipality, as the case may be.

**124. Territorial Constituencies :-**

For the convenience of the election and also after every increase or decrease of the Panchayat area, the Deputy Commissioner shall, in accordance with such rules as may be prescribed in this behalf by the State Government-

- (a) divide the Panchayat area into as many single member territorial constituencies as the number of members are required to be elected ;
- (b) determine the extent of each territorial constituency; and
- (c) determine the territorial constituency or constituencies in which seats are reserved under this Act.]

**125. Reservation For Chairpersons :-**

(1) There shall be reserved by the Government, in the prescribed manner such number of offices of Chairpersons in Panchayats at every level in the State for the persons belonging to the Scheduled Castes and Scheduled Tribes and the number of such offices, bearing as may be the same proportion to the total number of offices in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the population of the State.

(2) 2 [One-half] of offices of Chairpersons reserved in each category, for persons belonging to the Scheduled Castes and Scheduled Tribes and of 1 .Section 124 subs. vide vide H.P. Act No. 10 of 1997 w.e.f. 16.1.1997 . 2 Subs. for the word "Not less than one-third" vide Act No. 10 of 2008 effective . w.e.f. 13.6.2008. the non-reserved offices in the Panchayats at every level shall be reserved for women.

(3) The State Government may, by general or special order, reserve such number of offices of chairpersons for persons belonging to Backward Classes in Panchayats at every level, not exceeding the proportion to the total number of offices to be filled by direct election in the Panchayat as the population of the persons belonging to Backward Classes in the State bears to the total population of the State and may further reserve 1 [one-half] of the total seats reserved under this sub-section for women belonging to Backward Classes.

(4) The offices of Chairpersons reserved under sub-sections (1), (2) and (3) shall be allotted by rotation to different constituencies in

the district in such manner as may be prescribed. Explanation.- For the removal of doubt it is hereby declared that the principle of rotation for the purposes of reservation of office under this section shall commence from the first election to be held after the commencement of this Act.

**126. Publication Of Names Of Office Bearers Of Panchayats :-**

The names of every office bearer of a Panchayat, whether or not chosen by direct election, shall be published by the prescribed authority in such manner as may be prescribed.

**127. Oath Or Affirmation Of Allegiance :-**

(1) Notwithstanding anything contained in the Oaths Act, 1969 (44 of 1969) no elected office bearer of a Panchayat shall enter upon his office, until he has, in the manner prescribed, taken oath or made affirmation of his allegiance in the form specified in Schedule-V.

(2) If any such person refuses to take or make such oath or affirmation, except on account of such disability for which permission of the prescribed authority is obtained, his election shall be deemed to be invalid and a fresh election shall take place.

(3) No person whose election has been deemed to be invalid under this section shall be eligible for election as the member, Pradhan or UpPradhan of Gram Panchayat or the member, Chairman or Vice-Chairman of Panchayat Samiti or Zila Parishad, as the case may be, for a period of two years from the date on which he ought to have taken or made such oath or affirmation.

**128. First Meeting And Term Of Office :-**

(1) First meeting of Panchayat shall be held on such date as the State Government may fix by a general or special order. 1 .Subs. for the word "not less than one-third" vide Act No. 10 of 2008 effective w.e.f . 13.6.2008.

(2) Unless otherwise provided in the Act the office bearers of Panchayat shall hold office for five years from the date of the first meeting and no longer.

(3) If before the expiry of the period prescribed in sub-section (2), the Panchayat is not re-constituted, it shall stand dissolved on the expiry of the said period and the provisions of section 140 shall apply thereto for a period not exceeding six months within which

the Panchayat shall be reconstituted in accordance with the provisions of this Act.

**129. No Confidence Motion :-**

(1) On a motion of no confidence being passed by the Gram Sabha by a resolution passed by a majority of not less than two-thirds of the members present and voting at its general or special meeting and the quorum of which is not less than one-half of the total number of members of the Gram Sabha, Pradhan 1 [and Up-Pradhan] against whom such resolution is passed shall cease to hold office forthwith. 2 [(1-A) The Up-Pradhan of a Gram Panchayat elected before the commencement of the Himachal Pradesh Panchayati Raj (Amendment) Act, 2008 shall continue to be governed by the provisions of the Act and the rules made thereunder as if the Himachal Pradesh Panchayati Raj (Amendment) Act, 2008 has not come into force.] (2) Where a notice of intention to move a resolution requiring the Chairman or Vice-Chairman of the Panchayat Samiti or Zila Parishad to vacate his office, signed by not less than majority of its total elected members is given and if a motion of no confidence is carried by a resolution passed by a majority of elected members present and voting at its general or special meeting, the quorum of which is not less than one-half of its total elected members, the Chairman or the Vice-Chairman against whom such resolution is passed shall cease to hold office forthwith.

(3) Notwithstanding anything contained in this Act or the rules made thereunder, a Pradhan or Up-Pradhan of Gram Panchayat or a Chairman or Vice-Chairman of the Panchayati Samiti or Zila Parishad shall not preside over a meeting in which motion of no-confidence is discussed against him. Such meeting shall be presided over by such a person, and convened in such manner, as may be prescribed and the person against whom a motion of no confidence is moved, shall have a right to vote and to take part in the proceedings of such a meeting.

(4) Motion of no confidence under sub-section (1) or 3 [(1-A) or] (2) shall not be maintainable within two years of the date of his election to such office and any subsequent motion of no confidence shall not be maintainable within the interval of two years of the last motion of no confidence. 1 The words ", or Up-Pradhan" deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005 again ins. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008. 2 Sub-section (1-A) inserted

vide Act No. 17 of 2005 w.e.f. 30.5.2005 again subs. vide Act No. 10 of 2008 effective w.e.f. 13.6.2008. 3 Inserted vide Act No. 17 of 2005 w.e.f. 30.5.2005.

### **130. Resignation By Office Bearers :-**

(1) An office bearer of a Panchayat may resign his office by giving notice in writing to the prescribed authority.

(2) The manner of giving notice and procedure of tendering resignation and of its becoming effective shall be as may be prescribed: Provided that a person tendering resignation may withdraw his resignation before it becomes effective.

### **131. Casual Vacancies :-**

(1) If any person having been elected as an office bearer of a Panchayat-

(a) subsequently becomes subject to any of the disqualification mentioned in section 122 and such disqualifications is not removable or being removable is not removed;

(b) absents himself from three consecutive meetings of the Panchayat or its Committee or does not attend half the number of meetings held during the period of six months without the leave of the Panchayat; he shall, subject to the provisions of sub-section (2), cease to be such office bearer and his office shall become vacant: Provided that where an application is made by an office bearer to the Panchayat for leave to absent himself under clause (b) and the Panchayat fails to inform the applicant of its decision on the application within a period of one month from the date of receipt of the application, the leave applied for, shall be deemed to have been granted by the Panchayat.

(2) In every case the authority competent to decide whether a vacancy has occurred under sub-section (1) shall be the Deputy Commissioner in respect of Gram Panchayat and Panchayat Samiti and the Director in respect of Zila Parishad who may give his decision either on an application made to him by any person or on his own motion. Until the Deputy Commissioner or the Director, as the case may be, decides that the vacancy has occurred, the person shall not cease to be an office bearer: Provided that no order shall be passed under this sub-section against any office bearer without giving him a reasonable opportunity of being heard.

(3) Any person aggrieved by the decision of the Deputy

Commissioner or the Director, as the case may be, under sub-section (2) may, within a period of 30 days from the date of such decision, appeal to the Director or the State Government respectively, whose orders on such appeal shall be final.

(4) In the event of death, resignation or removal of an office bearer or his ceasing to be an office bearer under sub-section (1) or his becoming a Member of State Legislative Assembly or a Member of either House of Parliament before the expiry of his term, a casual vacancy shall be deemed to have occurred in his office and such vacancy shall be filled as soon as may be by election, in accordance with the provisions of the Act and the rules made thereunder. A person elected to fill the vacancy shall take office forthwith for the unexpired term of his predecessor.

(5) In the event of casual vacancy occurring simultaneously in the office of the Pradhan and Up-Pradhan of a Gram Panchayat, Chairman and Vice-Chairman of Panchayat Samiti or Zila Parishad, the Gram Panchayat or the Panchayat Samiti or the Zila Parishad shall elect an office bearer qualified to hold the office of Pradhan or Chairman, as the case may be, till new Pradhan or Chairman is elected in accordance with the provisions of this Act and the rules made thereunder. 1 [(6) In the event of occurrence of casual vacancies in a Panchayat to the extent that the number of the remaining elected office bearers do not fulfil the quorum required for convening a meeting of the Panchayat then the State Government or the prescribed authority may nominate persons to fill the casual vacancies occurred in a Panchayat till new members are elected in accordance with the provisions of this Act and the rules made thereunder: Provided that the State Government will nominate only that person to fill a particular casual vacancy who is eligible to be elected as an office bearer of a Panchayat and to hold office of that particular Panchayat in accordance with the provisions of this Act.]

### **132. Defect Or Irregularity Not To Vitate Proceedings :-**

(1) Notwithstanding anything contained in this Act, but subject to any general or special order of the Government, where two-thirds of the total members of a Panchayat have been elected, the Panchayat shall be deemed to have been duly constituted under this Act.

(2) No act done or proceeding taken by a Panchayat or Standing Committee or any other Committee appointed under this Act shall

be questioned on account of any vacancy in membership or any defect in the election or qualification of the Chairman, Vice-Chairman, presiding authority, or member or any defect or irregularity of such act or proceeding or its procedure not affecting the merits of the case.

(3) Until the contrary is proved, every meeting of Panchayat or Standing Committee or any other Committee shall be deemed to have been duly convened and held and all members, attending the meeting, shall be deemed to have been duly qualified when the minutes of the meeting have been duly signed in accordance with the provisions of this Act or the rules made thereunder.

#### CHAPTER 9

#### OFFICERS AND STAFF OF PANCHAYATS

### **133. Appointment Of Secretary Of Gram Panchayat :-**

(1) There shall be a Secretary for a Gram Panchayat or a group of Gram Panchayats who shall be appointed by the Director. 1 Sub-section

(6) added vide Act No. 4 of 2001 w.e.f. 15.11.2000.

(2) It shall be the duty of the Secretary to assist the Pradhan or the Up-Pradhan of the Gram Panchayat, as the case may be, in the discharge of their functions under this Act or any other law for the time being in force.

### **134. Appointment Of Executive Officer Of Panchayat Samiti And Zila Parishad :-**

(1) In every Panchayat Samiti, the Block Development and Panchayat Officer and in every Zila Parishad, the District Development and Panchayat Officer, shall be its Secretary.

(2) Save as otherwise expressly provided by or under this Act, the Officer referred to in sub-section (1) shall-

(a) exercise all the powers specifically imposed or conferred upon him by or under this Act or under any other law for the time being in force;

(b) lay down the duties of and supervise and control officers and officials of, or holding office under the Panchayat Samiti or the Zila Parishad in accordance with the rules made by the Government;

(c) supervise and control the execution of all works of the Panchayat Samiti or of the Zila Parishad;

(d) take necessary measures for the speedy execution of all works and developmental schemes of the Panchayat Samiti or of the Zila

Parishad;

(e) have custody of common seal and all papers and documents connected with the proceedings of the meetings of the Panchayat Samiti or the Zila Parishad and of its Standing Committees and other Committees;

(f) draw and disburse money out of the Panchayat Samiti or the Zila Parishad Fund;

(g) exercise such other powers and discharge such other functions as may be prescribed; and

(h) attend every meeting of the Panchayat Samiti or the Zila Parishad and shall have the right to attend the meeting of any committee thereof and to take part in the discussion, but shall not have the right to move any resolution or to vote. If in his opinion any proposal before the Panchayat Samiti or the Zila Parishad is violative of or inconsistent with the provisions of this Act, or any other law, rule or order made thereunder, it shall be his duty to bring the same to the notice of the Panchayat Samiti or the Zila Parishad.

(3) Every person in possession of moneys, accounts, records or other property pertaining to a Gram Panchayat or Panchayat Samiti or the Zila Parishad shall on the requisition for this purpose in writing of the Officer referred to in sub-section (1), forthwith hand over such moneys or deliver up such accounts, records or other property to the said officer or the person authorised in the requisition to receive the same.

### **135. Other Officers And Servants Of Panchayats :-**

(1) Subject to the provisions of section 134 every Panchayat may, with the previous approval of prescribed authority, appoint such other officers and servants as it considers necessary for the efficient discharge of its duties.

(2) The qualifications, method of recruitment, salaries, leave, allowances and other conditions of service including disciplinary matters of such officers and servants shall be such as may be prescribed.

### **136. Deputation Of Government Servants :-**

The State Government may depute to the service of the Panchayat such of its servants as it considers necessary. The service conditions of such deputed servants shall be such as may be prescribed, by the State Government from time to time.

### **137. Inspection And Access To Panchayat Records :-**

(1) The officer of the State Government duly authorised by the State Government in this behalf may, subject to such terms as may be prescribed, inspect all books, proceedings and records, and to enter on and inspect any work in progress, of a Panchayat.

(2) The Officers authorised under sub-section (1) shall, for the inspection of the Panchayats, exercise such powers as may be prescribed.

(3) The Office bearers, and the officers and servants of the Panchayat shall be bound to afford access to all such information and records as may be demanded by the inspecting authority.

(4) Nothing contained in this section shall affect the right of parties to any case, suit or proceedings pending before a Gram Panchayat to inspect the records of the cases, suits or proceedings, in the manner prescribed.

### **138. Power To Suspend Execution Of Orders, Etc :-**

(1) The State Government or the prescribed authority may, by an order in writing and for reasons to be stated therein, suspend the execution of any resolution passed, order issued, licence or permission granted or prohibit the performance of any act by a Panchayat, if in its opinion-

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorized;

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or is contrary to any law; or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely-

(i) to cause loss, waste or misapplication of any money or damage to any property vested in the Panchayat;

(ii) to be prejudicial to the public health, safety or convenience; 77

(iii) to cause, injury or annoyance to the public or any class or body of persons; or

(iv) to lead to a breach of peace.

(2) Whenever an order is made by the prescribed authority under subsection (1), it shall forthwith and in no case later than ten days from the date of order, forward to the State Government a copy of the order with the statement of the reasons for making it, and the State Government may 1 [xxx], set aside or modify such order as it may deem fit.



### **139. Power Of State Government To Issue Order Directing Panchayat For Execution Of Works In Certain Cases :-**

(1) The State Government or the prescribed authority may, by an order in writing, direct any Panchayat to execute any such work as is not being executed by it and the execution thereof by such Panchayat is, in the opinion of the State Government or prescribed authority, necessary in public interest.

(2) The Panchayat shall be bound to comply with direction issued under sub-section (1) and if it fails to do so the State Government or the prescribed authority shall have all necessary powers to get the work executed at the expense of the Panchayat and in exercising such powers it shall be entitled to the same protection and the same extent under this Act as the Panchayat or its officers or servants whose powers are exercised.

### **140. Power Of State Government To Dissolve Panchayats For Default, Abuse Of Power, Etc :-**

(1) If at any time it appears to the State Government or the prescribed authority that a Panchayat is persistently making default in the performance of the duties imposed on it by or under this Act or under any other law for the time being in force, or exceeds or abuses its powers or fails to carry out any order of the State Government or the competent authority, the State Government or the prescribed authority, may, after such enquiry as it may deem fit, by an order dissolve such Panchayat and may order a fresh constitution thereof.

(2) No order under sub-section (1) shall be passed unless reasonable opportunity has been given to the Panchayat for furnishing its explanation. The notice calling explanation shall be addressed to the Pradhan of the Gram Panchayat, or Chairman of the Panchayat Samiti or Zila Parishad, as the case may be, and shall be served according to the provisions of section 194. The reply of the Panchayat to the notice shall be supported by the resolution of the Panchayat.

(3) On dissolution of Panchayat under sub-section (1), the following consequences shall ensue, namely:-

(a) all the office-bearers, shall vacate their offices with effect from the date of such order;

(b) all powers and duties of the Panchayat shall, until the Panchayat is reconstituted, be exercised and performed by such

person or 1 The word "confirm" omitted vide Act No. 4 of 2001 w.e.f. 15.11.2000. committee of persons as the State Government or the prescribed authority may appoint in this behalf and where a committee of persons is so appointed, the State Government or the prescribed authority shall also appoint a head of such committee; and

(c) where a committee is appointed under clause

(b), any member of such committee duly authorised by it may issue or institute or defend any action at law on behalf of or against the Panchayat.

(4) Any person appointed to exercise and perform the powers and duties of a Panchayat during the period of dissolution may receive from the Fund of the Panchayat concerned such payment for his service as the State Government may, by order, determine.

(5) A Panchayat dissolved under sub-section (1) shall be reconstituted in accordance with the provisions of this Act within six months of its dissolution. Such reconstituted Panchayat shall function for the remaining term of the Panchayat: Provided that if the unexpired period is less than six months the reconstitution of the Panchayat shall not be done for this period. 1 [(6) Notwithstanding anything contained in this section, when on account of the reason that the whole of the Sabha area of the Gram Panchayat ceases to be the Sabha area either due to its declaration as Municipal area or its inclusion in the existing Municipal area for providing better facilities to the public of the said area and also in the public interest, the State Government shall, by an order published in the Official Gazette, dissolve the Gram Panchayat from a date specified in the order.

(7) The office bearers of the Gram Panchayat which has been dissolved under sub-section

(6) shall vacate their offices from the date specified in the order of the Government.]

#### **141. Inquiry Into Affairs Of Panchayats :-**

The State Government may, from time to time, cause an inquiry to be made by any of its officers in regard to any Panchayat on matters concerning it or to any matter with respect to which the sanction, approval, consent or order of the State Government is required by or under this Act or the rules made thereunder or under any law for the time being in force.

#### **142. Liability Of Office Bearers Etc., For Loss, Misappropriation :-**

(1) Every member, office bearer, officer or servant of Panchayat shall be personally liable for loss, waste or misapplication of any money or other property of the Panchayat to which he has been a party or which has been caused by him by misconduct or gross neglect of his duties. The amount required for reimbursing such loss, waste, or misapplication shall be recovered by the prescribed authority: Provided that no recovery shall be made under this section unless the person concerned has been given a reasonable opportunity of being heard. 1 Sub-sections (6) & (7) added vide Act No. 10 of 2002.

(2) If the person concerned fails to pay the amount, such amount shall be recovered as arrears of land revenue and credited to the funds of the Panchayat concerned.

### **143. Disputes Between Panchayats And Other Local Authorities :-**

(1) In the event of any dispute arising between two or more Panchayats or Panchayat and any other local authority in any matter in which they are jointly interested such dispute shall be referred to the State Government and the decision of the State Government thereon shall be final: Provided that if the dispute is between a Panchayat and Cantonment Board the decision of the State Government shall be subject to approval of the Central Government.

(2) The State Government, may, by rules made under this Act, regulate the relations between Panchayats and Panchayat and other local authorities in matters in which they are jointly interested.

### **144. Power To Recover Records, Articles And Money :-**

(1) Where the prescribed authority is of the opinion that any person has retained unauthorisedly in his custody any record or article or money belonging to the Panchayat, he may, by a written order require that the record or article or money be delivered or paid forthwith to the Panchayat, in the presence of such officer as may be appointed by the prescribed authority in this behalf.

(2) If any person fails or refuses to deliver the record or article or pay the money as directed under sub-section (1), the prescribed authority may report the matter to the Magistrate and on receipt of such report the Magistrate may cause such a person to be

apprehended and may send him in a Judicial lock-up for a period not longer than fifteen days.

(3) The Magistrate may-

(a) for recovering any such money direct that such money be recovered as an arrear of land revenue; and

(b) for recovering any such record or articles issue a search warrant and 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, 1973 (2 of 1974).

(4) No action under sub-sections (1) or (2) or (3) shall be taken unless a reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

(5) A person against whom an action is taken under this section shall be disqualified to be an office bearer of any Panchayat for a period of six years commencing from the initiation of such action.

#### **145. Suspension Of Office Bearers Of Panchayats :-**

(1) The prescribed authority may suspend from office any office bearer 1 [(a) who remained in custody for more then fourteen days on a criminal charge or otherwise or against whom charges have been framed in any criminal proceedings under chapter V-A, VI, IX-A, X, XII, sections 302, 303, 304-B, 305, 306, 307, 312 to 318, 336- A, 366-B, 373 to 377 of Chapter XVI, sections 395 to 398, 408, 409, 420, 436, 458 to 460 of Chapter XVII and Chapter XVIII of the Indian Penal Code, 1860 (45 of 1860) or under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) or under sections 41 and 42 of the Indian Forest Act, 1927 (16 of 1927) or under sub-section (1) of section 61 of the Punjab Excise Act, 1914 or any law for the time being in force for the prevention of adulteration of food stuff and drugs, suppression of immoral traffic in women and children and protection of civil rights; or]

(b) who has been served with a notice alongwith a charge sheet to show cause under this Act, for his removal from the office; 2 [(c) where on a complaint made against him the preliminary enquiry prima-facie discloses the misappropriation, misutilization or embezzlement of Panchayat funds or he has been found guilty of misconduct in the discharge of his duties: Provided that any office bearer, if placed under suspension against whom charges have been framed in any criminal proceedings under clause

(a), shall remain under suspension till the final decision of the

competent court.]

(2) Where the inspection or an audit report discloses the misappropriation, misutilization or embezzlement of Panchayat funds by an office bearer of a Panchayat and the prescribed authority is satisfied that continuance in office of such a person will prejudice the enquiry under section 146 and apprehends tampering with record and witnesses, may suspend such a persons and in case he is in possession of any record, money or any property of the Panchayat, order him to handover such records, money or property to the Secretary of the Panchayat. 3 [(2-A) No office bearer shall be placed under suspension under subsection (1) or (2) unless he has been given an opportunity of being heard. 4 [(3) The order of suspension under sub-section (1) or (2) shall be reported, in the case of office bearers of Zila Parishad, to the Divisional Commissioner concerned, and in the case of office bearers of Panchayat Samiti and Gram Panchayat, to the Deputy Commissioner concerned, within a period of ten days from the date of suspension, who shall, thereafter within ten days from the date of receipt of such report, order enquiry under section 146 and shall complete enquiry and action within six months and in case enquiry a n d action is not completed within stipulated period, the suspension order 1 Clause (a) substituted vide Act No.17 of 2008. 2 Clause (c) and Proviso inserted vide Act No. 17 of 2005 w.e.f. 30.5.2005. 3 Sub-section (2-A) inserted vide Act No. 17 of 2005 w.e.f. 30.5.2005. 4 Sub-section (3) subs. vide Act No. 18 of 2000 and further subs. vide Act No. 17 of 2005 w.e.f. 30.5.2005. shall be deemed to have been revoked and formal order shall be issued accordingly.]

(4) In the event of both the Pradhan and Up-Pradhan of Gram Panchayat, Chairman or vice-Chairman of Panchayat Samiti or Zila Parishad being suspended under sub-section (1) or sub-section (2) the Gram Panchayat, Panchayat Samiti or Zila Parishad shall elect an office bearer qualified to hold the office of Pradhan or Chairman, as the case may be, such person shall perform all the duties and exercise all the powers of Pradhan or Chairman, as the case may be, during the period for which suspension continues.

(5) A person who has been suspended under sub-section (1) or subsection (2) shall also forthwith stand suspended from the office of member or office bearer of any other Panchayat of which he is a member or office bearer. Such person shall also be disqualified for being elected, under the Act during his suspension. 1 [(6) xxx]

#### **146. Removal Of Office Bearers Of Panchayats :-**

(1) 2 [The State Government, in the case of office bearers of Panchayats, the Divisional Commissioner having jurisdiction, in the case of office bearers of Zila Parishad, and the Deputy Commissioner having jurisdiction, in the case of office bearers of Panchayat Samiti and Gram Panchayat, as the case may be,] may after such enquiry as it may deem fit to make at any time, remove an office bearer;-

(a) if he has incurred any disqualification under this Act;

(b) if he has been guilty of misconduct in the discharge of his duties; or

(c) if he refuses to act or becomes incapable of acting or is adjudged an insolvent;

(d) if he without reasonable cause absents himself from more than half of the meetings convened within a period of six months;

(e) if his continuance in office is undesirable in the interest of the public: Provided that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office. Explanation.- For the purpose of this sub-section "misconduct" shall include-

(a) any action which adversely affects- 1 Sub-section

(6) ins. vide Act No. 18 of 2000 and deleted vide Act No. 17 of 2005 w.e.f. 30.5.2005. 2 Subs. for the words "The State Government or the prescribed authority" vide Act No.17 of 2005 w.e.f. 30.5.2005.

(i) the sovereignty, unity and integrity of India; or

(ii) the harmony and the spirit of common brotherhood amongst all the people of State transcending religious, linguistic, regional, caste, or sectional diversities ; or

(iii) the dignity of women; or

(b) gross negligence in the discharge of the duties under this Act;

(c) the failure of the Pradhan of a Gram Panchayat, or Chairman of Panchayat Samiti or Zila Parishad, to convene the meeting of the Gram Sabha, Gram Panchayat, Panchayat Samiti or Zila Parishad, as the case may be, at regular intervals as specified under this Act.

1 [(1-A) The State Government, the Divisional Commissioner or the Deputy Commissioner, as the case may be, may, on consideration of the enquiry report or if it thinks proper, for reasons to be recorded in writing, revoke the suspension order and instead of removing an office bearer, warn him to be vigilant in the discharge of his duties or may also debar him from taking part in any act or

proceedings of the Panchayat for the period of six months.]

(2) A person who has been removed under sub-section (1) shall forthwith cease to be a member of any other Panchayat of which he is a member, such person shall also be disqualified for a period of six years to be elected as office bearer of a Panchayat under this Act.

**147. Power To Call For Record :-**

The State Government, may at any time for the purpose of satisfying itself as to the legality or the propriety of any resolution passed or order made by a Panchayat or any order purported to have been made under the provisions of this Act or the rules or the bye-laws made thereunder, call for and examine the record relating to such resolution or order, as the case may be, and may pass such order in reference thereto as it thinks fit: Provided that no resolution or order shall be varied or reversed without affording the reasonable opportunity of being heard to the parties interested, unless the Government is satisfied that such a resolution or order has been vitiated by unlawful considerations.

**148. Appeal And Revision :-**

An appeal or revision against the orders or proceedings of a Panchayat and other authorities under this Act, shall lie to such authority and in such manner as may be prescribed.

CHAPTER 10  
PENALTY

**149. Penalty For Acting As Member, Pradhan, Up-Pradhan, Chairman, Vice-Chairman When Disqualified :-**

(1) Whosoever acts as a Panch or member of a Panchayat, knowing that he is not entitled to or has 1 Sub-section (1-A) inserted vide Act No. 17 of 2005 w.e.f. 30.5.2005. ceased to be entitled to hold office as such, shall on conviction be punished with fine which may extend to fifty rupees for every day on which he sits or votes as such panch or member.

(2) whoever acts as Pradhan or Up-Pradhan, Chairman or ViceChairman, knowing that he is not entitled or has ceased to be entitled to hold office as such shall, on conviction, be punished with a fine which may extend to one hundred rupees for every day on which he acts or functions as such.

(3) Any person who after the expiry of his term or on resigning from the office or removal from the office of Pradhan, Up-Pradhan,

Chairman or Vice-Chairman fails to handover forthwith any document or, of any money or other properties vested in or belonging to the Panchayat, as the case may be, which are in his possession or control, to his successor in office, shall, on conviction, be punished with a fine which may extend to two hundred and fifty rupees.

**150. Penalties For Interested Members Voting :-**

Whosoever, having pecuniary interest in any matter under consideration of a Panchayat votes in that matter shall, on conviction, be punished with a fine which may extend to two hundred and fifty rupees.

**151. Penalty For Acquisition By A Member, Office Bearer Or Servant Of Interest In Contracts :-**

If a member or office bearer or servant of Panchayat knowingly acquires, directly or indirectly any personal share or interest in any contract or employment with, by or on behalf of a Panchayat without the sanction of or permission of the prescribed authority, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code, 1860 (45 of 1860).

**152. Wrongful Restraint Of Officers Etc :-**

Any person who prevents any officer or servant of a Panchayat or any person to whom such officer or servant has, lawfully delegated his powers of entering on or into any place building or land from exercising his lawful powers of entering thereon or therein, shall be deemed to have committed an offence under section 341 of the India Penal Code, 1860 (45 of 1860).

**153. Prohibition Against Obstruction Of Member Of Panchayats :-**

Any person obstructing any member, office bearer or servant of a Panchayat or any person with whom a contract has been entered into by or on behalf of a Panchayat in the discharge of his duties or authorized to do anything shall on conviction be punished with a fine which shall extend to 1 [one thousand rupees].

**154. Prohibition Against Removal Or Obliteration Of Notice :-**

Any person who without authority in that behalf removes, destroys defaces or otherwise obliterates any notice exhibited or any sign or mark erected by, or 1 Subs. for the words "two hundred and fifty rupees" vide Act No. 17 of 2005 w.e.f. 30.5.2005. under the order



of a Panchayat or any of its officers shall on conviction be punished with a fine which may extend to 1 [one thousand rupees].

**155. Penalty For Not Giving Information Or Giving False Information :-**

Any person required by this Act or the rules made thereunder or notice or other proceedings issued thereunder to furnish any information, omits to furnish such information or knowingly furnishing wrong information shall, on conviction, be punished with a fine which may extend to 2 [one thousand rupees].

**156. Prohibition Of Bidding :-**

(1) No member or servant of a Panchayat or any officer having any duty to perform in connection with the sale of movable or immovable property under this Act shall directly or indirectly bid for or acquire interest in any property sold at such a sale.

(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 and if he is an officer, or servant of a Panchayat, he shall also be liable to be removed from service.

**157. Procedure To Make Good The Damage To Any Panchayat :-**

If through any act, neglect or default on account of which any person shall have incurred any penalty imposed by or under this Act and any damage to the property of any Panchayat has been caused by any such person, he shall be liable to make good such damage, as well as to pay such penalty and the value of the damage, shall, in case of dispute, be determined by the Magistrate, by whom the person incurring such penalty has been convicted and non-payment of such value on demand, the same shall be recoverable as arrears of land revenue.

**158. Penalty For Tampering With The Panchayat Property :-**

(1) Whoever removes, displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of a public street or any fence, wall or post thereof, or a lamp-post or bracket, direction post, stand post, hydrant, or other such property of the Panchayats, without the written sanction of the Panchayat or other lawful authority, shall be punishable with fine which may extend to fifty rupees.

(2) If, through any act neglect, or default on his part, a person has

incurred a penalty imposed by sub-section (1) and has caused any damage to the property of the Panchayat, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be assessed in the prescribed manner by the prescribed authority and shall be recoverable from the offender as arrear of land revenue. CHAPTER-X-A ELECTORAL OFFENCES 1 Subs. for the words "fifty rupees" vide Act No. 17 of 2005 w.e.f. 30.5.2005. 2 Subs. for the words "two hundred and fifty rupees" vide Act No. 17 of 2005 w.e.f. 30.5.2005. 3 Chapter X-A inserted vide Act No. 18 of 2000.

### **158A. Promoting Enmity Between Classes In Connection With The Election :-**

Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

### **158B. Prohibition Of Public Meetings During Period Of Forty-Eight Hours Ending With Hour Fixed For Conclusion Of Poll :-**

(1) No person shall,-

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto; in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with the imprisonment for a term which may extend to two years, or with fine, or with both.

(3) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.

### **158C. Disturbances At Election Meetings :-**

(1) Any persons who at a public meeting to which this section applies acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which election is held.

(4) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

### **158D. Restrictions On The Printing Of Pamphlets, Posters, Etc :-**

(1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster-

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless within reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,-

(i) where it is printed in the capital of the State, to the State Election Commissioner; and

(ii) in any other case, to the Deputy Commissioner of the district in which it is printed.

(3) For the purposes of this section,-

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printed and the expression "printer" shall be construed accordingly; and

(b) "election pamphlet or poster" means any printed pamphlet, handbill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with the imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

### **158E. Maintenance Of Secrecy Of Voting :-**

(1) 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 authorized 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 be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

### **158F. Officers Etc., At Elections Not To Act For Candidates Or To Influence Voting :-**

(1) No person who is a district election officer or a returning officer, or an assistant 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 or the management of the

election to any act (other than the giving of 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 be punishable with imprisonment which may extend to six months, or with fine, or with both.

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

### **158G. Prohibition Of Canvassing In Or Near Polling Stations**

**:-**

(1) No person shall, on the date or dates on which a poll is taken at 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 metres of the polling station, namely:-

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; 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 be punishable with fine which may extend to two hundred and fifty rupees.

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

### **158H. Penalty For Disorderly Conduct In Or Near Polling Stations :-**

(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 station, 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 neighborhood 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 be punishable with imprisonment which may extend to three months, or with fine, or with both.

(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.

### **158I. Penalty For Misconduct At The 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 authorized in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector 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 reenters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

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

### **158J. Penalty For Failure To Observe Procedure For Voting**

:-

If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.

### **158K. Penalty For Illegal Hiring Or Procuring Of Conveyance At Elections :-**

If any person is guilty of any such corrupt practice as is specified in clause (6) of section 180 of this Act, at or in connection with an election he shall be punishable with imprisonment which may extend to three months, or with fine.

### **158L. Breaches Of Official Duty In Connection With Election**

:-

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty he shall be punishable with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

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

(4) The persons to whom this section applies are the district election officers, returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with 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.

### **158M. Penalty For Government Servants For Acting As Election Agent, Polling Agent Or Counting Agent :-**

If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

### **158N. Prohibition Of Going Armed To Or Near A Polling Station :-**

(1) No person, other than the returning officer, the presiding officer, any police

officer and any other person appointed to maintain peace and order at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (54 of 1959), of any kind within the neighbourhood of a polling station.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) Notwithstanding anything contained in the Arms Act, 1959 (54 of 1959), where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

(4) An offence punishable under sub-section (2) shall be cognizable.

### **158O. Removal Of Ballot Papers From Polling Station To Be An Offence :-**

(1) Any person who at any election unauthorisedly 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 be punishable with the 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 search 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 handed over for safe custody to a police officer by the presiding officer, 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 (1) shall be cognizable.

### **158P. Offence Of Booth Capturing :-**

Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years, and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years, and with fine. Explanation.- For the purposes of this section "booth capturing" includes among other things, all or any of the following activities, namely:-

(a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;

(c) coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes; and

(e) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

### **158Q. Grant Of Paid Holiday To Employees On The Day Of Poll :-**

- (1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at election to the Panchayat bodies shall, on the day of poll, be granted a holiday.
- (2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with subsection (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.
- (3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.
- (4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

### **158R. Liquor Not To Be Sold, Given Or Distributed On Polling Day :-**

- (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, catering house, tavern, shop or any other place, public or private, within a polling area during the period of forty eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.
- (2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.
- (3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed off in such manner as may be prescribed.

### **158S. Other Offences And Penalties Therefor :-**

- (1) A person shall be guilty of an electoral offence if at any election he-
  - (a) fraudulently defaces or fraudulently destroys any nomination paper; or
  - (b) fraudulently defaces or fraudulently destroys or removes any list, notice or other document affixed by or under the authority of returning officer; or
  - (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or
  - (d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; 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 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 electoral offence under this section shall
  - (a) if he is a returning officer or an assistant 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, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both; and

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six month, 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 on 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 sub-section (2) shall be cognizable.]

## CHAPTER 11

### DISPUTES RELATING TO ELECTION

#### **159. Definitions :-**

In this Chapter, unless the context otherwise requires,-

(a) agent means any person appointed in writing by a candidate at an election to be his agent for the purposes of his election with the written consent of such person;

(b) authorised officer means the officer authorised under section 161 to hear election petitions;

(c) candidate means a persons who has been, or claims to have been duly, nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(d) corrupt practice means any of the practices specified in section 180 ;

(e) costsmeans all costs charges and expenses of, or incidental to, a trial of an election petition;

(f) election means an election to fill an office under the provisions of this Act;

(g) electoral right means the right of a person to stand or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

#### **160. State Election Commission :-**

(1) There shall be a State Election Commission constituted by the Governor for superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayat bodies in the State under this Act and the rules made thereunder. The Commission shall consist of a State Election Commissioner to be appointed by the Governor.

(2) The salary and allowances payable to, tenure of office and conditions of service of the State Election Commissioner shall be such as the Governor may by rule determine: Provided that the



State Election Commissioner shall not be removed from his office except in the like manner and on the like grounds as a judge of the High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor shall, when so requested by the State Election Commissioner make available to him such staff as may be necessary for the discharge of the functions conferred on him under this Act.

### **160A. Requisitioning Of Premises, Vehicles, Etc., For Election Purposes :-**

(1) If it appears to the State Government that in connection with an election to the Panchayat bodies,-

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or

(b) any vehicle, vessel or animal is needed or is likely to be needed 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 State Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, 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 a 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) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner 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- 1 Sections 160-A, 160-B, 160-C, 160-D and 160-E inserted vide Act No. 18 of 2000.

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

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

### **160B. Payment Of Compensation :-**

(1) Whenever in pursuance of section 160-A the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:-

(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 the 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 within the prescribed time to 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 State Government 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 State Government to an arbitrator appointed in this behalf by the State Government 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 160-A immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 160-A the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the 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 prescribed time to 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 State Government 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 subsection 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 appointed by the State Government in this behalf may decide.

### **160C. Release Of Premises From Requisition :-**

(1) When any premises requisitioned under section 160-A 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 State Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights 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 the possession of any premises requisitioned under section 160-A 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 State Government 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 State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

### **160D. Delegation Of Functions Of The State Government With Regard To Requisitioning :-**

The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on it by any of the provisions of section

160-A to 160-C shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

### **160E. Deputation Of Staff And Punishment On Breach Of Official Duty :-**

(1) The State Government shall depute staff from Government or Semi Government Organizations of the State Government for the conduct of allelections to the Panchayat bodies, and the officers or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of all elections shall be deemed to be on deputation with the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the State Election Commission.

(2) If any person deputed on election duty under sub-section (1), disobeys any orders issued by an officer appointed to conduct the election under this Act regarding the performance of an election duty or deliberately abstains himself from duty or contravenes any provisions of this Act and the rules made thereunder, he shall be punishable with fine which may extend to five hundred rupees.]

### **161. Officer Authorised To Hear Election Petitions :-**

The election petitions under this Act shall be heard-

(i) in the case of Gram Panchayats and Panchayat Samitis, by the SubDivisional Officer;

(ii) in the case of 1 [members of] Zila Parishads, by the Deputy Commissioner; and 2 [(iii) in the case of Chairman and Vice-Chairman of Zila Parishad, by the Commissioner.]

### **162. Election Petitions :-**

No election under this Act shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

### **163. Presentation Of Petition :-**

(1) Any elector of a Panchayat may, on furnishing the prescribed security in the prescribed manner, present within thirty days of the publication of the result, on one or more of the grounds specified in sub-section (1) of section 175, to the authorised officer an election petition in writing against the election of any person under this Act: 3 [ Provided that if any office bearer of a Panchayat was not qualified, or was disqualified to be elected under this Act, prior to his election and such disqualification continues even after his election to such office, in such cases, the limitation period of thirty days shall not apply.]

(2) The election petition shall be deemed to have been presented to the authorised officer-

- (a) when it is delivered to him-
  - (i) by the person making the petition; or
  - (ii) by a person authorized in writing in this behalf by the person making petition; or
- (b) when it is sent by registered post and is delivered to the authorized officer or any other person empowered to receive it.

### **163A. Parties To The Petition :-**

A petitioner shall join as respondent to his petition-

- (a) where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the 1 Inserted vide Act No. 22 of 2001. 2 Clause
- (iii) inserted vide Act No. 22 of 2001. 3 Proviso inserted vide Act No.17 of 2008. 4 Section 163-A inserted vide Act No. 18 of 2000. petitioner, and where no such further declaration is claimed, all the returned candidates; and
- (b) any other candidate against whom allegations of any corrupt practice are made in the petition.]

### **164. Contents Of Petition :-**

(1) An election petition-

- (a) shall contain concise statement of the material facts on which the petitioner relies,
  - (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice, and
  - (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleading: Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.
- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

### **165. Procedure On Receiving Election Petition :-**

If the election petition is not furnished in the prescribed manner, or the petition is not presented within the period specified in section 163 the authorised officer shall dismiss the petition: Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

### **166. Withdrawal And Transfer Of Petitions :-**

The Divisional Commissioner may, at any stage, after notice to parties and for reasons to be recorded, withdraw any election petition pending before an authorised officer and transfer it for trial to another authorised officer within his Division and upon such transfer, that authorised officer shall proceed with the trial from the stage at which it was withdrawn: Provided that such authorised officer may, if he thinks fit, recall and re-examine any of the witnesses already examined.

**167. Procedure Before The Authorised Officer :-**

(1) Subject to the provisions of the Act and of any rules made thereunder every election petition shall be decided by the authorised officer 1 [as expeditiously as possible and ordinarily] within a period of six months from the date of its presentation under section 163 in accordance with the procedure applicable under the code of Civil Procedure, 1908 ( 5 of 1908) to the trial of suits: 1 .Added vide H.P. Act No. 10 of 1997 w.e.f. 16.1.1997 . Provided that the authorised officer shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if he is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses in doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (1 1 of 1872) shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

**168. Appearance Before The Authorised Officer :-**

Any appearance, application or act before the authorised officer may be made or done by the party in person or by a pleader duly appointed to act on his behalf: Provided that it shall be open to the authorised officer to direct any party to appear in person whenever the authorised officer considers it necessary.

**169. Power Of The Authorized Officer :-**

The authorised officer shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 ( 5 of 1908) when trying a suit in respect of the following matters:-

- (a) discovery and inspections;
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses;
- (c) compelling the production of documents;

(d) examining witnesses on oath;  
(e) granting adjournments;  
(f) reception of evidence taken on affidavit; and  
(g) issuing commissions for the examination of witnesses; and may summon and examine suo-motu any person whose evidence appears to him to be material and shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974). Explanation.- For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the authorised officer shall be the limits of the State of Himachal Pradesh.

**170. Documentary Evidence :-**

Notwithstanding anything contained in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

**171. Secrecy Of Voting Not To Be Infringed :-**

No witness or other person shall be required to state for whom he has voted at an election.

**172. Answering Of Incriminating Questions And Certificate Of Indemnity :-**

(1) No witness shall be excused from answering any question to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture: Provided that-

(a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the authorised officer; and

(b) an answer given by a witness to a question put by or before the authorised officer shall not, except in the case of any criminal proceedings for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under chapter IX-A of the Indian Penal Code, 1860 (45 of 1860), arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification, in connection with an election,

imposed by this act or any other law.

**173. Expenses Of Witnesses :-**

The reasonable expenses incurred by any person in attending to give evidence may be allowed by the authorised officer to such person, and shall, unless he otherwise directs, be deemed to be part of the costs.

**174. Decision Of The Authorised Officer :-**

(1) Where an election petition has not been dismissed under section 165, the authorized officer shall inquire into the election petition and at the conclusion of the inquiry shall make an order-

(a) dismissing the election petition; or 1 [(b) declaring the election of all or any of the elected persons to be void; or] 2 [(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.]

(2) At the time of making an order under sub-section

(1) the authorized officer shall also make an order,-

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording-

(i) a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice; and 1 Subs. for existing clause

(b) vide Act No. 22 Of 2001. 2 Clause (c) added vide Act No. 22 Of 2001.

(ii) the name of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid: Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless- (i) he has been given notice to appear before the authorised officer and to show cause why he should not be so named; and

(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness, who has already been examined by the authorised officer and has given evidence against him, of calling evidence in his defence and of being heard.

**175. Grounds For Declaring Election To Be Void :-**

(1) If the authorized officer is of the opinion-

(a) that on the date of his election the elected person was not qualified, or was disqualified to be elected under this Act; or  
(b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or  
(c) that any nomination has been improperly rejected, or  
(d) that the result of the election, in so far as it concerns the elected person, has been materially affected-  
(i) by the improper acceptance of any nomination, or  
(ii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or  
(iii) by any non-compliance with the provisions of this act or of any rule made under this Act, the authorized officer shall 2 [declare the election of the elected persons to be void.] 3 [(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.] 1 Subs. for the words "Grounds for setting aside election " vide Act No. 22 of 2001. 2 Subs. for the words "set aside the election of the elected person" vide Act No. 22 of 2001. 3 Existing sub-section (2) subs. vide Act No. 22 of 2001.

**175A. 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 person, 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 practices, 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.

**175B. 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.]

**176. Abatement Of Election Petitions :-**

A n election petition shall abate only on the death of a sole



petitioner or of the survivor of several petitioners.

**177. Costs And Payment Thereof Out Of Security Deposits And Return Of Such Deposits :-**

(1) Costs including pleader's fees shall be in the discretion of authorised officer.

(2) If in any order as to costs under the provisions of this chapter, there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full or so far as possible, out of the security deposit made by such party under this chapter, on an application made in writing in that behalf, within a period of one year from the date of such order, to the Collector by the person in whose favour the costs have been awarded.

(3) If there is any balance left of the security deposit under this chapter after payment under sub-section (1) of the costs referred to in that subsection, such balance or where no costs have been awarded or no application 1 Sections 175-A and 175-B inserted vide Act No. 22 of 2001. as aforesaid has been made within the said period of one year, the whole of the said security deposit may, on an application made in that behalf in writing to the Collector by the persons by whom the security has been deposited or if such person dies after making such deposit, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

**178. Execution Of Orders As To Costs :-**

Any order as to costs under the provisions of this chapter may be produced before the principal Civil Court within the local limits of jurisdiction any person directed by such order to pay any sums of money has a place of residence or business and such Court shall execute the order or cause the same to be executed in the same manner, and by the same procedure as if it were a decree for the payment of money made by itself in a suit: Provided that where any such costs or any portion thereof, may be recovered by an application made under sub-section (2) of section 177, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to insufficiency of the amount of the security deposit referred to in that sub-section.

**179. Section 179 :-**

xxx]

**180. Corrupt Practices :-**

The following shall be deemed to be corrupt practices for the purposes of this Chapter- (1) Bribery, that is to say- (A) any gift, offer or promise by candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing-

(a) a person to stand or not to stand as, or to withdraw from being a candidate at an election; or

(b) an elector of the Panchayat area to vote or refrain from voting at an election; or as a reward to-

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) an elector of the Panchayat area for having voted or refrained from voting;

(B) the receipt of or agreement to receive any gratification, whether as a motive or a reward-

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or 1 Section 179 deleted vide Act No. 18 of 2000.

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce an elector of the Panchayat area to vote or refrain from voting, or any candidate to withdraw his candidature. Explanation.- For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bonafide incurred at, or, for the purpose of, any election.

(2) Under influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent, with the free exercise of any electoral right: Provided that-

(a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who-

(i) threatens any candidate or a member of the Sabha, or any person in whom a candidate or such member is interested, with injury of any kind including social ostracism and excommunication

or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate of an elector of the Panchayat area to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure; shall be deemed to interfere with the free exercise of the electoral right of such candidate or an elector of the Panchayat area within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or, withdrawal, of any candidate, being a statement, reasonably, calculated to prejudice the prospects of the candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his agent, for the conveyance of an elector of the Panchayat area (other than the candidate himself, the members of his family or his agent) to or from any polling station or a place fixed for the poll. Explanation.- In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by

mechanical power for otherwise and whether used for drawing other vehicles or otherwise. 1 [(6-A) The incurring or authorising of expenditure in contravention of section 121-A.]

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or by any other person with the consent of a candidate or his agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government, the Government of India or the Government of any other State or a local authority.

### **181. Appeals :-**

Notwithstanding anything contained in this Act, any person aggrieved by an order made by the authorised officer under this chapter, may, within the prescribed time and in the prescribed manner, appeal- 2 [(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 3 [Divisional Commissioner] to the Government of Himachal Pradesh; and

(iii) in case the order is passed by the 4 [Divisional] Commissioner, to the Financial Commissioner (Revenue) to the Government of Himachal Pradesh,] 1 Inserted vide Act No. 18 of 2000. 2 Existing clauses (i) and (ii) subs. and clause (iii) added vide Act No. 22 of 2001. 3 Subs. for the words "Financial Commissioner (Revenue)" vide Act No. 17 of 2008. 4 Added vide Act no.17 of 2008. and he shall hear and dispose of the appeal with in period of 90 days whose decision shall be final.]

### **182. Bar Of Interference By Courts In Election Matters :-**

Notwithstanding anything contained in this Act, the validity] of any law relating to the delimitation of constituencies, or the allotment of seats in such constituencies, made or purported to be made under this Act shall not be called in question in any Court.

### **183. Power To Make Rules For Conduct Of Elections :-**

The State Government may, by notification in the Official Gazette and in consultation with the State Election Commission, make rules for the composition of Panchayats, conducting the election, issue of symbols and all matters relating to or in connection with elections to the Panchayats.

**184. Preparation Of Development Plans :-**

(1) Every Panchayat shall prepare every year a development plan to perform functions specified in Schedule-I and Schedule-II and such other functions as may be specified by the State Government, in so far as the Panchayat funds allow to perform such functions within its respective area.

(2) Every Panchayat shall prepare every year a development plan of schemes for economic development and social justice for their respective area and submit it to the District Planning Committee constituted under this Act.]

**185. District Planning Committee :-**

(1) The Government shall constitute in every district a District Planning Committee to consolidate the plans prepared by the Zila Parishad, Panchayat Samitis, Gram Panchayats, Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The District Planning Committee shall consist of:- 3 [(a) A Minister 4 [or Speaker or Deputy Speaker] to be chosen by the State Government who shall also be the Chairperson of the District Planning Committee;] 5 [(aa) Members of the House of People who represent the whole or part of the district; ]

(b) the Chairman of the Zila Parishad;

(c) Mayor or the President of the Municipality having jurisdiction over the headquarters of the district; 1 Subs. for the words "The validity" vide Act No. 18 of 2000. 2 Section 184 subs. vide Act No. 4 of 2001 w.e.f. 15.11.2000. 3 Clause (a) inserted vide Act No. 4 of 2001 w.e.f. 15.11.2000. 4 .Ins. vide Act No. 15 of 2007 . 5 Existing Clause (a) renumbered as (aa) vide Act No. 4 of 2001 w.e.f. 15.11.2000. (d) such number of persons not less than four-fifth of the total number of members of the Committee as may be specified by the Government, elected by, in the prescribed manner from amongst, the elected members of the Zila Parishad and Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district.

(3) All the members of the State Legislative Assembly whose constituencies lie within the district, and who are registered as electors in the district 1 [xxx] and the representatives of the Co-operative Bank and Land Development Bank shall be permanent

invitees of the Committee. 2 [(4) The Deputy Commissioner of the District concerned shall be the Secretary of the Committee.] 3

(5) [xxx]. (

6) The District Planning Committee shall consolidate the plans prepared by the Zila Parishad, Panchayat Samitis, Gram Panchayats and Municipalities in the district and prepare a draft development plan for the district as a whole.

(7) Every District Planning Committee shall in preparing the draft development plan-

(a) have regard to-

(i) the matters of common interest between the Zila Parishad, Panchayat Samitis, Gram Panchayats and Municipalities in the district including spatial planning, sharing of water and other physical and natural resource, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organizations as the Government may by order specify.

(8) The Chairman of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government.

#### CHAPTER 13

#### RULES AND BYE-LAWS

### **186. Power To Make Rules :-**

(1) The State Government may make rules for carrying out the purposes of this Act. 1 The words "and the Deputy Commissioner/District Magistrate" deleted vide . Act No. 15 of 2007. 2 .Sub-section

(4) subs. vide Act No. 15 of 2007 . 3 Sub-section (5) omitted vide Act No. 4 of 2001 w.e.f. 15.11.2000.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provisions of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules shall be subject to the condition of previous publication.

(4) All rules shall be laid on the Table of Legislative Assembly.

(5) In making any rule, the State Government may direct that a breach thereof shall be punishable with fine which may extend to

two hundred and fifty rupees and in the case of continuing breach with a further fine which may extend to five rupees for every day during which the breach continues after the first conviction.

#### **187. Bye-Laws :-**

(1) A Panchayat may make bye-laws consistent with this Act and rules made thereunder.

(2) In making bye-laws under sub-section (1) the Panchayat may direct that a breach thereof shall be punishable with a fine which may extend to two hundred and fifty rupees and in the case of the continuing breach with a further fine which may extend to five rupees for every day during which the breach continues after the first conviction.

(3) A bye-law shall not come into force until it has been confirmed by the prescribed authority.

(4) The manner of making bye-laws and their approval shall be such as may be prescribed.

#### **188. Model Bye-Laws :-**

(1) The State Government may from time to time make model bye-laws for the guidance of Panchayats.

(2) The State Government may direct Panchayats to adopt a model bye-laws after modifying the same to suit to the local conditions.

(3) If a Panchayat fails to comply with a direction under sub-section (2), within six months, the State Government may apply to such Panchayat such model bye-laws.

(4) The provisions of sub- section

(4) of section 187 shall apply to the adoptions or application of bye-laws under this section.

#### **189. Delegation Of Powers :-**

(1) The State Government may, by notification, delegate to or confer on any officer subordinate to it or to any Panchayat all or any of the powers conferred upon it by or under this Act, except the powers relating to framing of rules.

(2) The Director or the Deputy Commissioner, as the case may be, may delegate any of his powers under this Act, other than those delegated to or conferred upon him under sub-section (1), to an officer not below the rank of a Gazetted Officer.

**190. Members And Servants Of Panchayat To Be Public Servants :-**

Every office bearer of a Panchayat and every officer or servant thereof shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

**191. Indemnity For Acts Done In Good Faith :-**

No suit shall be maintainable against any Panchayat or any of its committees or any office bearer, officer or servant thereof or any person acting under the direction of any such Panchayat, its committee, office bearer, officer or servant, in respect of anything in good faith done or intended to be done under this Act or under any rules or bye-laws made thereunder.

**192. Certain Suits Against Members, Office Bearers Etc. To Be Defended At The Cost Of Panchayat :-**

With the previous permission of the Collector suit against any office bearer, officer or servant of a Panchayat arising out of anything done or any action taken by him under this Act or the rules or bye-laws made thereunder, shall be defended by the Panchayat concerned on behalf of such person and the expenses incurred on such defence shall be paid out of the funds of the Panchayat concerned.

**193. Bar For Suit In Absence Of Notice :-**

No suit shall lie against any Panchayat or any office bearer, officer or servant thereof or any person acting under the direction of any of the authorities, mentioned in this Act for anything done or purporting to be done under this Act unless a notice under section 80 of the Civil Procedure Code, 1908 (5 of 1908) has been duly served.

**194. Method Of Service :-**

Save as otherwise provided in this Act the service of any notice or other documents under this Act or under any rule, bye-law or order made thereunder shall be affected in the prescribed manner.

**195. Proceedings And Record Of Panchayats Open To Inspection :-**

Minutes of the proceedings at each meeting of a Panchayat or its committees shall be drawn up and recorded in a book to be kept for the purpose and shall, in the prescribed manner, be signed by the authority presiding the meeting and confirmed in the next meeting,



and subject to rules made under this Act and on the payment of such fee as may be prescribed, the records of Panchayat or any committee thereof, shall be open to inspection to the person who may desire it and certified copies thereof shall be given to the person who may apply for them on payment of such fee as may be prescribed.

**196. Prohibition Of Remuneration To Members :-**

No member of a Panchayat shall be granted any remuneration or allowance of any kind whatsoever by the Panchayat except in accordance with the rules made in this behalf.

**197. Panchayat In Default Of Owner Or Occupier May Execute Work And Recover Expenses :-**

Whenever under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land and default is made in the execution of such work the Panchayat, whether any penalty is or is not provided for such default, may cause such work to be executed, and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed and in case of default of payment, it shall be recoverable as arrears of land revenue.

**198. Acquisition Of Land :-**

Where any land is required for carrying out the purposes of this Act and the Panchayat is unable to acquire it by agreement, the State Government may at the request of the Panchayat and on the recommendation of the Collector proceed to acquire it under the provisions of the land Acquisition Act, 1894 (10 of 1894) and on payment by the Panchayat of compensation awarded under that Act, and all other charges incurred by the State Government in connection with the proceedings, the land shall vest in the Panchayat on whose account it has been so acquired.

(2) The Panchayat shall not without the previous sanction of the State Government transfer any land which has been acquired under sub-section (1) or divert such land to a purpose other than the purpose for which it has been acquired.

**199. Power To Remove Difficulties :-**

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with the provisions thereof which appears to it to be

necessary or expedient for the purpose of removing the difficulty: Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid on the Table of the Legislative Assembly.

## **200. Repeal And Savings :-**

(1) On and from the date of commencement of this Act, the Himachal Pradesh Panchayat Raj Act, 1968 (19 of 1968), shall stand repealed (hereinafter referred to as the repealed Act): Provided that the repeal shall not affect,-

(a) the previous operation of the repealed Act, or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or, remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act has not been enforced: Provided further that subject to the preceding proviso anything done or any action taken (including any appointment, or delegation made notification, notice, order, instruction or direction issued, rule, regulation, byelaws, form, or scheme framed, certificate obtained, permit or licence granted, registration affected, tax imposed or fee or rate levied), under the repealed Act shall, in so far as it is in force immediately before the coming in to force of this Act and is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(2) The existing Panchayats shall continue till the expiration of their duration, unless sooner dissolved under the provisions of this Act or by a resolution passed to that effect by the Legislative Assembly.

(3) The arrangement existing for the Gram Panchayat, Panchayat Samiti and Zila Parishad under the repealed Act shall continue, until the corresponding Gram Panchayat, Panchayat Samiti and Zila Parishad, as the case may be, is constituted under this Act.

(4) The Deputy Commissioner shall apportion the assets and liabilities of the existing Gram Panchayats, amongst the corresponding Gram Panchayats constituted under this Act, according to the guidelines issued by the State Government for the purpose. 1

(5) The Deputy Commissioner shall apportion the assets and liabilities of the Panchayat Samitis and the Director shall apportion the assets and liabilities of the Zila Parishad, in the event of their bifurcation or reorganization, as the case may be.

(6) The assets and liabilities shall be apportioned in accordance with the guidelines issued by the State Government from time to time for this purpose.]

#### SCHEDULE 1

##### 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;
- Sub-sections (5) and (6) added vide Act No. 18 of 2000.  
Existing Schedule-I subs. vide Act No. 22 of 2001.
- (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 disused 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 corpses 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 births, deaths and marriages.]

## SCHEDULE 2

### SCHEDULE II

[See sections 11(2), 83 and 94]

1. Agriculture, including agricultural extension.
2. Land improvement and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi Village and Cottage Industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular of the Scheduled Castes and Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

## SCHEDULE 3

### SCHEDULE III

(See section 32)

#### OFFENCES COGNIZABLE BY A GRAM PANCHAYAT

No.	Name of Act/Code	Offence	Section
1.	2.	3.	4.
1.	Indian Penal Code	Committing affray	160
2.	-do-	Absconding to avoid service of summons or	172

		other proceedings	
3.	-do-	Obstructing service or publicising of summons issued by lawful authority	173
4.	-do-	Refusing oath or affirmation when duly required by a public servant	178
5.	-do-	Refusing to answer a public servant authorised to question	179
6.	-do-	Refusing to sign statement	180
7.	-do-	Intentional insult or interruption to a public servant sitting in judicial proceeding	228
8.	-do-	Offences relating to weights and measures mentioned in Chapter XIII	264 to .. 267
9.	-do-	Negligently doing an act dangerous to human life	269
10.	-do-	Defiling the water or public spring or reservoir	277
11.	-do-	Danger of obstruction in public way or line of navigation	283
12.	-do-	Dealing with fire or any combustible matter as to endanger human life etc.	285
13.	-do-	Dealing with any explosive substance as to endanger human life etc.	286
14.	-do-	Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair	288
15.	-do-	Negligent conduct with respect to any animal	289
16.	-do-	Committing a public nuisance	290
17.	-do-	Obscene acts and songs	294
18.	-do-	Voluntarily causing hurt	323
19.	-do-	Voluntarily causing hurt on provocation	334
20.	-do-	Wrongfully restraining any person	341
21.	-do-	Assault or use of criminal force otherwise than on grave provocation	352
22.	-do-	Theft where the value of the property stolen does not exceed Rs.250/-; provided that no Gram Panchayat shall take cognizance of any such complaint if the accused- (i) has been previously convicted of an offence under Chapters XII or XVII of the Indian Penal Code punishable with imprisonment of either description for a term of three years or upwards; or (ii) has previously been fined for theft or receiving or retaining stolen property by any Panchayat; or (iii) is a registered habitual offender under any law for the time being in force; or (iv) has been bound over to be of good behaviour in proceedings instituted under section 109 or 110 of Criminal Procedure Code, 1973 (V of 1974) ; or (v) has had an order or restriction passed against him under the Himachal Pradesh Restriction of Habitual	379

		Offenders Act, 1973 (9 of 1974) ; or (vi) has been previously convicted for gambling.	
23.	-do-	Dishonest misappropriation	403*
24.	-do-	Criminal breach of trust	406*
25.	-do-	Dishonestly receiving or retaining stolen property	411*
26.	-do-	Cheating	417*
*Provided that the amount of property does not exceed Rs. 250/-.			
27.	-do-	Mischief when the damage or loss caused does not exceed fifty rupees in value	426
28.	-do-	Mischief and thereby causing damage to property or loss of Rs. 50 or exceeding Rs.50 in value	427
29.	-do-	Maiming of animal of the value of Rs. 10	482
30.	-do-	Mischief by killing or maiming a cattle etc. of any value or any animal of the value of Rs. 50	429
31.	-do-	Criminal trespass	447
32.	-do-	Insult intended to provoke breach of the peace	504
33.	-do-	Punishment for criminal intimidation etc.	506
34.	-do-	Uttering any word or making any gesture intended to insult the modesty of a woman	509
35.	-do-	Misconduct in public by a drunken person	510
36.	-do-	Punishment of offences covered by clauses (a), (b) and (d) of section 22	22 .. except clause (c).
37.	-do-	Forcibly opposing the seizure of cattle or re-securing the same.	24
38.	-do-	Causing damage to land or crops or public roads by pigs	26
39.	-do-	Penalty for selling tobacco to children	3
40.	-do-	Seizure of tobacco from juveniles in a public place	4
41.	-do-	Penalty for owning or keeping or having charge of gambling house	3
42.	-do-	Penalty for being found in a gambling house	4
43.	-do-	Penalty on persons arrested for giving false names and address	7
44.	-do-	Offences under sections 22, 158 and 187 under this Act.	

#### SCHEDULE 4

#### SCHEDULE IV

(See Section 46)

#### PERIOD OF LIMITATION FOR CERTAIN CLAIMS

	<b>Description of suits</b>	<b>Period of Limitation</b>	<b>Time from which period begins to run</b>
	1	2	3

1.	For money due on a contract	Three Years	When the money became due to the plaintiff.
2.	For the recovery of movable property or value thereof.	Three Years	When the plaintiff became entitled to the delivery of the movable property.
3.	For compensation for wrongfully taking or injuring a movable property	Three Years	When the movable property was wrongfully taken or when injury was done to it.
4.	For damages caused by cattle trespass.	One Year	When the damage was caused by the cattle trespass.

#### SCHEDULE 5

#### SCHEDULE V

(See Section 127)

#### FORM OF OATH FOR OFFICE BEARERS OF PANCHAYATS

I, ..... swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a (name of office)

as of ....

(name of Panchayat)

and that I will do right to all manner of people in accordance with the Constitution and the Law without fear or favour, affection or ill-will.