

## **Bombay Village Panchayats Act, 1958**

### **3 of 1959**

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## **Bombay Village Panchayats Act, 1958**

### **3 of 1959**

An Act to amend and consolidate the law relating to the constitution and administration of Village Panchayats in the State of Bombay, and for certain other matters. WHEREAS it is expedient to amend and consolidate the law relating to the constitution and administration of village panchayats in the State of Bombay with a view to establishing a village panchayat for every village or group of villages and investing them with such powers and authority as may be necessary to enable them to function as units of local self-government and of development activities in rural areas and for certain other matters; It is hereby enacted in the Ninth Year of the Republic of India as follows:-

#### **CHAPTER 1** Preliminary

##### **1. Short title :-**

This Act may be called the BOMBAY VILLAGE PANCHAYATS ACT, 1958 .

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

(1) It extends to the whole of the [State of Maharashtra], except the areas within the limits of a municipal corporation, municipality or cantonment established by or under any law for the time being in force.

(2) It shall come into force on such date [as the State Government may, by notification in the official Gazette, appoint

##### **3. Definitions :-**

In this Act unless the context otherwise requires - [\*\*\*]

(a2) "Auditor" means an Auditor as defined in the Bombay Local Fund Audit Act, 1930 [and in relation to a panchayat having an annual income (including grant received from the State Government) of less than Rs.5,000, also includes an Extension Officer duly authorised in writing by the Chief Executive Officer;

(a3) "Backward Class of citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be other Backward Classes and Vimukta Jatis and Nomadic Tribes;

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

(2) "bye-laws" means the bye-laws made by the [Zilla parishad] under Section 177 ;

(3)\*\*\*]

(4) "cattle" includes elephant, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, swine, sheep, ewes, rams, lambs, goats and kids;

(5) \* \* \*]

(6) "Zilla Parishad" means a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961;

(7)\* \* \*

(8) "factory" means a factory as defined in the Factories Act, 1948 ;

(8A) "Finance Commission" means the Finance Commission constituted in accordance with the

provisions of Article 243-1 of the Constitution of India;

(9) "Gram Sabha" means a body consisting of person registered in the electoral rolls relating to village comprised within the area of the panchayat;

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

(11) "list of voters" means a list of voters provided for and maintained, under Section 12 ;

(12)\* \* \*]

(13)\* \* \*]

(14) "panchayat" means a panchayat established or deemed to have been established under this Act;

(14A) "population" means the population as ascertained at the last preceding census of which the relevant figures, [\*\*\*] have been published;

(15) "prescribed" means prescribed by rules;

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

(17) "Sarpanch" and "Upa-Sarpanch" means a Sarpanch and Upa-Sarpanchelected under Section 30 , [30A], 41 or 43;

(17A) Scheduled Areas means the Scheduled Areas referred to in clause (1) of Art.244 of the Constitution of India ;

(18) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be scheduled Castes in relation to the [State of Maharashtra ] under Art.341 of the Constitution of India ;

(19) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be scheduled Tribes in relation to the State of Maharashtra under Art.342 of the Constitution of India ;

(20) "Secretary" means a secretary of a panchayat appointed or deemed to be appointed under Section 60 of this Act;

(20A) "State Election Commission", means the State Election Commission consisting of a State Election Commissioner appointed in accordance with the provisions of clause (1) of Art.243K of the Constitution of India ;

(21) "street" means any road, footway, square, Court, alley or passage accessible whether permanently or temporarily to the public, whether a thorough fare or not;

(22)\*\*\*]

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

(24) "village and "a group of villages" means the village or, as the case may be, a group of villages specified in the notification issued under clause (g) of Art.243 of the Constitution of India ;

(25) "ward" means an area into which a village is divided under clause (b) of sub-section (1) of Section 10 for the purpose specified therein;

(26) the expression "the term of a panchayat" means the period for which the members thereof elected or deemed to be elected shall hold office under Section 27 ;

(27) the expression "Standing Committee", Panchayat Samiti" [Chief Executive Officer"], [Block Development Officer" and "block grant"] shall have the meanings respectively assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961].

## **CHAPTER 2** Gram Sabhas, Establishment and Constitution of Panchayats

### **4. Declaration of village :-**

(1)[Every village specified in the notification issued under clause (g) of Article 243 of the Constitution of India shall be known by the name of that village specified in that notification; Provided that, where a group of revenue villages or hamlets or other such administrative unit or part thereof is [specified in that notification] to be a village, the village shall be known by the name of the revenue village, hamlet or as the case may be, administrative unit or part thereof, having the largest population.

(2)[Where the circumstances so require to include or exclude any local area from the local area of a village to or alter the limits of a village or that a local area shall cease to be a village, then the notification issued in the like manner after consultation with the Standing Committee and the

Panchayat concerned, at any time, may provide to -

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

(b) declare that any local area shall cease to be a village; and thereupon the local area shall be so included or excluded, or the limits of the village so altered, or, as the case may be, the local area shall cease to be a village.

#### **5. Establishment of panchayats :-**

In every village there shall be a panchayat.

#### **6. Establishment of panchayats :-**

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

(1) There shall be held at least [Four meetings] of the Gram Sabha [every financial year] on such date, at such [time and place, and in such manner], as may be prescribed [and if the Sarpanch or in his absence the Upa-Sarpanch fails without sufficient cause to] [hold] [any of such four meetings], he shall be disqualified for continuing as Sarpanch, or as the case may be, Upa-Sarpanch or for being chosen as such for the remainder of the term of office of the members [of the panchayat; and the Secretary of the panchayat shall also if, prima facie, found Provided that, the Sarpanch may, at any time of his own motion, and, shall, on requisition of the Standing Committee, Panchayat Samiti, or Chief Executive Officer, call a meeting of the Gram Sabha within the period specified in the requisition; and, on failure to do so, the Chief Executive Officer shall require the Block Development Officer to call the meeting within fifteen days from the date he is so required to do. The meeting shall, notwithstanding the provisions of sub-Section (3), be presided over by him, or any officer authorised by the Block Development Officer, in that behalf.

(2) Any officer authorised in this behalf by the [Standing Committee, Panchayat Samiti or Chief Executive Officer] by general or special order shall have the right to speak in, and otherwise to take part in, the proceedings of a meeting of the Gram Sabha, but shall not be entitled to vote.

(3) Unless otherwise provided in this Act, the Sarpanch, and in the absence of the Sarpanch, the Upa-Sarpanch shall preside over every meeting of the Gram Sabha. In the absence of the Sarpanch and Upa-Sarpanch, the members of the Gram Sabha shall elect one of the members of the panchayat present to preside.

(4) If any dispute arises as to whether a person is entitled to attend a meeting of gram Sabha, such dispute shall be decided by the person presiding, regard being had to the entry in the list of voters for a whole village or ward thereof, as the case may be, and his decision shall be final.

#### **8. Panchayat to place before Gram Sabha statement of accounts etc, and duties of Gram Sabha :-**

(1) The first meeting of the Gram Sabha in [every financial year] shall be held within two months from the commencement of that year, and the panchayat shall place before such meeting-

(i) the annual statement of accounts;

(ii) the report of the administration of the preceding financial year;

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

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

(v) any other matter which the [Standing Committee, Panchayat Samiti or Chief Executive Officer or any officer authorised by the Standing Committee or Panchayat Samiti] in this behalf, requires to be placed before such meeting.

(2) It shall be open to the Gram Sabha to discuss any or all of the matters placed before it under sub-Section (1) and the panchayat shall consider suggestions, if any made by the Gram Sabha.

(3) A Gram Sabha shall carry out any other functions as the State Government may by general

or special order require.

### **8A. Powers and duties of Gram Sabha in the Scheduled Areas :-**

It shall be competent for every Gram Sabha in the Scheduled Areas, -

- (i) to safeguard and preserve the traditions and customs of the tribals, their cultural identity, community resources and the customary mode of dispute resolution;
- (ii) to approve the plans, programmes and projects to be implemented by the panchayats and for social and economic development before such plans, programmes and projects are taken up for implementation by such panchayat.
- (iii) to issue to the panchayat certificate of utilization of funds by that panchayat for the plans, programmes and projects referred to in clause (ii);
- (iv) to identify and select persons as beneficiaries under the poverty alleviation and similar other programmes or schemes;
- (v) to enforce prohibition or to regulate/restrict through panchayat concerned, the sale and consumption of intoxicants;
- (vi) to issue to the panchayat with regard to the exploitation and regulation of trading of minor forest produce, subject to the provisions of the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997;
- (vii) to make recommendations through panchayat concerned with a view to prevent transfer or alienation of land in the Scheduled Areas and to take appropriate action through the panchayat to restore any unlawfully transferred or alienated land of a Scheduled Tribe;
- (viii) to make recommendations through the panchayat concerned with a view to exercise control over money-lending to the Scheduled Tribes;
- (ix) to make recommendations through the panchayat concerned with a view to exercise control over local plans and resources for such plans including tribal sub-plans.

### **9. Incorporation of Panchayats :-**

Every panchayat shall be a body corporate by the name of "the Village Panchayat of...", having perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, whether within or without the limits of the village over which it has authority and may in its corporate name sue and be sued.

### **10. Constitution of panchayats :-**

(1)[\*\*\*]

(a) A panchayat shall consist of,

(i) such number of members not being less than seven and not more than [seventeen as the [State Government may prescribe], who shall be elected in accordance with Section 11:

Provided that, the ratio between the population of the territorial area of a panchayat and the number of seats in such panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(ii)\*\*\*]

(b) Each village shall be divided into such number of wards, and the number of members of a panchayat-to be elected from each ward shall be such, as may be determined [in the prescribed manner by the State Election Commission or an officer authorised by it]:

[Provided that, the panchayat area shall be divided into wards in such manner that the ratio between the population of each ward and the number of seats allotted to it shall, so far as practicable, be the same throughout the panchayat area;

(2)

(a) In the seats to be filled in by election in a panchayat there shall be seats reserved for persons belonging to the Scheduled Castes, the Scheduled Tribes, Backward Class of citizens and women, as may be determined by the State Election Commission in the prescribed manner;

(b) the seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in a panchayat shall bear, as nearly as may be, the same proportion to the



total number of seats to be filled in by direct election in that panchayat as the population of the scheduled Castes or, as the case may be the Scheduled Tribes, in that panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different wards in a panchayat.

Provided that, in a panchayat comprising entirely the Scheduled Areas, the seats to be reserved for the Scheduled Tribes shall not be less than one-half of the total number of seats in the panchayat:

Provided further that, the reservation for the Scheduled Tribes in a panchayat falling only partially in the Scheduled Areas shall be in accordance with the provisions of clause (b):]

[Provided also that] one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

(c) the seats to be reserved for persons belonging to the category of Backward Class of citizens shall be 27 per cent, of the total number of seats to be filled in by election in a panchayat and such seats shall be allotted by rotation to different wards in a panchayat:

Provided that, in a panchayat comprising entirely the Scheduled Areas, the seats to be reserved for persons belonging to the Backward Class of citizens shall be 27 per cent of the seats remaining, if any, after reservation of the seats for the Scheduled Tribes and the Scheduled Castes:

Provided further that, the reservation for the persons belonging to the Backward Class of citizens in a panchayat falling only partially in the Scheduled Areas shall be as per the provisions of clause (c);

[Provided also that], one third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

(d) one third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) of the total number of

(2A) The reservation of seats (other than the reservation for women) under sub-section (2) shall cease to have effect on the expiration of the period specified in Art.334 of the Constitution of India .

(3) The names of the members falling under clause (a) of Sub-Section (1) shall be published by the State Election Commissioner in the prescribed manner.

(4) Notwithstanding anything in sub-section (1) where two-thirds or more of the total number of members required to be elected [under sub-clause (i) of clause (a) of sub-section (1) are elected, failure to elect the remaining members shall not affect constitution of the panchayat.

#### **10A. State Election Commission :-**

(1)The Superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the panchayats shall vest in the State Election Commissioner.

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any officer of the Commission or any officer of the State Government not below the rank of Tahsildar.

(3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of panchayats under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner;

(4) Notwithstanding anything contained in this Act and the Rules, the Commission may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act for fair and free elections.

#### **11. Election :-**

(1) An election to constitute a panchayat shall be completed:-

(a) in the case of the establishment of a panchayat for the first time, as soon as may be practicable;

(b) in the case of panchayat, existing for the time being, before the expiry of its duration of five years as prescribed in sub-section (1) of Section 27 ;

(c) in the case of the dissolved panchayat, 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;

(d) in the case of an interim panchayat referred to in Section 157 , before the expiry of the period of one year as specified in sub-section (1) of Section 158 .

(2) The election of members of panchayat or election to fill any vacancy shall be held on such date as the State Election Commission may appoint in this behalf.

(3) Notwithstanding anything contained in Section 10 , if the vacancy of a member occurs within six months preceding the date on which the term of office of the members of the panchayat expires under Section 27 , the vacancy shall not be filled.

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

## **12. List of voters :-**

(1) The electoral roll of the [Maharashtra Legislative Assembly] prepared under the provisions of the Representation of the People Act, 1950, and in force on such day as the [the State Election Commissioner may by order] notify in this behalf for such part of the constituency of the Assembly as is included in a ward or a village shall be the list of voters for such ward or village.

(2) An officer designated by the [State Election Commission] in this behalf shall maintain a list of voters for each such ward or village.

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

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

(2) Every person [who is not less than 21 years of age on the last date fixed for making nomination for every general election or bye-election and] whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected for any ward of the village. No person whose name is not entered in the list of voters for such village shall be qualified to be elected for any ward of the village.

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

## **13A. Vacation of seats :-**

If a person is elected to more than one seat in a village panchayat, then unless within the prescribed time he resigns all but one of the seats by notice in writing signed by These words were substituted for the words "Bombay Legislative Assembly" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960. him and addressed to the [State Election Commission or any officer authorised by it] in this behalf, all the seats shall become vacant.

## **14. Disqualifications :-**

(1) No person shall be a member of a panchayat or continue as such, who-

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

(i) of an offence under the Untouchability (Offences) Act, 1955, or under the Bombay Prohibition Act, 1949 or any law corresponding thereto in force in any part of the State, unless a period of five years, or such lesser period as the State Government may allow in any particular case, has elapsed since his conviction, or

(ii) of any other offence and been sentenced to imprisonment for not less than six months, unless a period of five years, or such lesser period as the State Government may allow in any

particular case, has elapsed since his release; or

(a1) has been disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the Maharashtra State: Provided that, no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

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

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

(c1) having held any office under any Government or local authority, has, whether before or after the commencement of this Act, been dismissed for misconduct, unless a period of five years has elapsed since his dismissal; or

(d) has been removed from office under Sub-Section (1) of Section 39 and a period of five years has not elapsed from the date of such removal, unless he has, by an order of the State Government notified in the Official Gazette, been relieved from the disqualification arising on account of such removal from office; or

(e) has been disqualified from holding office under sub-section (2) of Section 39 and the period for which he was so disqualified has not elapsed; or

(f) holds any salaried office or place of profit in the gift or disposal of the panchayat while holding such office or place, or

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract with, by or on behalf of, or employment with or under, the panchayat; or.

(h) fails to pay any tax or fee due to the panchayat [or the Zilla parishad within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him; or

(h1) fails to pay the amount of surcharge or charge under Section 140 or the amount ordered to be paid under Section 178 together with interest, if any, within the period provided in that behalf, and where an appeal has been made, then within one month from the date of receipt of the decision rejecting such appeal;

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

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

(j-1) has more than two children:

Provided that, a person having more than two children on the date of commencement of the B Bombay Village Panchayats, and the Maharashtra Zilla Parishadas, and panchayat Samitis (Amendment) Act, 1995 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that, a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause; or

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

Explanation 1:- A person shall not, by reason only of his being a share holder in or a member of, any incorporated or registered company or a co-operative society registered under any law for the time being in force in the [State of Maharashtra], be held to be interested in any contract entered into between the company or co-operative society and the panchayat.

Explanation 1-A - A person shall not be disqualified under clause (g) by reason only of such person, -

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

(ii) having a share or interest in the occasional sale to the panchayat of any article in which he regularly trades, or in the purchase from the panchayat of any article, of a value in either case not exceeding in any financial year two hundred rupees; or

(iii) having a share or interest in the occasional letting out on hire to the panchayat or in the hiring from the panchayat of any article for an amount not exceeding any financial year twenty-five rupees or such higher amount not exceeding one hundred rupees, as the panchayat, with the sanction of the Collector may fix in this behalf; or

(iv) having any share or interest in any lease for a period not exceeding ten years, of any immovable property or in agreement for the same; and before such lease or agreement is executed, the Block Development Officer certifies that no other suitable premises were available to the panchayat on lease.

Explanation 2:-For the purposes of clause (h) -

Explanation 1-A was inserted by Mah. 36 of 1965, s. 8(3)

(i) a person shall not be deemed to be disqualified if he has paid the amount of any tax or fee due, prior to the day prescribed for the nomination of candidates;

(ii) failure to pay any tax or fee due to the panchayat by a member of an undivided Hindu family, or by a person belonging to a group or unit the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such undivided Hindu family or as the case may be all the members of such group or unit.

Explanation 3:- For the purposes of clause (i), a Police-patil appointed under Section 5 of the Maharashtra Village Police Act, 1967, shall be deemed to be a servant of Government.

Explanation 4:- For the purposes of clause (g) a person shall not be deemed to have any share or interest in any employment by reason only of any relation of his being employed with or under a panchayat, as an officer or servant thereof.

Explanation 5:- For the purpose of clause (j-1), -

(i) where a couple has only one child on or after the date of such commencement ,a y number of children born out of a single subsequent delivery shall be deemed to be one entity;

(ii) "child" does not include an adopted child or children.]

(2)

(a) A person shall be disqualified for being a member of a panchayat or for contesting an election for being elected as such member, for a period of six years, if, an order is passed by the concerned authority, under sub-section (5) of Section 15 or Section 16 , as the case may be, holding that such person was elected as a member to a seat which was reserved for a member belonging to a Scheduled Caste, Scheduled Tribes or a Backward Class of citizens (hereinafter referred to as "a reserved category"), on the basis of a false claim or a false Caste Certificate, declaring that such person belonged to such reserved category.

(b) Such period of disqualification shall be computed with effect from the date of passing of such order either under sub-section (5) of Section 15 or the order of the Collector being upheld by the State Government in appeal under Sub-Section (2) of Section 16 , as the case may be.

(3)

(a) Notwithstanding anything contained in sub-section (2), a member of a panchayat who has been elected to a reserved seat [as mentioned in sub-section (2)], shall be disqualified for being such member consequent upon the Caste Certificate verification Committee or any other Competent Authority specified by the State Government for the purpose of scrutiny of the Caste Certificate, declaring the Caste Certificate of such member to be invalid and cancelling the same, on the ground of the same having been based on a false claim or declaration made by such person claiming to be belonging to the reserved category, and thereupon the member shall be deemed to have vacated his office on and from the date of declaration of such Certificate to be invalid and cancellation of the same by the said Committee or the Competent Authority.

(b) On any person having been disqualified for being a member and consequently, his seat as such member having become vacant under clause (a), the Collector shall, by notification in the Official Gazette, disqualify such person for being elected or being a member for a period of six years from the date of such order.

#### **14A. Disqualification arising out of certain convictions and corrupt practices under this Act :-**

If any person,

(a) is convicted of an offence punishable under Section 153A or Section 171E or S.171F of the Indian Penal Code, 1860 or sub-section (2) or Sub-Section (3) of Section 505 Of the Indian Penal Code, 1860 or of an offence punishable under S.24 of the Indian Penal Code, 1860 or clause (a) of Sub-Section (2) of S.25 of the Indian Penal Code, 1860 this Act; or

(b) is upon trial of an election petition under S.15 of the Indian Penal Code, 1860 found guilty of any corrupt practice, he shall be disqualified for being elected, or for continuing as a member, or

for voting at any election to a panchayat unless a period of six years from the date of the conviction or from the date on which a declaration that the candidate is disqualified is made under Sub-Section (5) of Section 15 of this Act, or such lesser period which the State Government may allow in any particular case has elapsed.

### **15. Determination of validity of elections :-**

: enquiry by judge -.procedure:-

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

(2) Any enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise all the powers of a Civil Court, and his decision shall be conclusive. If the election is set aside, a date for holding a fresh election shall forthwith be fixed under Section 11 .

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

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

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

(4) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (a) any application to be compromised or withdrawn or (b) any person to alter or amend by pleading unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is bona fide and not collusive.

(5)

(a) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (6) [or submitted a false claim or a false Caste Certificate], he shall declare the candidate disqualified for the purpose of that election and of such fresh election as may be held under [sub-section (2)] and shall set aside the election of such candidate if he has been elected.

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

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

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

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

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

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

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

to and from any polling station:

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

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

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

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

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

(7) If the validity of any election is brought in question only on the ground of an error made by the officer charged with carrying out the rules made in this behalf under Section 176 read with Sub-Section (2) of Section 10 and Section 11, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

#### **15A. Bar to interference by Courts in electoral matters :-**

No election to any panchayat shall be called in question except in accordance with the provisions of Section 15 ; and no Court other than the Judge referred to in that Section shall entertain any dispute in respect of such election.

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

(1) If any member of a panchayat,

(a) who is elected or appointed as such, was subject to any of the disqualification mentioned in Section 14 at the time of his election or appointment, or

(b) during the term for which he has been elected or appointed, incurs any of the disqualifications mentioned in Section 14 , he shall be disabled from continuing to be a member, and his office shall become vacant.

(2) [If any question whether a vacancy has occurred under this Section is raised by the Collector suo motu or on an application made to him by any person in that behalf, the Collector shall decide the question as far as possible within sixty days from the date of receipt of such application. Until the Collector decides the question, the member shall not be disabled under Sub-Section (1) from continuing to be a member.] Any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of such decision, appeal to the State Government, and the orders passed by the State Government in such appeal shall be final:

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

#### **17. . :-**

Fresh election if election or appointment is invalid Deleted by Mah. 36 of 1965, s. 11

#### **18. Prohibition of canvassing in or near polling stations :-**

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

(a) canvassing for votes; or

- (b) soliciting the vote of any voter; or
  - (c) persuading any voter not to vote at the election; or
  - (d) persuading any voter not to vote for any particular candidate; or
  - (e) exhibiting any notice or sign (other than an official notice) relating to the election.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (3) An offence punishable under this Section shall be cognizable.

**19. Penalty for disorderly conduct in or near polling station :-**

- (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 loud-speaker, or
  - (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any
- (2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of Sub-Section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this Section he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.
- (4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of Sub-Section (1), and may seize any apparatus used for such contravention.

**20. Penalty for misconduct at polling station :-**

- (1) Any person who during the hours fixed for the poll at any polling station, misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (4) An offence punishable under Sub-Section(3) shall be cognizable.

**21. Maintenance of secrecy of voting :-**

- (1) Where an election is held by ballot, every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

**22. Officers etc. at elections not to Act for candidates or influence voting :-**

- (1) No person who is a returning officer, or a presiding or polling officer at an election or an

officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the giving of his vote) for the furtherance of the prospects of the election of a candidate.

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

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

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

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

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

### **23. Breaches of official duty in connection with elections :-**

(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, on convictions, be punished with fine which may extend to five hundred rupees.

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

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

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

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

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before "such person leaves the polling station, arrest or direct a police officer to arrest such person and may 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 made 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 cognisable.

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

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

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

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

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

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

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

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or



ballot papers then in use for the purposes of the election; or

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

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

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

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

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

(4) An offence punishable under clause (b) of Sub-Section (2) shall be cognizable.

## **26. Prosecution in certain offences :-**

No Court shall take cognizance of an offence punishable under Section 22 or under Section 23 or under clause (a) of Sub-Section (3) of Section 25 unless there is complaint made by an order for under authority form, the Collector.

## **27. Term of officer of members :-**

(1) The members of a panchayat shall, save as otherwise provided in this Act, hold office for a [term of five years.

(2) The members of a panchayat constituted upon its dissolution before the expiration of its duration shall continue only for the remainder of the period for which the members of the dissolved panchayat would have continued under sub-section (1) had it not been so dissolved.

## **28. Commencement of term of office :-**

(1) The term of office of the members elected at a general election [\* \* \*] or appointed under sub-section (3) of Section 10 shall be deemed to commence on the date of the first meeting of the panchayat. The first meeting of the panchayat shall be held on a day fixed by the [Collector] [as soon as may be after the publication of the names of the elected members under Section 10 ; and such date shall not -

(i) in the case of first meeting after general election, be later than the day immediately following the day of expiry of the term of outgoing members; and

(ii) in the case of election held after the dissolution of the panchayat be later than the date of expiry of the period of six months from the date of dissolution of the panchayat.

[\* \* \*]

[\* \* \*]

## **29. Resignation of member and disputes regarding resignation :-**

(1) Any member who is elected may resign his office by writing under his hand addressed to the Sarpanch and the Sarpanch may resign his office of members by writing under his hand addressed to the Chairman of the panchayat Samiti. The resignation shall be delivered in the manner prescribed.

(2) On receipt of the resignation under sub-section (1), the Sarpanch or, as the case may be, the Chairman of the panchayat Samiti shall forward it to the Secretary who shall place it before the meeting of the panchayat next following.

(3) If any member or the Sarpanch whose resignation is placed before the meeting of the panchayat wants to dispute the genuineness of the resignation, he shall refer such dispute to the Collector within seven days from the date on which his resignation is placed before the

meeting of the panchayat. On the receipt of dispute, the Collector shall decide it, as far as possible, within fifteen days from the date of its receipt.

(4) The member of Sarpanch aggrieved by the decision of the Collector may, within seven days from the date of receipt of the Collector's decision, appeal to the Commissioner who shall decide it, as far as possible, within fifteen days from the date of receipt of the appeal.

(5) The decision of the Collector, subject to the decision of the Commissioner in appeal, shall be final.

(6) The resignation shall take effect, -

(a) where there is no dispute regarding the genuineness, after the expiry of seven days from the date on which it is placed before the meeting of the panchayat;

(b) where the dispute is referred to the Collector and no appeal is made to the Commissioner after the expiry of seven days from the date of rejection of the dispute by the Collector;

(c) where an appeal is made to the Commissioner, immediately after the appeal is rejected by the Commissioner.

### **30. Election of Sarpanch :-**

(1) Every panchayat shall be presided over by a Sarpanch who shall be elected by, and from amongst, the elected members thereof.

(2) The election of the Sarpanch shall be held in the first meeting held after every general election.

(3) No member of a panchayat shall be eligible for being elected, or for continuing, as Sarpanch if he holds the office of the President or Vice-President of any Zilla Parishad or Chairman of any Subjects Committee thereof or the Chairman or the Deputy Chairman of any panchayat Samiti; and if a Sarpanch is elected to any of such offices, his office as Sarpanch shall become vacant from the date of such election.

(4) There shall be reservation in the offices of the Sarpanchas in the panchayat for the members belonging to the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and women as follows:-

(a) the number of offices of Sarpanchas to be reserved for the Scheduled Castes and the Scheduled Tribes in the panchayat shall bear, as nearly as may be, the same proportion to the total number of such offices in the panchayats as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State [excluding the population of the Scheduled Tribes in a panchayat comprising entirely the Scheduled Areas] bears to the total population of the State:

Provided that, the office of the Sarpanch of a panchayat comprising entirely the Scheduled Areas shall be reserved only for the persons belonging to the Scheduled Tribes:

Provided further that, the office of the Sarpanch of a panchayat falling only partially in the Scheduled Areas shall be reserved for the persons belonging to the Scheduled Tribes in accordance with the provisions of clause (a):]

[Provided also that], one-third of the total number of offices so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

(b) the offices of Sarpanchas to be reserved for persons belonging to the category of Backward Class of citizens shall be 27 per cent of the total number of such offices in the panchayats:

Provided that, one-third of the offices so reserved shall be reserved for women belonging to the category of Backward Class of citizens.

(c) one-third of total number of offices of Sarpanchas (including the number of offices reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) in the panchayat shall be reserved for women.

(5) The number of offices reserved under this section shall be allotted by rotation to different panchayats in the prescribed manner.

(6) The reservation of offices of Sarpanchas (other than the reservation for women) shall cease to have effect on the expiration of the period specified in Art.334 of the Constitution of India .

### **30A. Election of Upa-Sarpanch :-**

- (1) Every panchayat shall elect one of its elected members to be Upa-Sarpanch.
- (2) The provisions of Sub-Sections (2) and (3) of Section 30 shall mutates mutandisi apply in the case of Upa-Sarpanch

### **31. Term of office of Sarpanch and Upa-Sarpanch :-**

Save as otherwise provided in this Act, a Sarpanch and an Upa-Sarpanch shall hold office for the term of the panchayat.

[\* \* \*]

### **32. Term of office of Sarpanch and Upa-Sarpanch :-**

#### **32A. Travelling and daily allowances to members :-**

The members of a panchayat (including its Sarpanch and Upa-sarpanch) may be paid such traveling and daily allowances for journeys undertaken in relation to any business of the panchayat as may be prescribed.

### **33. Procedure for election of Sarpanch and Upa-Sarpanch :-**

- (1) On the establishment of a panchayat for the first time under this Act, or on its reconstitution or establishment under Sections 145 and 146. or on the expiry of the term [\* \* \*] of a panchayat a meeting shall be called on the date fixed under Sub-Section (1) of Section 28 by the [Collector], for the election of the Sarpanch and Upa-Sarpanch. In the case where the offices of both the Sarpanch and Upa-Sarpanch become vacant simultaneously, a meeting shall be called on the date fixed by the [Collector], for the election of the Sarpanch and Upa-Sarpanch.
- (2) The meeting called under Sub-Section (1) shall be presided over by such officer as the [Collector] may by order appoint in this behalf. The officer aforesaid shall, when presiding over such meeting, have the powers and follow the procedure prescribed, but shall not have the right to vote.
- (3) No business other than the election of the Sarpanch and Upa-Sarpanch shall be transacted at such meeting.
- (4) If in the election of the Sarpanch or Upa-Sarpanch there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the officer presiding in such manner as he may determine.
- (5) In the event of a dispute arising as to the validity of the election of a Sarpanch or Upa-Sarpanch under Sub-Section (1) [the officer presiding over such meeting or any member [\* \*] may, within fifteen days from the date of the election, refer the dispute to the Collector for decision. An appeal against the decision of the Collector may, within fifteen days from the date of such decision, be filed before the Commissioner, whose decision shall be final. The Collector or commissioner shall give this decision as far as possible within sixty days of the receipt of the reference, or as the case may be, appeal.

#### **33A. Sumptuary allowance to Sarpanch :-**

Subject to any rules made by the State Government in this behalf, there shall be placed at the disposal of the Sarpanch, a sum equal to two per cent, of the annual income of the panchayat or six thousand rupees per annum, whichever is less, as sumptuary allowance.

### **34. Resignation by Sarpanch or Upa-Sarpanch :-**

- (1) The Sarpanch may resign his office by writing under his hand addressed to the Chairman of the Panchayat Samiti. [\* \* \*]
- (2) The Upa-Sarpanch may resign his office by writing under his hand addressed to the Sarpanch [\* \* \*]
- (3) The notice of resignation shall be delivered in the manner prescribed.
- (4) The provisions of Sub-Sections (2), (3), (4), (5) and (6) of Section 29 shall mutatis

mutandis apply to the resignations tendered under sub-sections (1) and (2) of this Section as they apply to the resignation tendered under sub-section (1) of that Section.

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

(1) A motion of no confidence may be moved by not less than [one-third] of the total number of the members [\* \* \*] who are for the time being entitled to sit and vote at any meeting of the panchayat against the Sarpanch or the Upa-Sarpanch after giving such notice thereof to the Tahsildar as may be prescribed. [Such notice once given shall not be withdrawn].

(2) Within seven days from the date of receipt by him of the notice under Sub-Section (1), the tahsildhar shall convene a special meeting of the panchayat for considering the motion of no confidence at the office of the panchayat at a time to be appointed by him and he shall preside over such meeting. At such special meeting, the Sarpanch, or the Upa-Sarpanch against whom the motion of no confidence is moved shall have a right to speak or otherwise to take part in the proceedings at the meeting (including the right to vote).

(3) If the motion is carried by [a majority of not less than two third of] [\* \* \*] the total number of the members [\* \* \*] who are for the time being entitled to sit and vote at any meeting of the panchayat the Sarpanch or the Upa-Sarpanch, as the case may be, shall cease to hold office after seven days from the date on which the motion was carried unless he has resigned earlier or has disputed the validity of the motion so carried as provided in Sub-Section (3-B); and thereupon the office held by such Sarpanch or Upa-Sarpanch shall be deemed to be vacant. [Provided that no such motion of no-confidence shall be brought within a period of six months from the date of election of Sarpanch or Upa-Sarpanch.

(3A) If a motion [is not moved or is not carried] by [a majority of not less than two-third of] [\* \* \*] the total number of the members [\* \* \*] who are for the time being entitled to sit and vote at any meeting of the panchayat, no such fresh motion shall be moved against the Sarpanch or, as the case may be, the Upa-Sarpanch within a period of [[one year from the date of such special meeting].

(3B) If the Sarpanch or, as the case may be, the Upa-Sarpanch desires to dispute the validity of the motion carried under Sub-Section (3), he shall, within seven days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it as far as possible, within fifteen days from the date on which it was received by him; and any such decision shall, subject to an appeal under Sub-Section (3-C), be final.

(3C) Any persons aggrieved by the decision of the Collector may, within seven days from the date of receipt of such decision, appeal to the Commissioner who shall decide the appeal, as far as possible, within fifteen days from the date on which the appeal is received by him, and any such decision shall be final.

(3D) Where on a reference made to him under Sub-Section (3B), the Collector upholds the validity of the motion carried under Sub-Section (3) and no appeal is made by the Sarpanch or the Upa-Sarpanch under Sub-Section (3C) within the limitation period specified in that sub-section, or where an appeal is made under sub-section (3C) but it is rejected by the Commissioner, the Sarpanch or as the case may be, the Upa-Sarpanch shall cease to hold office, in the former case immediately after the expiry of the said limitation period and, in the latter case, immediately after the rejection of the appeal, and thereupon the office held by such Sarpanch or Upa-Sarpanch shall be deemed to be vacant.

(4) In cases where the offices of both the Sarpanch and Upa-Sarpanch become vacant simultaneously, the District Village Panchayat Officer or such other officer as he may authorise in this behalf shall, pending the election of the Sarpanch exercise all the powers and perform all the functions and duties of the Sarpanch but shall not have the right to vote in any meetings of the panchayat.

### **36. Time and place of sitting of panchayat and procedure at meeting :-**

The time and place of sitting, and the procedure at a meeting of the panchayat shall be such as may be prescribed;

Provided that, if the Sarpanch, or in his absence the Upa-Sarpanch, fails without sufficient cause, to convene the meetings of the panchayat in any financial year according to the rules

prescribed in that behalf, he shall be disqualified for continuing as Sarpanch or, as the case may be, Upa- Sarpanch or for being chosen as such for the remainder of the term of office of the members of the panchayat. The decision of the Collector on the question whether or not there was sufficient cause shall be final.

### **37. Modification or cancellation of resolutions :-**

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

### **38. Executive power of panchayat functions of Sarpanch and Upa-Sarpanch :-**

(1) The executive power, for title purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the Sarpanch who shall be directly responsible for the due fulfillment of the duties imposed upon the panchayat by or under this Act. In the absence of the Sarpanch, the powers and duties of the Sarpanch shall, save as may be otherwise prescribed by rules, be exercised and performed by the Upa-Sarpanch.

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

(i) the Sarpanch shall

(a) save where otherwise provided in this Act, preside over] and regulate the meeting of the panchayat;

(b)\* \* \*]

(c) exercise supervision and control over the acts done and action taken by all officers and servants of the panchayat [including supervision over the keeping and maintenance of records and registers of the panchayat in the custody of the Secretary;

(d)\* \* \*]

(e)\* \* \*]

(f) \* \* \*]

(g)\* \* \*]

(h) cause to be prepared all statement and reports required by or under this Act;

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

(ia) a Sarpanch may issue under his signature and under the seal of the panchayat, income certificates which are required to be issued under any directions of Government;

(i) call meetings of Gram Sabha as provided in Section 7 and preside over them;

(ii) the Upa-Sarpanch shall, -

(a) in the absence of the Sarpanch preside over and regulate the meetings of the panchayat [except where otherwise provided in this Act;]

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

(c) pending the election of a Sarpanch or in case the Sarpanch has been continuously absent from the village for more than fifteen days or is incapacitated, exercise the powers and perform the duties of the Sarpanch.

(3) Every meeting of a panchayat shall, in the absence of both the Sarpanch and the Upa-Sarpanch, be presided over by such one of the members present as may be chosen by the meeting to be Chairman for the occasion.

(4) Save as otherwise provided by this Act. the powers, duties and functions of the Sarpanch shall, in cases where there is no person competent to exercise or perform them for any reason whatsoever, be exercised and performed by any member of the Gram Sabha nominated by the panchayat Samiti who is qualified to be elected. The member so nominated shall, when presiding over any meeting of the panchayat, have powers and follow the procedure prescribed, but shall not have the right to vote.

(5) Nothing contained in this Section shall make the Sarpanch liable for any action taken by the Secretary for which he is made solely responsible under Sub-Sections (3) and (4) of Section 57.

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

(1) The [Standing Committee] may [\* \* \*] remove from office any member or any Sarpanch or Upa-Sarpanch who has been [guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or of neglect of] or incapacity to perform his duty, or is [Standing Committee] also be removed from the panchayat:

Provided that, no such person shall be removed from office unless the Chief Executive Officer under the orders of the President of the Zilla Parishad concerned holds an inquiry after giving due notice to the panchayat and the person concerned; and the person concerned has been given a reasonable opportunity of being heard and thereafter the Chief Executive Officer submits his report to the Standing Committee.

(1A) Where a person is removed from office of the Sarpanch or Upa-Sarpanch, he shall not be eligible for re-election as Sarpanch or Upa-Sarpanch during the remainder of the term of office of members of the panchayat.

(2) The [Standing Committee] may subject to like condition disqualify for a period not exceeding five years, any person who has resigned his office as a member, Sarpanch or Upa-Sarpanch and has been guilty of the acts and omissions specified in Sub-Section (1):

Provided that such action is taken within a reasonable time after such resignation.

(3) Any person aggrieved by an order of the [Standing Committee] under Sub-Section (1) or (2) may, within a period of thirty days from the date of the communication of such order, appeal to the Commissioner.

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

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

(a) is absent for more than four consecutive months from the village, [(such absence not being on account of his being, a Chairman or Deputy Chairman of a panchayat Samiti)], unless leave not exceeding six months so to absent himself has been granted by the panchayat or

(b) absent himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat, shall cease to be a member and his office shall be vacant.

(2) If any question whether a vacancy has occurred under this Section is raised by the President of a Zilla Parishad suo motu or on an application made to him in that behalf, the President shall as far as possible decide the question within sixty days from the date of receipt of such application. Until the President decides the question, the member shall not be disabled from continuing to be a member of the panchayat. Any person aggrieved by the decision of the President may, within fifteen days from the date of such decision,, appeal to the State Government; and the decision of the State Government in appeal shall be final.

Provided that, no decision shall be given under this Sub-Section by the President against any member without giving him a reasonable opportunity of being heard.

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

#### **41. . :-**

Suspension of Sarpanch or Upa-Sarpanch Deleted by Mah. 2 of 1982, s.2

#### **42. Eligibility of certain members for re-election :-**

A member of a panchayat whose office has become vacant under [ Section 16 , if his disqualification or disability has ceased, or under Section 40 shall] be eligible for re-election.

#### **43. Filling up of vacancies :-**

(1) Any vacancy of which notice has been given to the [Collector] in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a

Sarpanch Upa-Sarpanch [\* \* \*] shall be filled, by the election of a Sarpanch or Upa-Sarpanch [\* \* \*], who shall hold office so long only as the Sarpanch, Upa-Sarpanch [\* \* \*], in whose place he has been elected, would have held office if the vacancy had not occurred: [\* \* \*] [\* \* \*]

(2) The meeting for the election of a Sarpanch under sub-section (1) shall be convened by the [Collector] in then manner described in sub-section (1) of section 33 .

#### **44. Vacancy not to affect proceedings of panchayat :-**

(1) During any vacancy in the panchayat the continuing members may act as if not vacancy had occurred.

(2) [Subject to the provisions of sub-section (1-A) of Section 145 , the panchayat] shall have power to act notwithstanding any vacancy in the membership or any defect in the constitution thereof; and such proceedings of the panchayat shall be valid notwithstanding that it is discovered subsequently that so person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

(3) No act or proceedings of a panchayat shall] be deemed to be invalid on account of any defect or irregularity in any such act or proceeding not affecting the merits of the case or on account of any irregularity in the service of notice upon any member or for mere informality.

### **CHAPTER 3** Administrative powers and duties

#### **45. Administrative powers and duties of panchayat :-**

(1) Subject to the general control of the Zilla parishad and the panchayat Samiti it shall be the duty of a panchayat so far as the village fund at its disposal will allow to make reasonable provision within the village with respect to all or any of the subjects enumerated in Schedule I as amended from time to time under Sub-Section (2) (in this Act referred to as "the village List") [It shall also be the duty of a panchayat, when the Zilla parishad or the State Government undertakes and completes, through its agencies, any piped water supply schemes (including works), at [out of the village Water supply Fund constituted under Section 132B ] such water supply schemes, whether completed before or after the date of commencement of the Maharashtra Zilla Parishads, and panchayat Samitis and Bombay Village Panchayats (Amendment) Act, 1981. Where any such schemes were completed and were not taken over by the panchayat before the said date, the panchayat shall take them over within thirty days from the said date, which shall be the period specified for such schemes, and where any such schemes are completed after the said date the panchayat shall take them over within such period as may be specified by the Zilla Parishad or as the State Government, as the case may be.

(2) The State Government may, by notification in the Official Gazette, omit any entry form Schedule I or add any entry thereto or amend any such entry and the schedule shall, on the issue of the Notification, be deemed to be amended accordingly:

Provided that, -

(a) no such notification omitting any entry form Schedule I shall be issued without previous approval of the State Legislature; and

(b) any other notification shall be laid before each House of the State Legislature as soon as may be after it is issued and shall be subject to such modification as the State Legislature may make, during the session in which it is so laid, and publish in the official Gazette.

(2-A) A panchayat may, with the previous sanction of the President of the Zilla Parishad, also make provision for carrying out, outside the village, any work in the nature specified in Schedule I; and subject to any directions made by the State Government in that behalf, may also incur expenditure outside the village in respect of any scheme or for any purpose sponsored by the Government.

(2B) A panchayat may, by notification, [and subject to the prescribed limits, give grant -in- aid to any institution (whether situated within or outside the village but not outside the limits of the revenue taluka within which the panchayat functions) in respect of matters falling in entries 17, 18, 19, 20, 22 and 23 of that Schedule provided that the institution serves the needs of the

village, and to any person in respect of matters, falling in entry 23 of the said Schedule;] or contribute to any fund sponsored by the Government for the purpose referred to in entry 75 of that Schedule. If any doubt arises, [whether or not the institution serves the needs of the village, or] whether or not the fund is sponsored by the Government, the question shall be decided by the Collector, and his decision shall be final:

Provided that, such grant-in-aid shall not be paid out of any grant made to the panchayat by the State Government or Zilla Parishad or Panchayat Samiti.

(3) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience, or social or economic, or cultural well-being of the inhabitants of the village.

(4) A panchayat may by resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony or entertainment within the village or may make contribution towards an annual gathering or such other gathering of panchayat in the district or the State:

Provided that, no panchayat shall incur expenditure on any such reception, ceremony, entertainment or gathering exceeding such amount as the State Government may, from time to time, by notification in the Official Gazette, determine and that, different amounts may be determined for different class or category of panchayats, with reference to their annual income.

(5) If it comes to the notice of a panchayat that on account, of the neglect of landholder or dispute between him and his tenant the cultivation of his estate has seriously suffered, the panchayat may bring fact to the notice of the Collector.

(6) A panchayat shall in regard to the measures for the amelioration of the condition of Scheduled Caste and Scheduled Tribes and other Backward Classes and in particular, in the removal of untouchability carryout the directions or orders given or issued in this regard from time to time by the State Government, the Collector or any officer authorised by the Collector.

(6A) A panchayat shall endeavour to make use of voluntary organisations [of farmers of the village], and shall encourage co-operative societies [therein ] in increasing and improving agricultural production.

(6B) A panchayat established for a village (being a village comprising other a group of villages or hamlets or wadis or any area called by any other designation forming a revenue village or forming part of a revenue village) shall execute works and development scheme in such village so however that in each such revenue village, hamlet, wadi or area or part thereof the village fund is spent so far as may be practicable on the works and development schemes in proportion to the population of such revenue village or hamlet, wadi or area.

(6C) A panchayat shall supervise primary schools situated within the area of its jurisdiction.]

(7) A panchayat shall perform such other duties and function as are entrusted to it by any other law for the time being in force.

#### **45A. Powers and duties of panchayat in the Scheduled Area :-**

Every panchayat in the scheduled Areas shall, --

(i) obtain from the Gram Sabha a certification of utilization of funds by the panchayat for the plans, programmes, and projects approved under clause (ii) of Section 8A ;

(ii) be consulted by the Land Acquisition Authority, before such Authority acquires any land in the Scheduled Area falling within its jurisdiction, for development projects and for re-setting or rehabilitating any person affected by such projects in such Scheduled Area:

Provided that, every panchayat shall consult the Gram Sabha before conveying its views to the Land Acquisition Authority concerned;

(iii) be competent to make recommendations, to the licensing authorities concerned, prior to grant of a licence or permission by such authority for,

(a) prospecting licence or mining lease for minor minerals in such Scheduled Areas; and

(b) concession for the exploitation of minor minerals by auction;

(iv) be competent to monitor, progress and supervise functioning of institutions and functionaries entrusted with implementation of social sector programmes in the village concerned and make suitable recommendations to the panchayat Samiti and Zilla Parishad with regard to implementation of social sector programmes.

Explanation For the purposes of this clause, "social sector" means any scheme, programme,



project or work entrusted to a Zilla Parishad under the provisions of Section 100 Section 102 Section 103 Section 123 and to a panchayat Samiti under S.101 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 S.45 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, so also to a panchayat under Section 45 of this Act.

(v) having regard to the provisions of any law for the time being in force pertaining to alienation of land of the persons belonging to the Scheduled Tribes be competent to make suitable recommendations to the Collector with a view to prevent unlawful alienation of land and to restore any unlawfully alienated land of members of the Scheduled Tribes;

(vi) be competent to make suitable recommendations to the Registrar appointed under Section 3 of the Bombay Money Lenders Act, 1946, whenever a person applies for a licence for money lending in the area of the panchayat concerned;

(vii) be competent to regulate exploitation, management and trade of minor forest produce vested in it under the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997.

#### **46. . :-**

[Power of Parishads and Samitis to transfer management of institution or execution or maintenance of work. - [Without prejudice to the provisions of sub-section (2) and sub-section (3) of S.124 of the Maharashtra zilla Parishadas and Panchayat Samitis Act, 1961, a Zilla parishad or Panchayat Samiti with the consent of a panchayat may, at any time, transfer to such panchayat the management of any institution or the execution or maintenance of any work, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution or maintenance of such work;]

Provided that in every such case the funds necessary for such management, [execution or maintenance] shall be placed at the disposal of the panchayat by the [Zilla Parishad or panchayat Samiti].

#### **47. Powers of State Government to transfer execution of other works :-**

The State Government with the consent of the panchayat may at any time transfer to such panchayat the execution of any work promoting directly or indirectly the welfare of the villagers and it shall thereupon be lawful for such panchayat to undertake the execution of such work:

Provided that in every such case the funds necessary for such execution shall be placed at the disposal of the panchayat by the State Government.

#### **48. Other duties :-**

Subject to such conditions as the State Government may impose, with the consent of the panchayat concerned, the panchayat shall perform such other administrative duties including the distribution of irrigation water, as may after consultation with the [panchayat Samiti] be assigned to it by the State Government by notification in the official Gazette.

#### **49. Committee :-**

(1) A panchayat may from among its members, constitute committees for the purpose of exercising such powers, and discharging such duties and performing such functions as may be delegated or assigned to them by the panchayat, and may appoint any member or a committee of members to enquire into and report on any matter referred to them. The panchayat may also regulate the procedure of committees constituted by it.

(2) The panchayat, may at any time withdraw the delegation or assignment of powers, duties or functions made under sub-section (1).

#### **50. Joint committees of two or more local bodies :-**

(1) A panchayat may, from time to time, concur with any other panchayat or with any municipal

Corporation, municipality, [Zilla Parishad, panchayat Samiti], cantonment, authority or committee appointed for a notified area or with more than one such panchayat, municipal corporation, municipality, [Zilla Parishad, panchayat Samiti], authority or committee, -

(a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a Chairman of such committee;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may, subject to the sanction of the State Government from time to time, enter into an agreement with any other panchayat, or with any municipal Corporation, municipality, [\* \* \*] cantonment authority or committee appointed for a notified area, or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties, respectively, leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local authority under the provisions of Sub-Section (1) or (2) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority (not being a cantonment authority) in the matter aforesaid, and such other local authority shall comply with such orders.

(4) If any difference of opinion arises between local bodies acting under this Section, the decision thereon of the State Government, or of such officer as it appoints in this behalf, shall be final:

Provided that, where one of the local bodies is a cantonment authority, the decision of the State Government, or of the officer, shall be subject to the concurrence of the central Government.

#### **51. Government may vest certain lands in panchayat :-**

(1) For the purposes of this Chapter the State Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat, open sites, waste, vacant or grazing lands or public roads and streets, bridges, ditches, dikes and fences, wells, river beds, tanks, streams, lakes, nallas, canals, water courses, trees or any other property in the village vesting in the Government.

(1A) Where the State Government is of opinion that any property vested in a panchayat under Sub-Section (1) is required for the purpose of any national or State development plan or for any other

(1B) Notwithstanding anything contained in sub-section (1) or in any order vesting grazing or other lands in a panchayat, such of the grazing or other lands vested in a panchayat as were under cultivation immediately before the day on which the Bombay Village Panchayats (Amendment) Act, 1965 comes into force shall, on the commencement of that Act, cease to vest in such panchayat and revert in the State Government, subject to all limitations, conditions and right or interest of any person in force or subsisting immediately before such commencement.

(2) Subject to any conditions and restrictions imposed by the State Government under subsection (1), and with the previous sanction of the Collector, a panchayat may discontinue or stop up any such public road or street vested in it by the State Government, but which is no longer required as a public road or street and may lease or sell any such land theretofore used for the purposes of such public road or street:

Provided that at least one month before it is decided to stop up or discontinue such public road or street the Sarpanch shall, by notice signed by him and affixed in the part of the public road or street which it is proposed to discontinue or stop up and published in such other manner as is prescribed, inform the residents of the village of the said proposal, and consider any objections in writing made thereto. The notice shall indicate the alternative route, if any, which it is proposed to provide or which may already be in existence.

(3) Whenever any public road or street or any part thereof has been so discontinued or stopped up reasonable compensation shall be paid to every person who was entitled to use such road or

street or part thereof, otherwise than as a mere member of the public, as a means of access to or from his property and has suffered damage from such discontinuance or stopping up, and the provisions in the Bombay Highways Act, 1955, in relation to the assessment, apportionment and payment of compensation shall mutatis mutandis apply thereto as they apply in relation to the closure of a highway under Section 52 of the Bombay Highways Act, 1955 that Act.

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

(1) No person shall erect or re-erect or commence to erect or re-erect within the limits of the village, any building without the previous permission of the panchayat. [Such permission may be granted with or without conditions or may be refused.

(2) Permission shall be presumed to have been granted if the panchayat fails to [communicate its permission] or refusal in respect thereof within two months from the date of receipt of the application for permission. [In a case of refusal or in case of permission being granted subject to conditions, the panchayat shall communicate to the applicant the reasons therefore; and an appeal shall lie against any such order of refusal or of conditional permission to the Standing Committee within a period of thirty days from the date of communication of such order.

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

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

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

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

(b) by written notice require such erection or re-erection to be altered or demolished as it may deem necessary;

[(such time being not less than thirty days)], the panchayat may cause the alteration or demolition to be carried out by its officers, and servants and all the expenses incurred by the panchayat therefore, shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(6) Nothing contained in this Section shall apply to any building which is used or required for public service, or for any public purpose, and is the property of the State or Central Government or any local authority, or is to be erected or re-erected by the State or Central Government or the local authority, but reasonable notice of the proposed construction shall be caused to be given to the panchayat, and the objections or suggestions of the panchayat, if any, shall be considered. 2[Nothing in this Section shall also apply to any building erected or re-erected for any industrial or commercial purpose.

Explanation:- The expression "erect" or "re-erect" with reference to a building in this Section, includes -

(a) any material alteration, or enlargement of or in any building;

(b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;

(c) such alteration of a building as would effect a change in the drainage or sanitary arrangement or materially affect its security;

(d) the addition of any rooms, buildings, outhouses or other structures to any building;

(e) the conversion by any structural alteration, into a place of religious worship or into a sacred building of any place or building not originally meant or constructed for such purpose;

(f) roofing or covering an open space between walls and buildings, as regards the structure which is formed by roofing or covering such space;

(g) conversion into a stall, shop, warehouse or godown of any building not originally constructed for use as such or vice versa;

(h) construction in a wall adjoining any street or land not vested in the owner of the wall, of a door opening on such street or land.

### **53. Obstructions and encroachments upon public streets and open sites :-**

(1) Whoever, within the limits of the village,

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

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

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

(2) The panchayat shall have power to remove any such obstruction or encroachment and to remove any crop unauthorisedly cultivated on grazing land or any other land, not being private property, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained. The expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(2A) If any panchayat fails to take action under sub-section (2) within such time as may be prescribed, the Collector suo motu or on an application made in this behalf, may take action as provided in that sub-section. The expense of such removal shall be paid by the person who has caused the said obstruction or encroachment or unauthorized cultivation of the crop and shall be recoverable from such person as an arrear of land revenue.

(3) The power under [sub-section (2) or sub-section (2A)] may be exercised in respect of any obstruction, encroachment or [unauthorized cultivation of any crop] referred to therein whether or not such obstruction, encroachment or [unauthorized cultivation of any crop] has been made before or after the village is declared as such under this Act, or before or after the property is vested in the panchayat.

(3A) Any person aggrieved by the exercise of the powers by the panchayat under subsection (2) or (3) may, within thirty days from the date of exercise of such powers, appeal to the Standing Committee and the Standing Committee, after making such enquiry as it thinks necessary, shall pass such orders as it deems necessary after giving such person a reasonable opportunity of being heard.

(3B) Any order made by the Collector in exercise of powers conferred on him under subsection (2A) or (3) shall be subject to appeal and revision in accordance with the provisions of the Maharashtra Land Revenue Code, 1966.

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

(5) Nothing contained in this Section shall prevent the panchayat, from allowing any temporary occupation of, or erection in, any public street on occasions of festivals and ceremonies, or the piling of fuel in by-lanes and sites for not more than seven days, and in such manner as not to inconvenience the public or any individual or from allowing any temporary erection on, or

putting projection over, or temporary occupation of, any such public street or place for any other purpose in accordance with the by-laws made under this Act.

#### **54. Numbering of premises :-**

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

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

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

Explanation:- In this Section "premises" means a house, outhouse, stable, shed, hut or other structure whether of masonry, bricks, wood, mud, metal, or any other material whatsoever whether used as a human dwelling or otherwise.

### **CHAPTER 3A** Special Provisions for Gram Sabha and Panchayat in Scheduled Areas

#### **54A. Powers and duties of Gram Sabha in Scheduled Areas :-**

<sup>1</sup>[CHAPTER III-A.

SPECIAL PROVISIONS FOR GRAM SABHA AND PANCHAYAT IN SCHEDULED AREAS.

It shall be competent for every Gram Sabha in the Schedule Areas,--

- (a) to safeguard and preserve the traditions and customs of the tribals, their cultural identity, community resources and the customary mode of dispute resolutions;
- (b) to approve the plans, programmes and projects to be implemented by the panchayat for social and economic development before such plans, programmes and projects are taken up for implementation by such panchayat;
- (c) to issue to the panchayat certificate of utilisation of funds, spent by that panchayat for the plans, programmes and projects referred to in clause (b);
- (d) to decide priority for implementation of various development schemes of the State or as the case may be, of the Central Government and also to identify and select persons as beneficiaries under the various poverty alleviation and similar other programmes or schemes;
- (e) to enforce prohibition or regulate or restrict through panchayat concerned, the sale and consumption of intoxicants;
- (f) to issue directions to the panchayat with regard to the regulation, exploitation, management and trade of minor forest produce vested in it, subject to the provisions of the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 (Mah. XLV of 1997);
- (g) to make recommendations through the panchayat concerned to the Collector with a view to prevent alienation of land in the Scheduled Areas and to restore unlawfully alienated land of a Scheduled Tribe. It shall be incumbent on the Collector and the concerned panchayat to initiate necessary appropriate action for prevention or as the case may be, restoration of the land in the Scheduled Area unlawfully alienated;
- (h) to be consulted through the panchayat concerned for grant of any licence for money lending under the Bombay Money Lenders Act, 1946 (Bom. XXXI of 1947) and to take annual review of the money lending business. Any decision taken by the majority of the Gram Sabha concerned shall be binding on the concerned authorities and the panchayat at the appropriate level;
- (i) to make recommendation to the panchayat concerned with a view to exercise control over local plans and resources for such plans including tribal sub-plans;
- (j) to plan the minor water bodies and grant approval to the decision taken in this regard by the panchayat concerned.

Explanation.--For the purposes of this clause "minor water bodies" means any water storage and irrigation storage including village tanks, percolation tanks, lift irrigation works upto 100 hectares;

(k) to grant approval to the establishment of village market in the area of the village. Any decision taken by the majority of the Gram Sabha for the establishment of a village market and for management thereof shall be binding on the panchayat;

(l) to be consulted before acquiring any land in the Scheduled Areas falling within its jurisdiction, for development projects and resetting or rehabilitating any person affected by such projects in the Scheduled Areas;

(m) to be consulted before grant of any licence or any permission for prospective licence for mining lease for minor minerals by concession for the exploitation of minor minerals by auction. Any decision taken by the majority of the Gram Sabha concerned shall be binding on the concerned authorities and the panchayat at the appropriate level;

(n) to monitor progress and supervise functioning of institutions and functionaries entrusted with implementation of social sector programmes in the village concerned and make suitable recommendations to the Panchayat Samiti and Zilla Parishad with regard to implementation of social sector programmes. Any decision taken by the majority of the Gram Sabha in this regard shall be binding on the panchayat at the appropriate level.

Explanation.--For the purposes of this clause and clause (d) of section 54B, "social sector" means any scheme, programme, project or work entrusted to a Zilla Parishad under the provisions of sections 100, 102, 103 or 123 and to a Panchayat Samiti under section 101 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), so also to a panchayat under section 45 of this Act;

(o) to make recommendations through the panchayat concerned to the concerned authorities for felling of trees. Any recommendation made by the majority of the Gram Sabha shall be binding on the concerned authorities and the panchayat;

(p) to approve the budget for the panchayat Any decision in this regard by the majority of the Gram Sabha shall be binding on the panchayat;

(q) to be consulted through the panchayat by any competent Authority in respect of land, water resources, forests and all other natural resources situated within the jurisdiction of such panchayat.

1. This Chapter was inserted by Mah. 27 of 2003, section 4.

#### **54B. Powers and duties of panchayats in Scheduled Areas :-**

Every panchayat in the Scheduled Areas shall,--

(a) obtain from the Gram Sabha a certification of utilisation of funds, spent by the panchayat for the plans, programmes and projects approved under clause (o) of section 54A;

(b) be consulted by the land Acquisition Authority, before acquiring any land in the Scheduled areas falling within its jurisdiction, for development projects and resetting or rehabilitating any person affected by such projects in the Scheduled Areas:

Provided that, every panchayat shall consult the Gram Sabha before conveying its views to the Land Acquisition Authority concerned;

(c) be competent to make recommendations, to the licencing authorities concerned, and the licencing authorities shall not grant any licence or any permission for prospecting licence or mining lease for minor minerals and concessions for the exploitation of minor minerals by auction, in the Scheduled Areas, without consultation with the Gram Sabha. Any decision taken by the majority of the Gram Sabha concerned shall be binding on the concerned authorities and the panchayat at the appropriate level;

(d) be competent monitor progress and supervise functioning of institutions and functionaries entrusted with implementation of social sector programmes in the village concerned and make suitable recommendations to the Panchayat Samiti and Zilla Parishad with regard to implementation of social sector programmes:

Provided that, every panchayat shall consult the Gram Sabha before conveying any recommendations to the Panchayat Samitis and the Zilla Parishad. Any decision taken by the majority of the Gram Sabha in this regard shall be binding on the panchayat;

(e) be competent to make recommendations pertaining to alienation of land of the persons belonging to the Scheduled Tribes, to the Collector with a view to prevent alienation of land in the Scheduled Areas and to restore unlawfully alienated land of a Scheduled Tribe:

Provided that, every panchayat shall consult the Gram Sabha before conveying any recommendation to the Collector;

(f) be competent to make any recommendation to the Registrar appointed under the Bombay Money Lenders Act, 1946 (Bom. XXXI of 1947) for grant of any licence for money lending. Any decision taken by the majority of the Gram Sabha concerned shall be binding on the panchayat as well as on the concerned authorities at the appropriate level:

Provided that, every panchayat shall consult the Gram Sabha before conveying any recommendation to the Registrar:

Provided further that, the executive management of the money lending business shall be with the panchayat;

(g) be competent to regulate exploitation, management and trade of minor forest produce vested in it, subject to the provisions of the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 (Mah. XLV of 1997);

(h) be competent to manage the minor water bodies.

Explanation.--For the purposes of this clause "minor water bodies" means any water storage and irrigation storage including village tanks, percolation tanks, lift irrigation works upto 100 hectares;

(i) be competent to establish and manage a village market in the area of the village after obtaining approval therefor from the Gram Sabha. Any decision taken by the majority of the Gram Sabha in this regard shall be binding on the panchayat;

(j) in the Scheduled Areas where the population of the Scheduled Tribes is more than fifty per cent. of the total population, the Office of the Chairperson of such panchayat shall be reserved only for the persons belonging to Scheduled Tribes;

(k) be competent to make recommendations to the concerned authorities for felling of trees in the area of the village after obtaining recommendations of the Gram Sabha:

Provided that, any recommendations made by the Gram Sabha shall be binding on the panchayat;

(l) be competent to prepare the budget and to get it approved by the Gram Sabha:

Provided that, any decision taken by the majority of the Gram Sabha concerned shall be binding on the Panchayat;

(m) be consulted by any competent authorities in respect of land, water resources, forests and all other natural resources situated within the jurisdiction of panchayat after making consultation with the Gram Sabha in this regard;

(n) be competent to get the plans, programmes and projects to be implemented for social and economic development before such plans, programmes and projects are taken up for implementation by such panchayat, approved by the Gram Sabha.

#### **54C. Meetings of Gram Sabha :-**

(1) Secretary of the panchayat shall be Secretary of the Gram Sabha and he shall be responsible to call the meetings of the Gram Sabha. Such Secretary shall prepare and maintain the proceedings of all meetings of Gram Sabha or in his absence any officer authorised in this behalf by the person who is presiding over the meeting shall prepare such proceedings.

(2) Secretary of the panchayat shall convey the date, time and place of every meeting of the Gram Sabha, not less than fifteen clear days before the date fixed for such meetings to the concerned Officials and members of the Gram Sabha.

(3) The first meeting of the Gram Sabha in every financial year shall be presided over by the Sarpanch, or in his absence by the Upa-Sarpanch. In the absence of the Sarpanch and Upa-Sarpanch, the members of the Gram Sabha shall elect one of the members of the panchayat present to preside. All other meetings in the financial year shall be presided by such persons who shall be elected by the majority of the members of the Gram Sabha.

(4) Unless exempted by the Gram Sabha, every meeting of the Gram Sabha shall be attended by the concerned village Kotwal, Talathi, Police Patil, Health Officer, Head Master of the Primary

and Secondary School, Agriculture Officer, Junior Engineer of Maharashtra State Electricity Board and Officers in-charge of the Police Station.

(5) Notwithstanding anything contained in this Act or any rules made thereunder, twenty-five percent. of total number of persons included in the list of voters or hundred of such persons, whichever is less, shall form a quorum for a meeting of the Gram Sabha. It shall not be allowed to conduct any meeting including adjourned meeting without quorum.

(6) If any dispute arises between the Gram Sabha or any matter concerning to more than one Gram Sabhas within the area of the panchayat, shall be brought before the joint meeting of all the Gram Sabhas of that panchayat and the decision taken by majority at such joint meeting shall be deemed to the decision taken by each of the Gram Sabha.

#### **54D. Motion of No Confidence :-**

(1) The Sarpanch and Upa-Sarpanch shall implement the suggestions and the resolutions made by the Gram Sabha. Any remiss on the part of such Sarpanch or, as the case may be, Upa-Sarpanch, shall be liable for the disqualification for continuing as Sarpanch or, as the case may be Upa-Sarpanch, or for being chosen as such for the remainder of the term of office of the member of the panchayat, if the Gram Sabha makes resolution to that effect by three-fourth majority:

Provided that, no such resolution against the Sarpanch or, as the case may be Upa-Sarpanch shall come into effect without the prior approval of the Government.

(2) All officials of the panchayat shall implement the suggestions and the resolutions made by the majority of the Gram Sabha and shall submit their work report to the Gram Sabha. Any remiss on the part of such official shall be punishable departmentally, if Gram Sabha makes resolution to that effect by three-fourth majority:

Provided that, no such resolution against any official shall come into effect without the prior approval of the Government.

(3) A Sarpanch or, as the case may be, the Upa-Sarpanch shall cease to be Sarpanch or, as the case may be, Upa-Sarpanch, if a motion of no confidence is passed by secret ballot at a special meeting of the Gram Sabha and conceded by the majority of more than fifty per cent. of the members of the Gram Sabha:

Provided that, a motion of the no confidence shall be moved by not less than one third of the total members of the Gram Sabha against Sarpanch or, as the case may be, Upa-Sarpanch after giving notice thereof to the Secretary of the Gram Sabha. The Secretary of the Gram Sabha shall immediately deliver such notice to the Tahsildar.

(4) The Tahsildar after receipt of the notice, within fifteen days from the date of receipt of such notice shall convene a special meeting of Gram Sabha at the office of the panchayat for considering the motion of no confidence. The Officer not below the rank of Naib Tahsildar shall preside over such meeting. The Sarpanch or, as the case may be, the Upa-Sarpanch against whom the motion of no confidence is moved shall have a right to speak or otherwise to take part in the proceedings at the meeting (including the right to vote.)

(5) The meeting called for considering the no confidence motion under sub-section (4) shall not be adjourned for any reason unless the reasons therefor are recorded in writing by the Presiding Officer of the meeting.

(6) A motion of no confidence shall not be moved within a period of two and half years from the date of election of the Sarpanch or, as the case may be, Upa-Sarpanch.

(7) If the Sarpanch, or as the case may be, the Upa-Sarpanch desires to dispute the validity of the motion of no confidence carried under sub-section (3), he shall, within fifteen days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it, as far as possible, within fifteen days from the date on which it was received by him. Any person aggrieved by the decision of the Collector may, appeal to the Commissioner who shall decide the appeal, as far as possible, within fifteen days from the date on which it was received by him. Any such decision shall, subject to a second appeal under sub-section (8), shall be final.

(8) Any person aggrieved by the decision of the Commissioner, may, within fifteen days, appeal to the Government, and the decision of the Government shall be final.

(9) In case the offices of the Sarpanch or, as the case may be, the Upa-Sarpanch becomes vacant under sub-section (3) shall be filled, by the by-election of a Sarpanch or, as the case



may be, Upa-Sarpanch, within fifteen days from the date of vacancy of such post and he shall hold office so long as the Sarpanch or, as the case may be, Upa-Sarpanch, in whose place he has been elected would have held office if the vacancy had not occurred.

(10) A member shall cease to be a member of panchayat in the Scheduled Areas, if a motion of no confidence is passed by secret ballot by not less than fifty per cent. of the votes of the electoral ward from which such member has been elected:

Provided that, the provisions of sub-sections (3) to (9) shall mutatis-mutandis apply to such no confidence.

#### **CHAPTER 4 Panchayat: Its property and fund**

##### **55. Competency of panchayat to lease, sell or transfer property :-**

Every panchayat shall be competent to lease, sell or otherwise transfer moveable or immoveable property which may become [vested in (otherwise than under the provisions of Sub-Section (1) of Section (51)] or be acquired by it and to contract and do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property other than property referred to in sub-section (1) of Section 56 for a term exceeding three years, and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer has been made with the previous sanction of the [Chief Executive Officer].

##### **56. Property of panchayat :-**

(1)[It shall be competent for a Zilla Parishad from time to time to direct that any property vesting in it] shall vest in a panchayat and on such direction being issued, [the property shall, subject to rules made in that behalf, vest] in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882 , or the Indian Registration Act, 1908 :

Provided that no lease, sale or other transfer of any such immoveable property by the panchayat shall be valid without the previous sanction of the [Chief Executive Officer]

(2)Every work constructed by a panchayat out of the village fund, or with Government assistance or peoples participation shall vest in such panchayat [and every work constructed by a panchayat with the assistance of Zilla Parishad or panchayat Samiti shall vest in a panchayat in the manner provided by rules made in that behalf.

##### **57. Village fund :-**

(1) There shall be in each village a fund, which shall be called the village fund.

(2) The following shall be paid into, and form part of, the village fund namely:-

(a) the amount which may be allotted to the village fund by the State Government under the provisions of S.191 of the Bombay District Municipal Act, 1901]; or [\* \* \*] under Section 8 of the Central Provinces and Berar Municipalities Act, 1922;

(b) the proceeds of any tax or fee imposed under Section 124 except the general water rate and the special water rate levied under clauses (viii) and (xii), respectively, of Sub-Sections (1) of that Section;

(c) the proceeds of a tax on profession, trades, callings and employments assigned to the panchayat [under clause (b) of S.163 of the Maharashtra Zilla Parishads and panchayat Samitis Act, 1961

(d) the sum representing the share of the panchayat in the net proceeds of the taxes, duties, tolls and fees levied by the State as distributed and allocated as determined by the State Government on the recommendations of the Finance Commissioner;

(e) all other sums ordered by a Court to be placed to the credit of the village fund;

(f) the sale proceeds of all dust, dirt, dung, refuse or carcasses of animals, except so far as any person is entitled to the whole or a portion thereof;

(fa) the sale proceeds or royalty of the minor forest produce collected in the Scheduled Areas within the jurisdiction of a panchayat and vested in that panchayat;

(g) sums contributed to the village fund by the State Government or a, [Zilla Parishad or

panchayat Samiti;

(h) all sums received by way of loans from the State Government or the [Zilla Parishad] or out of the District Village Development Fund constituted under Section 133 [and all sums borrowed under Section 57A ;

(i) all sums received by way of gift or contributions by tITc panchayat;

(j) the income or proceeds of any property vesting in the panchayat;

(k) [\* \* \*]

(1) the net proceeds (after deducting the expenses of assessment and collection) of the cess authorised by Section 127 ;

(m) all sums realized by way of rent or penalty otherwise than as the amount of any fine in a criminal case;

(n) all sums realized as pound fees after deducting the expenses;

(o) all sums received by way of commission by a panchayat when acting as an insurance agent for implementing any Rural Insurance Scheme of the Life Insurance Corporation of India.

(3) Subject to the provisions of sub-section (5) of Section 38 , the Secretary shall be solely responsible for the safe custody of the village fund, the [village Water supply Fund] and other moneys received on behalf of the panchayat, from time to time, and shall operate them for the following purposes, namely:-

(a) authorization of payments, issue of cheques and refunds in compliance with the provisions of this Act and the rules made thereunder or the resolutions, duly passed by the panchayat;

(b) receive all sums of money on behalf of the panchayat in response to notices, bills, appeals and other processes issued by the panchayat;

(c) issue of receipts in the prescribed manner for all sums of money received on behalf of the panchayat and crediting them in the relevant fund;

(d) hold cash imprest on hand, of not more [than rupees one hundred and fifty] at a time, for contingent purposes of the panchayat.

(e) incur contingent expenditure [upto one hundred rupees] at any one occasion;

(f) for performing such other duties and exercising such other powers in regard to the funds as may be prescribed.

(4) The Secretary shall submit a weekly statement of accounts to the Sarpanch, and a monthly statement of accounts to the Block Development Officer, giving in particular the details of the receipts into and payments from and the balance in the funds under his control.

#### **57A. Power of panchayats to borrow :-**

A panchayat may borrow money for the purpose of carrying out its functions under this Act from such body or association (whether incorporated or not) as may be approved by the State Government in this behalf

#### **58. Application of village fund :-**

(1) All property vested in the panchayat under this Act and all funds received by it in accordance with the provisions of this Act and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), if any of the panchayat area is falling partly in the Scheduled Area and partly in the non-Scheduled Area, the sale proceeds or royalty of the minor forest produce credited into the village fund under clause (fa) of sub-section (2) of Section 57 shall be expended only for the development of the said area of panchayat falling in the said Scheduled Areas.

#### **59. Decision of claims to property by or against panchayat :-**

(1) In any village [\* \* \*] where any property or any right in or any property is claimed by or on behalf of the panchayat, or by any person against the panchayat, it shall be lawful for the Collector, after formal enquiry, of which due notice has been given, to pass an order deciding

the claim.

(2) Any suit instituted in any Civil Court after the expiration of one year from the date of the communication of any order passed by the Collector under Sub-Section (1), or if one or more appeals have been made against such order within the period of limitation, then, from the date of the communication of any order passed by the final appellate authority, as determined according to Section 204 of the Bombay Land Revenue Code, 1879]4 [\* \* \*] sub-section (2) of Section 158 of the Hyderabad Land Revenue Act, 1317F Fasli, or Section 41 of the Madhya Pradesh Land Revenue Code, 1954, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has received due notice of such order.

(3)

(a) The powers conferred by this Section on the Collector may be exercised also by an Assistant or Deputy Collector or by a Survey Officer or such other officer appointed under any of the Acts referred to in sub-section (2).

(b) The formal inquiry referred to in this Section shall be conducted in accordance with the provisions relating to such enquiry under the Acts referred to in sub-section (2).

(c) A person shall be deemed to have due notice of any inquiry or order under this Section if notice thereof has been given in the prescribed manner.

## **CHAPTER 5** Establishment, Budget and Accounts

### **60. Secretary of panchayat :-**

(1) There shall be [one or more Secretaries] for every panchayat, or a group of panchayat as the [Chief Executive Officer] may (having regard to the extent and population of the village and income of the panchayat), by a general or special order, determine.

Provided that, the Secretary shall also function as Secretary to the Gram Sabha of the respective panchayat

(2) The Chief Executive Officer shall appoint a Secretary (who may bear such other designations as a Zilla Parishad may assign to him) from District Service (Class III). The Secretary shall be posted to panchayat but his salary and allowances shall be paid from the district fund.

(3)\*\*\*]

[\*\*\*]

Explanation:- In this Section the expressions "District Fund" and "District Service (Class III)" shall have the meanings, respectively, assigned to them in Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

### **61. Appointment of servants :-**

(1) A panchayat may appoint such servants as may be necessary for the proper discharge of its duties under this Act and pay their salaries from the village fund. A Sarpanch may also, in cases of emergency, engage such temporary servants as he may deem necessary. A panchayat may, from time to time, by written order, fine, suspend or dismiss any servant appointed by it; but an appeal shall lie against any such order passed by the panchayat to the [Block Development Officer], within one month from the date of the communication of the order to the servant. [An application for revision may be made to the Chief Executive Officer against the decision of the Block Development Officer in such appeal:

Provided that, no such application shall be entertained if it is not made within a period of one month from the date of such decision:

Provided further that, no such appeal or application shall be decided unless the servant of the panchayat is given an opportunity of being heard.

(2) Without prejudice to the power of a panchayat under sub-section (1), the State Government may [make rules to regulate recruitment and] the terms and conditions of service of servants appointed under sub-section (1)

### **62. Budget and accounts :-**

(1) A panchayat shall determine annually and shall submit to the [panchayat Samiti] on or before such date and in such form as may be prescribed, a statement of, -

(a) the opening balance in the fund and estimated income of the panchayat for the following [financial year];

(b) the expenditure proposed on establishment and discharge of its duties under [\* \* \*] Section 45 ;

(c) the amount to be contributed to the District Village Development Fund established under Section 133.

(1A) If a panchayat fails to submit such statement as required by Sub-Section (1) on or before the date prescribed under that sub-section, the Secretary shall prepare such statement and submit it to the panchayat Samiti in the form prescribed under that sub-section on or before such date as may be prescribed.

(2) The [panchayat Samiti] shall, within two months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties [falling under Section 45 ] shall be increased or decreased:

Provided that the [panchayat Samiti], shall not have power [either to disapprove the statement or] to direct that the total proposed expenditure shall exceed the estimated income of the panchayat for the following [financial year] and the opening balance in the fund:

Provided further that, if a panchayat Samiti fails either to approve such statement or to direct that the expenditure on any of the duties falling under Section 45 be increased or decreased, within two months from the date of receipt of such statement, the statement shall be deemed to have been duly approved by the panchayat Samiti.

(3) A panchayat shall contribute every [financial year] to the [District Village Development Fund] constituted under section 133 such percentage of its income from all sources (including contributions from the State Government) [but not including any sums received from the State Government, Zilla Parishad or panchayat Samiti by way of grant or loans for all specific work)] not exceeding 10 percent thereof as may be prescribed.

(4) The Secretary shall keep the accounts of the panchayat in such form as may be prescribed. He shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat. The annual statement of such accounts together the annual report as approved shall be sent to the [Zilla Parishad] on or before such date and in such form as may be prescribed.

#### **62A. Revised or supplementary budget :-**

A panchayat may at any time during the financial year for which any such statement has been approved as aforesaid cause a revised or supplementary statement to be prepared. Every such revised or supplementary statement shall be considered and approved by the panchayat Samiti in the same manner as if it were an original statement, and the provisions of Section 62 , shall apply in relation to such revised or supplementary statement.

**CHAPTER 6** Deleted by Mah. 13 of 1975, s.17

**CHAPTER 7** Deleted by Mah. 13 of 1975, s.17

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## **CHAPTER 9** Taxation and Recovery of Claims

### **124. Levy of taxes and fees by panchayats :-**

(1)[Subject to the minimum and maximum rates which may be fixed by the State Government and in such manner and subject to such exemptions as may be prescribed, a panchayat shall levy taxes referred to in clauses (i) and (i-a) of this sub- section and [where the panchayat has taken over any water supply schemes under sub-section (1) of Section 45 , it shall also levy taxes referred to in clauses (viii) and (xii) of this sub-section and the panchayat] may levy all or any of the taxes and fees referred to in the remaining clauses of this sub- section.

(i) a tax on buildings (whether subject to payment of agricultural assessment or not) and lands (which are not subject to payment of agricultural assessment), within the limits of the village;

(ia) a betterment charge on the lands benefited from schemes or projects undertaken by a panchayat from the village fund;

(ii)\* \* \*]

(iii) a pilgrim tax;

(iv) a tax on fairs, festivals and other entertainments;

(v) a tax on bicycles and on vehicles drawn by animals;

(vi) subject to the provisions of Article 276 of the Constitution, a tax on the following professions, trades, callings or employments, that is to say:-

(a) shop-keeping and hotel-keeping

(b) any trade or calling (other than agriculture) which is carried on with the help of machinery



run by steam, oil or electric power or by manual labour;

(c) the profession or calling of brokers in cattle markets;

(vii) a general sanitary cess for the construction or maintenance, or both the construction and maintenance, of public latrines and for the removal and disposal of refuse;

(viii) a general water rate which may be imposed in the form of a rate assessed on buildings and lands or in any other form as may be best adopted to the circumstances of any class of cases;

(viiia) a lighting tax;

(ix) any other tax [(not being a tax or toll on motor vehicles save provided in Section 20 of the Bombay Motor Vehicles Tax Act, 1958 )] which the State Legislature has, under the Constitution, power to impose in the State and which has been sanctioned by the State Government;

(x) a fee on markets and weekly bazars;

(xi) a fee on car-stands and tonga stands;

(xii) a special water rate for water supplied by the panchayat through pipes, which may be imposed in any form including that of charges for such water supplied, fixed in such mode or modes as shall be best adopted in the circumstances of any class of cases;

(xiii) a fee for the supply of water from wells and tanks vesting in it, for purposes other than domestic use and for cattle;

(xiv) a fee for temporary erection on, or putting up projections over, or temporary occupation of, any public street or place;

(xv) a special sanitary cess upon private latrines, premises or compounds cleaned by the panchayat agency;

(xvi) a fee for cleaning a cess pool constructed on land whether belonging to a panchayat or not;

(xvii) a fee for grazing cattle or grazing lands vesting in a panchayat;

(xviii) a fee on the registration of animals sold in any market or place belonging to or under the control of a panchayat.

(2) The tax on buildings or lands referred to in clause (i) of Sub-Section (1) shall be leviable from the owners or occupiers thereof:

Provided that when an owner of a building or land has left the village or cannot otherwise be found, any person to whom such building or land has been transferred shall be liable for the tax leviable from the owner.

(3) The State Government may, by notification in the official Gazette, direct that tax upon buildings or lands referred to in clause (i) of sub-section (1) shall not be levied on all buildings and lands or on any class of building or lands situated in an area predominantly populated by members of Scheduled Castes or Scheduled Tribes.

(3A) For the purposes of levying a betterment charge, the panchayat shall give notice to persons believed to be owners of, or interested in, the lands benefited by any scheme or project, make an inquiry and after hearing any objections, determine the lands benefited by the scheme or project, increase in the value of the land as a result of any such scheme or project, the rate of betterment charge leviable on each of such lands and the date from which the betterment charges shall be leviable. The State Government may make rules for such supplemental and incidental matters including provisions for giving exemption from such charges in respect of the levy of betterment charges as it thinks fit.

(4) \* \* \*

(5) Any person aggrieved by the assessment, levy or imposition of any tax or fee may appeal to the [panchayat Samiti][A further appeal against the order of the panchayat shall lie to the Standing Committee, whose decision shall be final. [The first appeal shall be made within thirty days after the

(6) If at any time it appears to the State Government on complaint made or otherwise, that any tax or fee leviable by a panchayat is unfair in its incidence, or that the levy thereof, or any part thereof is obnoxious to the interests of the general public or violates any promises made or undertakings given by the State Government or adversely affects the development of the village or any part thereof, the State Government may require the said panchayat within such period as it fixes in this behalf, to take measures for removing any objection which appears to it to exist to the said tax or fee. If, within the period so fixed, such requirement is not carried into effect to the satisfaction of the State Government, the State Government may, after giving the

panchayat an opportunity to give an explanation, by notification in the official Gazette, suspend the levy of such tax or fee, or such part thereof, until such time as the objection thereto is removed.

**125. Lumpsum contribution by factories in lieu of taxes levied by panchayat :-**

(1) Subject to any rules that may be made under the Act, and regard being had to the fact that a factory itself provides in the factory area all or any of the amenities which such panchayat provides, a panchayat may arrive at an agreement with any factory with the sanction of the State Government to receive a lumpsum contribution in lieu of all or any of the taxes levied by the panchayat.

(2) Where no such agreement as is referred to in sub-section (1) can be reached the matter may be referred to the State Government in the manner prescribed and the State Government after giving to the panchayat and the factory concerned an opportunity of being heard decide the amount of such contribution. The decision of the State Government shall be binding on the panchayat and the factory concerned.

**126. Framing of fees on markets, etc :-**

.- It shall be lawful for a panchayat to lease by public auction or private contract the collecting of any fees levied by it on markets and weekly bazars:

Provided that the lessee shall give security for the due fulfillment of the conditions of the lease.

**127. Levy and collection of cess on every rupee of land revenue :-**

(1) The State Government shall levy a cess at the rate of [one hundred paise] on every rupee of every sum payable to the State Government as ordinary land revenue in the area within the jurisdiction of a panchayat and thereupon, the State Government shall (in addition to any cess leviable under the Maharashtra Zilla Parishads and panchayat Samitis Act, 1961) levy and collect such cess in such area.

(2)\* \* \*]

(3) \* \* \*]

(4) \* \* \*]

(5) For the purposes of levying and collecting the cess referred to in sub-section (1), in the Bombay area the provisions of Section 144 (including the Fourth Schedule), 145, [147] and 149, in the Vidarbha area, the provisions of Section 151 , and in the Hyderabad area, the provisions of S.152 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall apply thereto as they Section 144 , Section 151 , or as the case may be, Section 152 of that Act.

**127A. Suspension or remission of cesses :-**

The State Government may, on the application of a panchayat to which the cess is payable, suspend or remit the collection of cess or any portion thereof in any year in any area subject to the jurisdiction of such panchayat.

**128. Power of panchayat Samiti] to increase taxation on panchayat :-**

(1) If in the opinion of the [panchayat Samiti] the income of the panchayat falls below what is necessary for the proper discharge of the duties specified in sub-section (2) of Section 45 , the [panchayat Samiti] may require the panchayat to take steps within six months, to increase its income to such extent as the [panchayat Samiti] considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent the [panchayat Samiti] may require it to levy any of the taxes or fees specified in Section 124 or increase the rate at which any of such taxes and fees is levied:

Provided that the [panchayat Samiti] shall not compel the panchayat to levy any tax or fee or

increase the rate thereof beyond the maximum rate prescribed in this behalf.

(2) A panchayat may appeal to the [Standing Committee] against an order made under subsection (1) and the [Standing Committee] may stay the execution of such order until [it ] has decided the appeal.

### **129. Recovery of taxes and other dues :-**

(1) When any tax or fee, has become due, a panchayat shall, with the least practicable delay, cause to be presented to the persons liable for, the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

(2) If any person fails to pay any tax or fee or any other sum due from him to a panchayat under this Act or the rules on or before the specified date of payment, the panchayat shall cause a writ of demand in the prescribed form to be served on the defaulter.

(3) The presentation of every bill under sub-section (1) and the service of every writ of demand under Sub-Section (2) shall be effected by an officer or servant of the panchayat in this behalf,

-

(a) by giving or tendering the bill or writ to the person to whom it is addressed; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the village, or by giving or tendering the bill or writ to some adult male member or servant of his family; or

(c) if such person does not reside within the limits of the village, and his address elsewhere is known to the Sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(d) if none of the means aforesaid be available,, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates in the presence of at least two Panchas.

(4) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the moveable property of the defaulter in the prescribed manner.

(5) Fees for -

(a) every writ of demand issued under Sub-Section (2),

(b) every distress made under sub-section (4),

(c) the costs of maintaining any livestock seized under sub-section (4), shall be chargeable at such rates as may be prescribed.

(6) Notwithstanding anything contained in the foregoing sub-sections, any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.

(7) If a panchayat is unable to recover a tax or fee or other sum due to it as aforesaid, it may furnish to the Mamlatdar, Tahsildar or Naib-Tahsildar or Mahalkari, a statement of the arrears due with a request for the recovery of the same [\* \* \*] and on receipt of such statement of arrears, the Mamlatdar, Tahsildar or Naib-Tahsildar or Mahalkari shall proceed to recover the same as an arrear of land revenue. [\* \* \*] [\* \* \*]

(8)(a) If a panchayat fails to recover any tax, fee or any sum due to it. or neglects to take action under sub-sections (2) and (4) of this Section, [\* \* \*] [\* \* \*] the panchayat Samiti may apply to the Collector to recover the same as an arrear of land revenue.) On receipt of such application, the Collector shall, after holding such inquiry as he thinks fit [and after ascertaining that three years from the date when the same has become recoverable have not elapsed], proceed to recover the sum as an arrear of land revenue unless such sum is, under Section 130. directed to be written off.

### **130. Collectors power to direct irrecoverable sums to be written off :-**

The Collector may direct -

(a)[\* \* \*] any sum recoverable by him on an application by the panchayat Samiti] under sub-section (8) of Section 129 ;

(b) any arrears of a tax or fee or any other sum due to a panchayat and recoverable through a Mamlatdar, Tahsildar, Naib-Tahsildar or Mahalkari under sub-section (7) of Section 129 ;

(bb) any sum forming part of the village fund which has been stolen or misappropriated and

person prosecuted in that behalf has been duly acquitted;

(c) any other sum due to a panchayat whether under this Act or otherwise to be written off, if in the opinion of the Collector such sum or arrears are irrecoverable:

Provided that no sum exceeding rupees five hundred shall be written off under [clause (bb) or clause (c)], except the previous sanction of the Commissioner.

[\* \* \*]

## **CHAPTER 10** Financial Assistance to Panchayats

### **131. Grant of sum equal to average of amounts of revenue realized during each quinquennium commencing on 1st April, 1964 :-**

(1) Subject to the provisions of this Section, every panchayat shall, after a due appropriation made by law in this behalf, be entitled to receive every year [commencing on the 1st day of April 1972] a grant from the State Government a sum equal to [\* \* \*] the average of the amounts of the ordinary land revenue (including non-agricultural assessment) realized during each quinquennium commencing on the 1st day of April 1964 from lands within the limits of the village panchayats.

(2) Where a panchayat has been established for any wadi or any area called by any other designation and such wadi or area forms part of a revenue village, the payment of grant of land revenue shall be in the same proportion as the population of such wadi or area bears to the population of the entire revenue village.

[\* \* \*]

### **132. . :-**

Loans by [Zilla Parishads] Notwithstanding anything contained in [the Maharashtra Zilla Parishads and panchayat Samitis Act, 1961, the Zilla Parishad] may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act.

### **132A. Equalisation grant :-**

Where the amount of grant of land revenue payable to a panchayat under sub-section (1) of Section 131 is found to be less than the amount arrived at on the basis of one rupee per capita of the population of the village, then that panchayat shall be entitled to an equalization grant equal to the difference between the amount arrived at on a per capita basis and the amount payable to the panchayat under sub-section (1) of Section 131 ; and such grant shall be made by the State Government ] [\* \* \*]

### **132B. Village Water Supply Fund :-**

(1) there shall be in each village, a separate Fund, which shall be called the "Village Water Supply Fund".

(2) The following shall be paid into, and form a part of, the Village Water Supply Fund, namely:-

(a) the amount credited to and outstanding in the Village Employment Fund, on the date of commencement of the Bombay Village panchayats (Amendment) Act, 1996;

(b) an amount not less than thirty-five percent of the amount of grant received by a panchayat under sub-section (1) of Section 131 , with effect from the financial year 1996-97 and every year thereafter. In the case of a panchayat constituted for any Devasthan Inam village, such amount shall be in accordance with such order as the State Government may, from time to time, make in this behalf, regard being had to the land therein which may be exempt from the payment of land revenue either wholly or partially;

(c) the proceeds of the general water rate and the special water rate under clauses (viii) and (xii) respectively, of sub-section (1) of section 124 ;

(d) all sums received by way of deposits etc., in relation to domestic water supply or non-domestic use through pipes or otherwise.

(3) The amount standing to the credit of this Fund shall be utilized only for the purpose of

supply of water for domestic use or for cattle or for other non-domestic uses excluding agricultural and industrial use.

(4) The State Government may make rules relating to all matters connected with the Fund and its accounts, including the manner in which the Fund shall be maintained, operated upon and expended.

### **133. District Village Development Fund :-**

In each district, there shall be established out of the contributions made by panchayats under sub-section (3) of Section 62 , a fund to be called the District Village Development Fund. The fund shall vest in such officer or authority [(including any officer or authority of the Zilla Parishad or of panchayat Samiti concerned)] and shall be invested in such manner as may be prescribed. The fund shall be utilized for the purpose of granting loans to panchayats and the payment of interest on contributions made by panchayats [and with the sanction of the Commissioner, for meeting expenditure on staff engaged for operating the fund and on all charges incidental thereto, such as, printing, stationary, stamps and the like]. The State Government shall make rules prescribing from time to time the purposes for which such loans may be granted, the terms and conditions (including the rate of interest) on which such loans may be made, the period therefor, the manner of repayment, and all matters incidental to the grant of such loans.

## **CHAPTER 11 Control**

### **134. . :-**

Constitution of District Village Panchayat Mandal Deleted by Mah. 5 of 1962, s. 286, Tenth Sch.

### **134A. . :-**

Special provision consequent on Bombay Re-organisation Act, 1960] Deleted by Mali. 43 of 1962, s. 26, Sell.

### **135. Duties of Zilla Parishads and Panchayat Samitis :-**

- Subject to the provisions of this Act and the rules made the under it shall be the duty of the Zilla Parishad and the Panchayat Samiti] to. -

(a) encourage the establishment and foster the development of panchayat in the [area for which they are established;

(b) supervise and control the administration of panchayat in the [area for which they are established];

(c) perform such other functions as are imposed by the Act, and as the State Government may from time to time prescribe.

### **136. Appointment of District Village Panchayat Officers :-**

The State Government may appoint for each district such officer working under a Zilla Parishad as it may specify to be a District Village Panchayat Officer to discharge such functions as may be prescribed under this Act.

### **137. Power to call for proceedings, etc :-**

(1) The [Zilla Parishad or Panchayat Samiti] shall have power -

(a) to call for any proceedings of a panchayat or an extract therefrom, any book or document in the possession or under the control of a panchayat and by return, statement, account or report with the [zilla Parishad or panchayat Samiti] thinks fit to require such panchayat to furnish; and

(b) to require a panchayat to take into consideration, -

(i) any objection which appears to [Zilla parishad or Panchayat Samiti] to exist to the doing of anything which is about to be done, or is being done by such panchayat; or

(ii) any information which the [Zilla Parishad or panchayat Samiti] is able to furnish and which

appears to the [Zilla Parishad or Panchayat Samiti to necessitate the doing of a certain thing by the panchayat, and to make a written reply to the [Zilla Parishad or panchayat Samiti] within a reasonable time stating its reasons for not desisting from doing or for not doing such things.

(2) All or any of the powers given to the Zilla parishad or panchayat Samiti under sub-section (1) may be delegated by the Zilla Parishad or to the President or any other officer of the Zilla parishad or by the panchayat Samiti to the Chairman or any other officer of the panchayat Samiti.

### **138. Delegation of duties, etc :-**

(1) The [Zilla Parishad or the panchayat Samiti may delegate to any of its presiding authorities of any officer], the duties of encouraging the establishment and fostering the development of panchayat and of assisting panchayats in the proper exercise of the powers and performance of the duties conferred or imposed by or under this Act.

(2) It shall be competent to the [Zilla Parishad or panchayat Samiti] to accept and utilise in an honorary capacity, in the performance of any of the duties which may be delegated under sub-section I (1), the services of any person who in the opinion of [such Zilla Parishad or as the case may be, Panchayat Samiti] is specially fitted to assist it in this behalf.

### **139. Power of entry :-**

The [Zilla Parishad may authorise, its President or Chief Executive Officer or the panchayat samiti may authorise its Chairman] [or Block Development Officer] to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any panchayat or any work in progress under its direction.

### **139A. Power of authorised officer or person to inspect and give technical guidance, etc :-**

If for the purpose of efficient and economical execution or maintenance of any works or development schemes undertaken by a panchayat, an officer or person authorised by general or special order of the Zilla Parishad considers it necessary for that purpose to give technical guidance or assistance to the panchayat then the officer or person so authorised may periodically inspect such works or development schemes, and may give such guidance, assistance or advice as he thinks necessary in relation to such works or development schemes; and shall forward to the Sarpanch through the Block Development officer, a report on the inspection made, pointing out therein any irregularities noticed, and his suggestions for improvement.

### **139B. Power of Chief Executive officer or any officer to inspect office of panchayat :-**

The Chief Executive Officer or any officer not below the rank of an Extension Officer duly authorised by him in writing in this behalf may enter the office of any panchayat, and inspect any records, register or other document, kept therein; and the panchayat shall comply with the inspection notes, if any, made by the Chief Executive Officer or as the case may be, the officer.

### **140. Audit of account of panchayats :-**

(1) The audit of the accounts of a panchayat shall be carried out [by such authority and] in such manner as may be prescribed and a copy of the audit note shall be forwarded [to [the Chief Executive Officer], the panchayat Samiti and the panchayat] within [two months] of the completion of the audit.

(2) On receipt of the audit note referred to in sub-section (1), the panchayat shall either remedy any defects or irregularities which may have been pointed out in the audit note and send to the [Panchayat Samiti] any further explanation in regard to such defects or irregularities as it may wish to give.

(3) On receipt of such intimation or explanation, the [Panchayat Samiti] may, in respect of all or

any of the matters discussed in the audit note, -

(a) accept the intimation or explanation given by the panchayat and recommend to the [Chief Executive Officer] to [drop] the objection,

(b) [suggest] that the matter be reinvestigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities pointed out in the audit note or any of them, have not been removed or remedied.

(4) The [Panchayat Samiti] shall send a report of its decision to the [Chief Executive Officer] within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2), or in the event of the panchayat failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (2), [and shall forward a copy of such report to the auditor and the panchayat]. If the [Panchayat Samiti] holds that any defects or irregularities have not been removed or remedied, the [Panchayat Samiti] shall state in the report whether in its opinion the defects or irregularities can be regularized and if so, by what method and if they do not admit of being regularized, whether they can be condoned, and if so, by what authority. The [Panchayat Samiti] shall also state whether the amounts to which the defects or irregularities relate should in its opinion be [surcharged or charged] as hereinafter provided.

(5) The Chief Executive Officer may, after considering the report of the panchayat Samiti and after making such further inquiry as he considers necessary, disallow any item which appears to him contrary to law and surcharge the same on the person making or authorizing the making of, the illegal payment, and may charge against any person responsible therefor the amount of any deficiency or loss caused by the gross negligence or misconduct of that person, or any sum received which ought to have been, but is not, brought into account, by that person; and may after taking explanation of such person, direct by order in writing that such person shall pay to the panchayat the amount surcharged or charged and where the Chief Executive Officer considers it necessary, also an interest on the amount so surcharged or charged at such rate as may be determined by him. If the amount or interest directed to be paid by the Chief Executive Officer under his order is not paid by the person aforesaid within one month from the date of receipt of such order by him, the Chief Executive Officer shall request the Collector to recover it as an arrear of land revenue and credit it to the village fund, and thereupon the Collector shall be bound to do so.

(6) Any person aggrieved by any order of [surcharge or charge or interest thereupon] made by the Chief Executive Officer under this section, may, within one month from the date of receipt by [Chief Executive Officer], apply to the District Court to modify or set aside such order, and that Court after taking such evidence as it thinks necessary, may confirm, modify or remit such [surcharge or charge or interest thereon] and make such order as to costs as it thinks proper in the circumstances.

(7) \* \* \*]

#### **141. Reduction of establishment :-**

(1) If, in the opinion of the [Standing Committee] the number of persons maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons, is excessive, the panchayat shall, on being required by the [Standing Committee] reduce such number or remuneration.

(2) The panchayat may appeal to the Commissioner against any requisition made under subsection (1), and the decision of the Commissioner shall be final.

#### **142. Suspension of execution of order :-**

(1) If, in the opinion of the [Standing Committee], the execution of any order or resolution of a panchayat or the doing of anything which is about to be done, or is being done by or on behalf of a panchayat, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of peace, or is, in the public interest, unlawful [it] may by order in writing suspend the execution or prohibit the doing thereof.

(2) When the [Standing Committee] makes an order under sub-section (1), [it] shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons

therefor.

(3) The [Standing Committee shall [forthwith forward] to the Commissioner a report of every case occurring under this Section, and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the [Standing Committee] could have made.

**143. Execution of work in case of emergency :-**

(1) In cases of emergency the [Standing Committee] may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing whereof is, in [its] opinion, necessary for the health or safety of the public and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the [Standing Committee] may direct the [person in whose custody the village fund is kept] to pay such expense or so much thereof as is possible, from the balance of such fund in his hands [and such person] shall comply with such directions.

(3) The [Standing Committee] shall forth with report to the Commissioner every case in which [it] exercises [its] powers under sub-section (1).

**144. Default in performance of duty :-**

(1) If at any time, it appears to the [Standing Committee] that a panchayat has made default in the performance of [any duty under Section 45], it may order the duty to be performed within a specified period, and if the duty is not performed within the period [Standing Committee] may appoint a person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat within such period as the [Standing Committee] may fix.

(2) If the expense is not so paid, the [Standing Committee] may direct the person in custody of the village fund to pay such expenses, or so much thereof as is possible, from the balance of such fund in his hands, and such person shall pay such expense or part thereof accordingly.

(2A) If at any time it appears to the [Standing Committee] that a panchayat has failed to contribute or pay in any financial year the amount as required by sub-section (3) of Section 62 or has committed default in payment of any instalment towards repayment of the loan taken by the Panchayat from the District Village Development Fund, in accordance with the rules made for the purpose in pursuance of the provisions of Section 133, the [Standing Committee] may, by an order in writing, direct the person in custody of the village fund to pay to the credit of the District Village Development Fund such sums as may be due to it at such intervals and in such instalments as it may, regard being had to the finances of the panchayat, direct, and the panchayat shall comply with such directions.

(3) If at any time it appears to the State Government or any officer authorised by the State Government in this behalf, that a panchayat has made default in the performance of [any duty under Section 45] [or in the payment of any amount to the credit of the District village Development Fund under sub-section (2-A)] and that the [Standing Committee] has failed to neglected to take action under sub-section (1) [or under sub-section (2-A)], the State Government or the officer authorised, as the case may be, may take such action as could have been taken by the [Standing Committee] [under sub-sections (1), (2) and (2-A)].

(4) The [Standing Committee] or the officer authorised, as the case may be, shall forthwith report to the Commissioner every case occurring under this Section and the Commissioner may revise or modify any order made therein, and make in respect thereof, any other order which [Standing Committee] could have made.

**144A. Power to take action, where default is made by panchayat in taking over or maintaining rural drinking water supply schemes :-**

(1) Where a panchayat makes a default in taking over any rural drinking water schemes within the specified period, which it is its duty to take over under sub-section (1) of Section 45, or



makes a default in maintaining such schemes properly, the State Government may, without prejudice to any action that may be taken against such panchayat under any other provisions of this Act, arrange for the operation and maintenance of such schemes through the Zilla parishad. It shall then be competent for the Zilla Parishad to levy a general water tax and a special water tax, within the limits of such panchayat, and the provisions of Section 157 , 163 and 164, of the Maharashtra Zilla Parishads and panchayat Samitis Act, 1961, shall mutatis mutandis, apply to the levy and collection of such taxes.

(2) It shall also be competent for the State Government or the Zilla Parishad to recover the expenditure incurred by it for the operation and maintenance of such schemes, by making necessary adjustment against any grants or other moneys due and payable to the panchayat under any statute or otherwise.

#### **145. Dissolution of panchayat :-**

(1) If, in the opinion of the State Government a panchayat exceeds or abuses its power or is incompetent to perform, or makes persistent default in the performance of, the duties imposed on it or functions entrusted to it under Sub-Section (1) of Section 45 or any other provision of this Act or by or under any other law for the time being in force, [or has failed to levy taxes referred to in clauses (i) and (I-a) of sub-section (1) of Section 124 ,] [or has failed to levy taxes referred to in clauses (viii) and (xii) of sub-section (1) of Section 124 when it was compulsory to levy such taxes under sub-section (1) of Section 124 ] or fails to obey an order made by the [Panchayat Samiti] under Section 128 or persistently disobeys any of the orders of the [Standing Committee] or Commissioner under Section 142 [or willfully disregards any instructions given by the Zilla Parishad or panchayat Samiti under Section 152 or by any competent authority arising out of audit of accounts under this Act or inspection of the office and work of the panchayat or instructions given or directions issued by the State Government under Section 153A ], the State Government may, after consultation with the [Zilla Parishad] and after giving the panchayat an opportunity of tendering an explanation, by order in the Official Gazette. (i) dissolve such panchayat, [\* \* \*] (ii) [\* \* \*]

(1A) If more than half the total number of seats in a panchayat have become vacant, the State Government may, by order in the official Gazette, dissolve such panchayat.

(2) When a panchayat [is dissolved [\* \* \*] as provided in the preceding sub-sections] the following consequences shall ensue, that is to say:-

(a) all members of the panchayat shall, in the case of dissolution, as from the date specified in the order of dissolution, [\* \* \*] vacate their office as such members;

(b) all powers and duties of the panchayat shall, during the period of dissolution [\* \* \*] be exercised and performed by such person or persons as the State Government may, from time to time, appoint in that behalf; and

(c) all property vested in the panchayat shall, during the period of dissolution [\*\*\*] vest in State Government.

(3) When the panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(4) [\* \* \*]

#### **146. Dissolution and reconstitution of panchayat on alteration of limits of a village :-**

(1) When during the term of the panchayat, the limits of a village are altered, the Commissioner may, by order in writing, dissolve such panchayat and direct a panchayat -

(i) to be reconstituted for the village for which the panchayat has been dissolved; or

(ii) to be established for a village which has been newly [specified by notification issued under clause (g) of Art.243 of the Constitution of India ].

(2) The panchayat reconstituted or established under the provisions of sub-section (1) shall consist of [the elected members and the appointed members, if any,]. The Sarpanch and Upa-Sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(3) [\* \* \*]

(4) \* \* \*]

**147. Vesting of property, etc of panchayat which has been dissolved and reconstituted or established :-**

(1) When a panchayat has been dissolved and reconstituted or established under Section 146 and so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to the reconstituted or established panchayat as the Commissioner may, by order in writing, direct.

(2) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat shall vest in such panchayat.

(3) Any notice, tax, order, licence, permission, rule or by-law, issued, imposed, granted or made in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been issued, imposed, granted or made by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or by-law made, issued, imposed, granted or made by or in respect of such panchayat.

**148. Effect of area being excluded from village :-**

Where [\* \* \*] under Section 4 any local area forming part of a village excluded from such village, and such area is not included in or declared to be a village, so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the Commissioner may by order in writing direct, shall vest in the Collector to be utilized for the benefit of the area as the Collector may think fit.

**149. Effect of area ceasing to be a village :-**

On any area ceasing to be a village [\* \* \*] under Section 4 , -

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date [on which such area has ceased to be a village];

(b) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the Collector, to be utilized for the benefit of the inhabitants of the areas as the Collector may think fit.

(c)\* \* \*]

**150. Effect of dissolution or supersession of panchayat or of withdrawal of judicial powers of Nyaya Panchayat on Nyaya panchayats and proceedings pending before them. :-**

Deleted by Mah. 13 of 1975, s. 26.

**151. Powers and duties of panchayats not validly constituted to be performed by person appointed by Government :-**

(1) (a) Notwithstanding anything contained in this Act or the rules or bye-laws made thereunder, if at any time it appears to the State Government that a panchayat has not been validly constituted under this Act, the State Government may, by notification in the Official Gazette, [dissolve such panchayat and by the same notification or like notification cause all] or any of the powers and duties performed by such person or persons, in such manner and for such period and subject to such conditions as it may think fit:

Provided that on the reconstitution of the panchayat under sub-section (2), such notification shall cease to have effect from the date on which the first meeting of the panchayat so reconstituted is held under Section 28 .

(b)\* \* \*]

(2) On the issue of such notification all the members of the panchayat shall be deemed to have vacated their office as members and the panchayat shall be reconstituted [\* \* \*] in the manner

provided in this Act.

(3) All the powers and duties of the panchayat [\* \* \*] exercised and performed bonafide till the date of the notification referred to in sub-section (1) by the persons who constituted such panchayat [\* \* \*] shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or be called in question on the ground merely that the persons were not members of a validly constituted panchayat [\* \* \*] and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts.

**152. Panchayat to conform to instructions given by parishad and Samiti :-**

A panchayat shall conform to any instructions that may, from time to time, be given to it by the Zilla Parishad or the panchayat Samiti or both, in the execution by the panchayat of its duties and functions under this Act.

**153. Inquiry by officers of State Government :-**

(1) The State Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the village administration of any panchayat or any matters with respect to which the sanction, approval, consent or order of the State Government is required by this Act.

(2) The officer holding such inquiry shall have the powers of a Court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

(3) The State Government may make orders so as to the cost of inquiries under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and any such order may, on the application of the State Government or of any person named therein, be executed as if it were a decree of a Civil Court.

**153A. Power of State Government to give instructions and issue of directions to the panchayats :-**

The State Government may give to any panchayat general instructions as to matters of policy to be followed by the panchayat in respect of its duties or functions, and in particular, it may issue directions in the interest of the national or State development plans in respect of the execution and maintenance of works and development schemes. Upon the issue of such instructions and directions it shall be the duty of the panchayat to give effect to such instructions and directions.

**153B. Power of State Government to give instructions and issue directions to Gram Sabha or panchayat in Scheduled Areas :-**

The State Government may give to any Gram Sabha or panchayat in the Scheduled areas general or special instructions as to the matters of policy to be followed by the Gram Sabha or panchayat, as the case may be, in the interest of the tribals in the scheduled Areas with reference to the implementation of or compliance with, the provisions of the panchayats (extension to the scheduled Areas) Act, 1996 . Upon the issue of such instructions or directions it shall be the duty of the Gram Sabha or the panchayat, as the case may be, to give effect to such instructions or directions.

**154. Authority of State Government, Commissioner and Collectors :-**

(1) In all matters connected with this Act, the State Government, and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively as they have and exercise over them in the general and revenue administration.

(2) In all matters connected with this Act, the State Government shall have and exercise the same authority and control over the Zilla Parishad and the panchayat Samiti as it has and

exercise over them under the Maharashtra Zilla Parishads and panchayat Samitis Act, 1961.

#### **155. State Government may call for proceedings :-**

The State Government may call for and examine the record of proceedings of the [Zilla parishad, panchayat Samiti or Standing Committee, as the case may be] or of any officer [\* \* \*] for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as it shall deem just.

**CHAPTER 12** Provisions for conversion of a Municipality into a panchayat and for Amalgamation and Divisions of panchayats

#### **156. Interpretation :-**

For the purposes of this Chapter, unless the context otherwise requires, the expression - \* \* \*

(a) "municipality" includes a person or persons appointed to exercise the powers and perform the functions of a municipality under S.179 of the Bombay District Municipal Act, 1901,[\* \* \*] or under S.57 of the Central Provinces and Berar Municipalities Act, 1922, or of a Town Municipality under S.254 of the Hyderabad District Municipalities Act,1956 (the aforesaid Acts being hereafter in this Chapter referred as "the municipal laws");

(b) "panchayat" includes a person or persons appointed to exercise the powers and to perform the functions of a panchayat under Section 145 .

#### **157. Effect of conversions of municipality into panchayat :-**

When any local area ceases to be a municipal district by virtue of, or when the whole area comprised in a municipality is withdrawn from, or when any municipality ceases to be a municipality by virtue of, any municipal law, and such area is [specified] to be a village under Section 4 , with effect from the date on which such local area is so [specified] to be a village (in this section referred to as "the said date"), the following consequences shall notwithstanding anything in the relevant municipal law, ensue, that is to say -

(a) the municipality of such local area shall cease to exist;

(b) there shall, notwithstanding anything contained in any law for the time being in force, be constituted for the village an interim panchayat consisting of persons vacating office as councillors of the municipality or members of the Committee or members of a Town Committee of such

(c) the unexpended balance of the municipal fund and property including arrears of rates, taxes and fees, belonging to the municipality, and all rights and powers, which prior to such notification, vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in the interim panchayat as the village fund until the new panchayat is constituted in pursuance of the provisions of sub-section (1) of Section 158;

(d) any appointment, notification, notice, tax, order, scheme, licence, permission, rule by-law or form made, issued, imposed or granted under any municipal law immediately before the said date in respect of such local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the village until it is superseded or modified by any other appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act;

(e) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated under any of the municipal laws immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act;

(f) all debts and obligations incurred and all contracts made by or on behalf of the municipality immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the interim panchayat in exercise of the powers conferred on it by or under this Act;

(g) all officers and servants in the employ of the municipality immediately before the said date shall be officers and servants of the interim panchayat under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that, it shall be competent to the interim panchayat subject however, to the previous

sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the service of the interim panchayat, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the municipality in the employ of which he was, had not ceased to exist;

(h) all proceedings pending at the said date before the municipality shall be deemed to be transferred to, and continued by the interim panchayat;

(i) all appeals pending at the said date before the municipality shall, so far as may be practicable be disposed of as if such local area had been included in the village when they were filed;

(j) all prosecutions instituted by or on behalf of the municipality and all suits or other legal proceedings instituted by or against such municipality or any officer of such municipality pending at the said date shall be continued by or against the interim panchayat as if such local area had been included in the village when such prosecutions, suits or proceedings were instituted.

#### **158. Term of officer of members of interim panchayat and their powers :-**

(1) The [State Election Commission] shall, within a period not exceeding one year from the date on which the interim panchayat has been constituted, take steps to hold election for a new panchayat;

(2) The members of the interim panchayat shall hold office until the day immediately preceding the day of the first meeting of the new panchayat;

(3) Any vacancy in the office of the interim panchayat, shall be filled as soon as conveniently may be, by appointment by the [Standing Committee];

(4)\* \*]

(5) All arrears of rates, taxes and fees vesting in the interim panchayat shall be recoverable under the provisions of this Act as if the rates, taxes and fees were imposed and recoverable under this Act:

Provided that, steps to recover arrears of rates, taxes and fees shall be taken within a period of three years from the date on which they vest in the interim panchayat;

(6) In other respects the provisions of this Act; shall, mutatis mutandis apply to the interim panchayat and its members;

[\* \* \*]

#### **159. Effect of amalgamation of villages :-**

(1) When two or more villages cease to be villages and the local areas constituting such villages are amalgamated and [specified to be one village (hereinafter in this Section referred to as "the amalgamated village") under Section 4, with effect from the date on which it is so specified] (hereinafter in this Section referred to as "the said date") the following consequences shall ensue, that is to say, -

(a) the panchayats of such local areas [shall be deemed to have been dissolved and shall cease] to exist and all the members of such panchayat shall vacate office;

(b) all powers and duties of such panchayats shall be exercised and performed by such person or persons (hereinafter referred to as the administrator or administrators) as the State Government appoints in this behalf;

(c) the unexpended balance of the village funds and all the properties including arrears of rates, taxes and fees belonging to such panchayats and all rights and powers which prior to the said date, vested in such panchayats, shall be subject to all charges and liabilities affecting the same, vest as the village fund, -

(i) in the administrator or administrators, until the panchayat for the amalgamated village is constituted and holds its first meeting under sub-section (1) of section 28, and

(ii) thereafter, in the amalgamated panchayat;

(d) the unexpended balance of the village funds and all the properties (including arrears of

fates, taxes and fees) shall, until the amalgamated panchayat is constituted and holds its first meeting, be utilized for the benefit of the inhabitants of such local areas in such manner as the administrator or administrators may think fit;

(e) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the amalgamated village until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act;

(f) all budget estimates, assessments, assessment lists, valuation or measurements made or authenticate by such panchayats immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated village under this Act;

(g) all debts and obligations incurred and all contracts made by or on behalf of such panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated panchayat in exercise of the powers conferred on it by this Act;

(h) all officers and servants in the employ of such panchayat immediately before the said date shall be officers and servants of the amalgamated panchayat and shall until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the administrator or administrators or the amalgamated panchayat, subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servants who, in his, their or its opinion, is not necessary or suitable to the requirements of the service of the amalgamated village, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity, as he would have been entitled to take or receive on being invalided out of service, as if the panchayat in the employ of which he was, had not ceased to exist;

(i) all proceedings, pending at the said date before such panchayats shall be deemed to be transferred to, and continued by, the administrator or administrators or the amalgamated panchayat, as the case may be,

(j) all appeals pending before such panchayats at the said date shall, so far as may be practicable, be disposed of by the administrator or administrators or the amalgamated panchayat, as the case may be;

(k) all prosecutions instituted by or on behalf of such panchayats and all suits or other legal proceedings instituted by or against such panchayats or any officer of such panchayats pending at the said date shall be continued by or against the amalgamated panchayat.

(2) [Before the expiration of a period of six months from] the said date a panchayat for the amalgamated village shall be constituted in accordance with the provisions of this Act.

#### **160. Effect of division of village :-**

(1) Where any local area comprised within the limits of a village ceases, to be a village and is [specified as constituting two or more villages under section 4 with effect from the date on which they are so specified] (hereinafter in this Section referred to as "the said date"), the following consequences shall ensue, that is to say,

(a) the panchayat constituted in respect of such local area [shall be deemed to have been dissolved and shall cease], to exist and all the members of the panchayat shall vacate office;

(b) until panchayats are constituted for the new villages the State Government shall appoint an administrator or administrators to exercise the powers and perform the functions of the panchayat for each of the new villages;

(c) the unexpended balance of the village fund and all the property (including arrears of rates, taxes and fees) belonging to such panchayat shall vest in the new panchayat in such proportion and in such manner as the State Government may direct;

(d) the officers and servants of such panchayat shall be allocated by the State Government to

the new panchayats in such manner as the State Government may direct;

(e) subject to clauses (a) to (d) the provisions of Section 159 shall mutatis mutandis apply to the administrator or administrators of the new panchayats and their members;

(f) \* \* \*]

(2) [Before expiration of a period of six months from] the said date the panchayats for the new village shall be constituted in accordance with the provisions of this Act.

(3) \* \* \*]

## **CHAPTER 13 Cattle Pounds**

### **161. Cattle-trespass Act to cease to apply :-**

In any local area which is declared to be a village under Section 4 of this Act, or deemed to be a village under sub-section (1) of Section 186 the provisions of the Cattle-trespass Act, 1871, or any law corresponding to that Act in force in any part of the State shall cease to apply in relation to such local area:

Provided that -

(a) nothing in this Section shall affect the liability of any person to any penalty under any law so ceasing to be in force;

(b) any appointment, notification, order, rule made or issued under any such law in respect of any cattle pounds within the limits of any panchayat area shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act and continue in force until superseded by any notification, order or rule made under this Act;

(c) any cattle pound in the local area established under any law so ceasing to be in force shall be deemed to be vested in the panchayat within whose limits it is situate and shall be maintained and managed by the panchayat in accordance with the provisions of this Act.

### **162. Power to establish cattle pounds and appoint pound keepers :-**

(1) Notwithstanding anything contained in any law for the time being in force, every panchayat within the limits of its jurisdiction shall from time to time, appoint such places as it thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons as may be approved by the [Block Development Officer]. The duties of pound keepers shall be such as may be prescribed.

(2) Every pound keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the panchayat.

### **163. Penalty for allowing cattle to stray in street or to trespass upon private or public property :-**

(1) Whoever, within the limits of a village, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished. -

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees or with both;

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) The Magistrate trying the offence under sub-section (1), may order, -

(a) that the accused shall pay such compensation, not exceeding two hundred and fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land; and also,

(b) that the cattle in respect of which an offence has been committed shall be forfeited to the State Government.

(3) Any compensation awarded under Sub-Section (2) may be recovered as if it were a fine imposed under this Section.

(4) An offence under this Section shall be cognizable.

#### **164. Impounding cattle :-**

(1) It shall be the duty of every Police officer and a Watch and Ward appointed by the panchayat, and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle pound straying in any street or trespassing upon any private or public property within the limits of the village.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees, or with both.

#### **165. Delivery of cattle claimed :-**

If the owner of cattle which are impounded under Section 164 or his agent appears and claims the cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under Section 167 .

#### **166. Sale of cattle not claimed :-**

(1) If within ten days after any cattle has been impounded, no person appearing to be the owner of such cattle offer to pay the pound-fee and expenses chargeable under Section 167 such cattle shall be forthwith sold by auction in the prescribed manner and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person, who, within fifteen days after the sale, proves to the satisfaction of such officer as the panchayat authorises in this behalf, that he was the owner of such cattle and shall in any other case, form part of the village fund:

Provided that, when a complaint is made under Section 168 , no auction shall be held until the complaint is examined and disposed of as provided by that Section.

(2) No Police officer, or officer, member or servant of the panchayat including the pound- keeper shall, directly or indirectly, purchase any cattle at a sale under Sub-Section (1).

#### **167. Pound-fees and expenses chargeable to be fixed :-**

(1) The pound-fee chargeable shall be such as the State Government may from time to time, by notification in the official Gazette, specify for each kind of cattle.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as shall from time to time be fixed by the panchayat with the previous approval of the [panchayat Samiti].

#### **168. Complaints of illegal seizure or detention :-**

(1) Any person whose cattle have been seized under this Act or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the first class.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complaint or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure or detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and, if the cattle have not been released the Magistrate shall, besides awarding such compensation order their release, and direct that the fees and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.



(4) The compensation fees and expenses mentioned in this Section may be recovered as if they were fines imposed by the Magistrate.

**168A. Security in respect of impounded cattle :-**

(1) In any local area within the jurisdiction of a panchayat to which the State Government may, by notification in the Official Gazette, apply this Section, every pound-keeper shall, before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the prescribed form, a declaration regarding the ownership of such cattle and to deposit by way of security such sum as the State Government may by rules, prescribe. Different scales may be prescribed for different areas or different classes of cattle.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be directed by the State Government by rules made in this behalf, shall stand forfeited to the panchayat. If the cattle are not impounded as aforesaid, the amount of security deposit shall, on an application made by or on behalf of the depositor, be refunded to him on the expiry of that period.

(3) On every occasion on which the release of the cattle impounded under this Act is claimed, the owner of the cattle shall deposit a fresh security.

**168B. Removal of cattle to specified places :-**

(1) If a Mamlatdar, Tahsildar, Naib-Tahsildar or Mahalkari is satisfied that the crops or grass standing on any agricultural land or grazing land set apart for the use of cattle of one or more villages within the jurisdiction of a panchayat are likely to be damaged by cattle belonging to any persons (whether or not residents of such village or villages), who own more than twenty head of cattle, he may, by special or general order, direct the owner of such cattle to remove or cause to be removed, within a period specified in the order, all or any of the cattle to such place or places within the State as may be specified in the order.

(2) If the owner of the cattle fails to remove the cattle as directed under sub-section (1), the Mamlatdar, Tahsildar, Naib-Tahsildar or Mahalkari, as the case may be, may direct a police officer not below the rank of a head constable to remove or cause to be removed such cattle to the place or places specified in the order.

(3) If the Mamlatdar, Tahsildar, Naib-Tahsildar or Mahalkari is satisfied that the order issued by him under sub-section (1) is contravened by any owner or keeper of cattle, he may impose a fine not exceeding five hundred rupees. Any fine so imposed, may, on failure of such owner or keeper to

**CHAPTER 14 Recovery of Land Revenue**

**169. . :-**

Deleted by Mah. 13 of 1975, s. 31

**170. . :-**

Deleted by Mah. 13 of 1975, s. 31

**171. . :-**

Deleted by Mah. 13 of 1975, s. 31

**172. . :-**

Deleted by Mah. 13 of 1975, s. 31

**173. . :-**

Deleted by Mah. 13 of 1975, s. 31

**174. . :-**

Deleted by Mah. 13 of 1975, s. 31

**175. . :-**

Deleted by Mah. 13 of 1975, s. 31

**CHAPTER 15** Rules and By-Laws

**176. Rules :-**

(1) The State Government may, by notification in the Official Gazette, make rules for carrying into effect the purposes of this Act.

(2) In particular but without prejudice to the generality of the foregoing provision, the State Government may make rules -

(i)\* \* \*]

(ii) under sub-section (1) of Section 7 , prescribing the date, [place, time and manner of convening] meetings of the Gram Sabha;

(iia) under clause (b) of Sub-Section (1) of Section 10 , prescribing the manner in which the number of wards and the number of members to be elected from each ward may be determined;

(iii) under sub-section (2) of Section 10 , [the manner in which the [State Election Commission] shall determine the number of seats to be reserved] for the Scheduled Castes and Scheduled tribes [and Backward Class of citizens and women] [and prescribing the manner and rotation of [such reservations of seats] in each panchayat and under sub-section (3) of the said Section, prescribing the manner of publication of the names of the members falling under clause (a) of sub-section (1);

(iv) under Section 11, prescribing the manner in which the election of members shall be held;

(ivaa) under sub-section (1) of Section 29 , prescribing the manner in which the resignation shall be delivered;

(ivaaa) under Section 30 , prescribing the number of officers of Sarpanchas of Panchayats to be reserved for scheduled Castes, Scheduled Tribes, Backward Class of citizens, and women in a panchayat and the manner and rotation of such reservation;

(iv-a) under Section 32A , prescribing the traveling and daily allowances to be paid to the members of the panchayat including its Sarpanch and Upa-Sarpanch;

(v) under sub-section (2) of Section 33 , prescribing the powers of, and the procedure to be followed by, the [\* \* \*] officer presiding;

(v-aa) under Section 33A , prescribing the manner in which the sumptuary allowance shall be placed at the disposal of the Sarpanch.

(v-a) under Sub-Section (3) of Section 34 , prescribing the manner in which the notice of resignation shall be delivered;

(vi) prescribing the form of notice under Sub-Section (1) of Section 35 ;

(vii) under Section 36 , prescribing the time and place of sitting and the procedure at a meeting of the panchayat;

(viii) under sub-section (1) of Section 38 , prescribing the rules for the performance and exercising of powers and duties of Sarpanch by Upa-Sarpanch in the absence of Sarpanch;

(viii-a) \* \* \*]

(ix) under sub-section (1) of Section 43 , regulating the manner in which the notice of a vacancy in the office of a Sarpanch, Upa-Sarpanch or members of a panchayat shall be given;

(x) [under entry 44 of Schedule I], prescribing the principles for the extension of village sites and regulation of buildings;

(xa) under sub-section (2-B) of Section 45 , prescribing the limits subject to which grant-in- and may be given by a panchayat to institutions specified in that Sub-Section;

(xi) [under entry 50 of Schedule I], prescribing the persons in the village from whom and the manner in which the costs of watch and ward shall be levied and recovered;

(xii) under the proviso to sub-section (2) of Section 51 , prescribing the manner of publishing

the notice for the stoppage or discontinuance of public road or street;

(xii-a) under sub-section (1) of Section 56 , for the purposes of vesting property of the Zilla Parishad or panchayat Samitis in a panchayat; and under Sub-Section(3) of the said Section, for the purpose of vesting work in a panchayat;

(xiii) under Section 58 , prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept;

(xiv) under clause (c) of sub-section (3.) of Section 59 , prescribing the manner in which the notice of any inquiry shall be given to any person;

(XV) \* \* \*]

(xv-a) under Section 61 , prescribing the rules, regulating the terms and conditions of service of servants referred to therein;

(xvi) under Section 62 , prescribing the date and form of the statement, the percentage of the total income from all sources to be contributed to the District Village Development Fund and the form in which account shall be kept;

(xvii) to (xxiv-a) \* \* \*]

(xxv) \* \* \*]

(xxvi) under Section 124 , laying down the maximum and the minimum rates and the manner in which and the exemptions subject to which taxes and fees specified in the Section shall be leviable;

(xxvii) under Section 125 , prescribing the manner in which the dispute regarding lump-sum contribution by factories may be referred to State Government;

(xxviii) under sub-section (1) of Section 128 , prescribing the maximum rate of tax;

(xxix) under sub-section (2) of Section 129 , prescribing the form of the writ to be presented to the defaulter;

(xxx) under sub-section (4) of Section 129 , prescribing the manner of distraint and sale of the immoveable property of the defaulter;

(xxxi) under Sub-Section (5) of Section 129 , prescribing the rates of fees for writ of demand, distress and cost of maintaining any live-stock seized;

(xxxii) under sub-section (6) of Section 129 , prescribing the manner of recovery of any tax or fee payable on demand;

(xxxiii) \* \* \*]

(xxxiv) prescribing the manner in which refunds may be allowed and paid, in respect of any amount of tax, free or other sum, not due or paid in excess;

(xxxiv-a) under sub-section (3) of Section 132B , prescribing for all matters connected with the [Village Water Supply Fund.

(xxxv)\* \* \*]

(xxxvi) under Section 133 , prescribing the officer or authority in whom the District Village Development Fund shall vest, the manner of the investment of the fund, the rate of interest to be paid on the contributions made to the fund by panchayats, the purpose for which and the terms and conditions on which loans may be granted, and all matters incidental to the grant and repayment of such loans;

(xxxvii) \* \* \*]

(xxxviii) \* \* \*]

(xxxix) under Section 135 , prescribing the other functions which may be preformed by a [Zilla Parishad and panchayat Samiti];

(xl) under Section 136 , prescribing the functions of the District Village Panchayat Officer;

(xli) under Section 140 , prescribing [the authority by which and] the manner in which the audit of accounts of a panchayat shall be carried out;

(xlii) under Section 162 , prescribing the duties of the pound-keeper;

(xliii) under Section 166 , prescribing the manner in which auction shall be held;

(xliii-a) under Section 168A , prescribing the form of, and the procedure relating to the declaration, and the scales of deposits to be made;

(xliv) under sub-section (2) of Section 179 , prescribing the form of the warrant;

(xlv)\* \* \* \*]

(xlv) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any provident fund which may be established by a panchayat or with the approval of the panchayat by the officers and servants of the panchayat;

(xlvii) for any other matter for which rules are required to be made under this Act, or generally for carrying out the purposes thereof.

(3) In making any rule, under this Section, the State Government may provide that for any breach thereof the offender shall, on conviction, be punished with fine which may extend to fifty rupees, and in the case of continuing breach, with fine which may extend to five rupees for every day during which the breach continues, after conviction for the first breach.

(4) The rules to be made under this Section shall be subject to the condition of previous publication:

[\*\*\*]

(5) Every rule (except rules made under clause (xxvi) of Sub-Section (2)) made under this Section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

(6) The draft of every rule made, under clause (xxvi) of sub-section [(2)] shall, as soon as may be after it is published in the official Gazette as required by sub-section (4), be laid before each House of the State Legislature and shall be subject to such modifications as may be made by the State Legislature, before it is finally published as required by sub-section (1).

#### **177. By-laws :-**

(1)The [Zilla Parishad] may, with the previous sanction of the Commissioner, make by-laws generally for the carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the [Zilla Parishad] may make by-laws -

(a) under Section 45 -

(i) for the purification and protection from pollution of all sources of water used for drinking purposes;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank, or well, or by any other method, which may be considered advisable;

(iii) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort, or convenience;

(iv) for the regulation of offensive callings, or trades;

(v) for the disposal of corpses by burning or burial;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to the health or offensive to the neighbourhood;

(vii) for the removal of noxious vegetation;

(viii) for the repair and removal of dangerous or ruinous buildings;

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation, or the laying out and location of streets;

(x) for the control of fairs and bazaars, and the regulations of markets, slaughter-houses and cart-stands;

(xi) for the inspection and destruction of unfit food and drink exposed for sale; and

(xii) for the general regulation of sanitation and conservancy and the disposal of carcasses of dead animals;

(b) under Section 53 for the temporary erection on, or projections over, or temporary occupation of, any public street or place.

(3) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable -

- (a) with a fine which may extend to fifty rupees;
- (b) in the case of a continuing contravention with a fine, which may extend to five rupees per day after conviction for the first contravention, during the period within which such contravention continues.

## **CHAPTER 16** Miscellaneous

### **178. Liability of members for loss, waste or misapplication :-**

- (1) Every member of a panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the panchayat to which he has been party or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.
- (2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector shall by order in writing direct such member to pay to the panchayat before a fixed date, the amount required to reimburse if for such loss, waste or misapplication.
- (3) If the amount is not so paid the Collector shall recover it as an arrear of land revenue and credit it to the village fund.
- (4) Any person aggrieved by the decision of the Collector may apply to the District Court as provided in Sub-Section (6) of Section 14 , within the like time for redress of his grievance, and that Court may pass any order thereon which it can pass under that Section.

### **179. Power of Collector to recover record and money :-**

- (1) Where on an application of a panchayat [or otherwise] the Collector is of the opinion that any person, who in his capacity [as a Sarpanch, Upa-Sarpanch, member,] officer, servant or Secretary of a panchayat had in his custody any record or money belonging to the panchayat is [on his vacating or ceasing to hold, his office for any reason whatsoever.] or suspension from office, as the case may be, not likely to deliver such record or pay such money, the Collector may by a written order require that the record or money so detained be delivered or paid to the panchayat forthwith.
- (2) If any such person as aforesaid shall not deliver the record or pay the money as directed, the Collector may cause him to be apprehended and may send him with a warrant in such form as may be prescribed, to be confined in a civil jail till he delivers up the record or pays the money:  
Provided that no such person shall be so detained in confinement for a period longer than one calendar month.
- (3) It shall be lawful for the Collector -
  - (a) for recovering any such money to direct that such money be recovered as an arrear of land revenue and on such direction being given, such money shall be recoverable as an arrear of land revenue from such person;
  - (b) for recovering any such record to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1898.
- (4) No action under sub-section (1), (2) or (3) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

### **180. Bar of action against panchayas, etc., and previous notice before institution :-**

- (1) No action shall lie against any member, officer, servant or agent of a panchayat [\* \* \*] acting under its direction, in respect of anything in good faith done under this Act or any rule or by-law.
- (2) No action shall be brought against any panchayat [\* \* \*] or any member, officer, servant or agent of such panchayat [\* \* \*] acting under its direction for anything done or purporting to

have done by or under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat [\* \* \*] and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action, and not afterwards.

(4) If any panchayat [\* \* \*] or person to whom a notice under sub-section (2) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into Court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

**181. Bar of action against 2[Zilla Parishad, Standing Committee or Panchayat Samiti] etc., and previous notice before institution :-**

(1) No suit shall be commenced against any [Zilla Parishad, Standing Committee or Panchayat Samiti] or against any officer or servant of a [Zilla Parishad, Standing Committee or Panchayat Samiti] or any person, acting under the orders of a [Zilla Parishad, Standing Committee or Panchayat Samiti] for anything done or purporting to have been done in pursuance of this Act, without giving to such [Zilla Parishad, Standing Committee or Panchayat Samiti] officer, servant or person, one months previous notice in writing of the intended suit and of the cause thereof not after three months from the date of the act complained of.

(2) In the case of any such suit for damages, if tender of sufficient amounts shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

**182. Delegation of powers :-**

(1) The State Government may, by notification in the Official Gazette, authorise the Commissioner or any other officer to exercise [\* \* \*] any of the powers which may be exercised by the State Government under this Act. [\* \* \*]

(2) [\* \* \*]

(3) [\* \* \*]

(4) Subject to the general or special orders of the State Government, the Commissioner or collector may delegate to an officer not below the rank of a Mamlatdar, Tahsildar, Naib-Tahsildar or Mahalkari, powers exercised by the Commissioner or as the case may be, the Collector under this Act.

(5) Subject to the general or special orders of the State Government, the Chief Executive officer may delegate to any officer working under a Zilla Parishad all or any of the powers exercisable by him under this Act.

**183. Local enquiry and reports by panchayat :-**

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

(a) any case where a Magistrate has directed that a previous local investigations be made by a panchayat under S.202 of Code of Criminal Procedure, 1973 and the words "such other person" in Sub-section (1) of the said Section shall be deemed to include a panchayat;

(b) any case in which a Magistrate making an enquiry under S.488 of Code of Criminal Procedure, 1973, may require from the panchayat in whose village either the wife or child for whose maintenance the application is made or the husband or parent respectively of such wife or child resides, report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such enquiry:

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the Magistrate, in his discretion, call for a

further report.

**184. Members, etc., of panchayats to be public servants :-**

Every member of a [\* \* \*] panchayat [\* \* \*] and every officer and servant maintained by or employed under a [\* \* \*] panchayat [\* \* \*] shall be deemed to be a public servant within the meaning of Section 21 Of the Indian Penal Code, 1860

**184A. Panchayat Samiti to exercise duties in respect of panchayat within its area :-**

(1) Nothing in this Act shall be construed as empowering a panchayat Samiti to exercise any powers or perform any functions under this Act in relation to a panchayat the area of which is not within its jurisdiction.

(2) If any Block comprises only a part of a village for which a panchayat has been established, the State Government may, by notification in the Official Gazette, declare which panchayat Samiti shall exercise the powers and perform the functions under this Act in respect of such panchayat.

**184B. Powers of police officers :-**

It shall be the duty of every police officer to give immediate information to the panchayat [\* \* \*] of any offence committed against this Act or the rules or by-laws made thereunder and to assist the panchayat [\* \* \*] in the exercise of its lawful authority.

**184C. Suspension of operation of Act, rules and by-laws :-**

If the State Government is satisfied that circumstances have arisen by reason of earthquake or similar natural calamity rendering it necessary that certain provisions of this Act or any rules or by-laws made thereunder, which impede or delay the repaid rehabilitation or giving of relief to persons affected thereby, should be suspended or relaxed in the public interest, the State Government may, by notification in the Official Gazette, suspend or relax for such period and in such area as may be specified in the notification the operation of any of the provisions of this Act or any rules or by-laws made thereunder.

**185. Repeal :-**

The Bombay Village Panchayats Act, 1933, or that Act in its application to the Kutch area of the [State of Bombay, the Saurashtra Gram Panchayat Ordinance, 1949, the Hyderabad Gram Panchayat Act, 1956 and the Central Provinces and Berar Panchayats Act, 1946, are hereby repealed.

**186. Savings :-**

Notwithstanding the repeal of the said laws and the foregoing provisions of this Act -

(1) any local area declared to be a village immediately before the coming into force of this Act shall be deemed to be a village under this Act;

(2) the panchayats constituted under the said Acts immediately before the said date (hereinafter called "the old panchayats") shall be deemed to be panchayats of the respective villages (hereinafter called "the new panchayats");

(3) the Sarpanch, the Deputy Sarpanch or Upa-Sarpanch and the members or panchas elected or appointed for the panchayats and holding office immediately before the said date shall respectively be deemed to be the Sarpanch, the Upa-Sarpanch, and the members of the new panchayats;

(4) the said Sarpanch, the Upa-Sarpanch and the member shall hold office as such Sarpanch, the Upa-Sarpanch and the members for the period for which they would have held office under the said Acts, subject however, to the provisions relating to disqualifications, resignations, removal and vacancy provided in this Act;

(5) [\* \* \*]

(6) the unexpended balance of the village fund and all the properties (including arrears of rates,

taxes and fees) vesting in the old panchayats shall from the said date vest in the new panchayats and such arrears of rates, taxes and fees shall be recoverable under the provisions of this Act as if they had been imposed and recoverable under the provisions of this Act;

(6A\* \* \*)

(7) all debts and obligations incurred and all contracts made by or on behalf of the old panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the new panchayats in exercise of the powers conferred on them by this Act;

(8) any appointment, notification, notice, tax, fees, order, scheme, licence, permission, rule, bylaws, or form made, issued, imposed or granted in respect of the said villages and in force on the date of the commencement of this Act shall in so far as they are not inconsistent be deemed to have been made, issued, imposed or granted under this Act in respect of the village and shall continue in force until it is superseded or modified by any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act;

(9) All budget estimates, assessments, assessment lists, valuations or measurements made or authenticated immediately before the commencement of this Act by the old panchayats shall be deemed to have been made or authenticated by the new panchayats under this Act;

(10) the Secretaries, Karbharis, all officers and servants in the employ of the old panchayats immediately before the said date shall be the Secretaries, karbharis, officers and servants of the new panchayats;

(11) all proceedings pending before the old panchayats [\* \* \*] shall be deemed to have been instituted and to be pending before the new panchayats, [\* \* \*] and shall be heard and disposed of the said panchayats [\* \* \*] under this Act;

(12) all appeals pending before the old panchayats at the said date shall be disposed of by the new panchayat;

(13) all prosecutions instituted by or on behalf of the old panchayats and all suits or other legal proceedings instituted by or against the old panchayats or any officer or such panchayats pending at the said date shall be continued by or against the new panchayats;

(14) the Saurashtra Gram Panchayats Madhyastha Mandal constituted under S.45 of the Saurashtra Gram Panchayats Ordinance, 1949, or any District Panchayat Mandal or Taluka Panchayat Mandal appointed by it shall be dissolved and cease to function and any unexpended balances of money in their custody shall vest in the State Government. The provisions of sub-section (4) of Section 60 shall, so far as may be applicable, apply in relation to the officers and servants of the Saurashtra Gram Panchayat Madhyastha Mandal, or the District Village Panchayat Mandal or Taluka Village Panchayat Mandal;

(15) any reference to any enactment or in any instrument to any of the laws repealed or to any provision thereof or any authority elected or appointed thereunder shall be construed as a reference to the Bombay Village Panchayats Act, 1958 , or to the corresponding provision thereof or to the corresponding authority elected or appointed thereunder.

### **187. Provision for removal of difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act which appear to it to be necessary or expedient for the purpose of removing the difficulty.

### **188. Amendment of certain Acts :-**

During such time as this Act and the rules and by-laws made thereunder are in operation in any village, the enactments mentioned in Schedule II shall be amended, modified or repealed in the manner and to the extent specified in the third column thereof.

### **SCHEDULE 1**

Subjects of Activities (including Development Activities) Agriculture

### **SCHEDULE I**



**(Village List) (See Section 45)**

**Subjects of Activities (including Development Activities) Agriculture**

Subjects of Activities (including Development Activities) Agriculture

1. Making arrangement for co-operative management of lands and other resources in village, organization of collective co-operative farming.
2. Improvement of agriculture (including provision of implements and stores) and establishment of model agricultural farms.
3. Bringing under cultivation waste and fallow lands vested by Government in the panchayats.
4. Reclamation of wasteland and bringing wasteland under cultivation with the previous permission of the State Government.
5. Establishment and maintenance of nurseries for production of improved seeds and encouraging their use. 6. Crop experiments.
7. Crop protection.
8. Ensuring conservation of Mercurial resources, preparing compost and sale of manure.
9. Securing minimum standards of cultivation in the village with a view to increasing agricultural production.
10. Assistance in the implementation of land reform schemes,
11. Establishment of granaries. Animal Husbandry
12. Improvement of cattle and cattle breeding and general care of livestock. Forests
13. Raising, preservation, improvement and regulation of the use of village forests and grazing lands including lands assigned under Section 28 of the Indian Forest Act, 1927. Social Welfare
14. Relief of the crippled, destitute and the sick.
15. Promotion of social and moral welfare of the village including promotion of prohibition, the removal of unsociability, amelioration of the condition of backward classes, eradication of corruption and the discouragement of gambling and useless litigation.
16. Womens and Childrens organizations and welfare. Education
17. Spread of education.
18. Other educational and cultural objects.
- 18A. Maintenance and Repairs of Primary School Buildings 2[vesting for the time being in the Zilla Parishad
19. Provision of equipment and playgrounds for schools.
20. Adult literacy centres, libraries and reading rooms.
21. Rural Insurance. Medical and Public Health
22. Providing medical relief.
23. Maternity and child welfare.
24. Preservation and improvement of public health.
25. Taking of measures to prevent outbreak, spread or recurrence of any infectious disease.
26. Encouragement of human and animal vaccination.
27. Regulation by licensing or otherwise of tea, coffee and milk shops.
28. Construction and maintenance or control of slaughterhouses.
29. Cleansing of public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works.
30. Reclaiming of unhealthy localities.
31. Removal of rubbish heaps, jungle, growth, prickly pear, filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, prevention of water-logging in irrigated areas and other improvement of sanitary conditions.
32. Construction and maintenance of public latrines.
33. Sanitation, conservancy, prevention and abatement of nuisance and disposal of unclaimed corpse and carcasses of dead animals.
34. \* \* \*
35. Excavation, cleansing and maintenance of ponds for the supply of water to animals.
36. Management and control of bathing or washing ghats, which are not managed by any authority.
37. Provision, maintenance and regulation of burning and burial grounds. Buildings and Communications
38. Maintenance and regulation of the use of public buildings, tanks and wells (other than tanks and wells used for irrigation) vesting in or under the control of the panchayat.
39. Removal of obstruction and projections in public streets or places and in sites, not being private property, which are open to the public whether such sites are vested in the panchayat or belong to Government removal of unauthorized cultivation of any crop on any grazing land or any other land not being private property.
40. Construction, maintenance and repair of public roads, drains, bunds and bridges: Provided that, if the roads, drains, bunds and bridges vest in any other public authority such works shall not be undertaken without the consent of that authority.
41. Planting of trees along roads, in market places and other public places and their maintenance and preservation.
42. Provision and maintenance of playgrounds, public parks and camping grounds.
43. Construction and maintenance of dharmashalas.
44. Extension of village sites and regulation of buildings in accordance with such principles as may be prescribed.
45. Lighting of the village. Irrigation
46. Minor irrigation. Industries and Cottage Industries
47. Promotion, improvement and encouragement of cottage and village industries. Co-operation
48. Organisation of credit societies and multipurpose co-operative societies.
49. Promotion of co-operative farming. Self Defense and Village Defense
50. Watch and Ward of the village : Provided that the cost of watch and ward shall be levied and recovered by the panchayat from such person in the village, and in such manner, as may be prescribed.
51. Village Volunteer Force and Defence Labour Bank.
52. Rendering assistance in extinguishing fires and protecting life and property when fire occurs.
53. Regulating, checking and abating of offensive or dangerous trades or practices. General Administration

54. Preparation, maintenance and up keep of panchayat records.
55. Numbering of premises.
56. Registration of births, deaths and marriages in such manner and in such form as may be laid down by Government by general or special order in this behalf.
57. Collection of land revenue when entrusted by the State Government under Section 169.
58. Maintenance of village records relating to land revenue in such manner and in such form as may be prescribed from time to time by or under any law relating to land revenue.
59. Preparation of plans for the development of the village.
60. Drawing up of programmes for increasing the output of agriculture and non-agricultural produce in the village.
61. Preparation of the statement showing requirement of supplies and finances needed for carrying out rural development schemes.
62. Establishment control and management of cattle pounds.
63. Destruction of stray and ownerless dogs and pigs.
64. Disposal of unclaimed cattle.
65. Construction and maintenance of houses for the conservancy staff of the panchayat.
66. Reporting to proper authorities village complaints which are not removable by the panchayat.
67. Making surveys.
68. Acting as a channel through which assistance given by the Central or State Government for any purpose reaches the village.
69. Establishment, maintenance and regulation of fairs, pilgrimages and festivals.
70. Establishment and maintenance of markets, provided no markets shall be established without prior permission of the Zilla Parishad.
71. Control of fairs bazaars, tonga stands and cart stands.
72. Establishment and maintenance of warehouses.
73. Establishment and maintenance of works or the provision of employment in time of scarcity.
- 73A. Provision of employment to needy local persons seeking manual work under any scheme for employment guarantee undertaken or adopted by, or transferred to, the panchayat.
74. Preparation of statistics of unemployment.
75. Assistance to the residents when any natural calamity occurs.
76. Organizing voluntary labor for community works and works for the uplift of the village.
77. Opening fair price shops.
78. Control of cattle stands, threshing floors, grazing grounds and community lands.
79. Securing or continuing postal facilities of experimental post offices in the village by providing for payment of non-refundable contribution to the Posts and Telegraphs Department, wherever necessary.

#### **SCHEDULE 2**

Number and year of enactment

<b>SCHEDULE 2</b> <b>(See Section 188)</b>		
Number and year of enactment	Subject or title	Extent of repeal or amendment
(1)	(2)	(3)
1. Bombay Act VII of 1867.	The Bombay District	Sections 33 and 34 shall be repealed.

	Police Act, 1867.	
2. C.P. and Berar Act, XXXVIII of 1948.	The Central Provinces and Berar Local Government Act, 1948.	(1) In Section 3, in sub-section (9) the words "Subject to the general power of control vested in a Sabha over the Gram Panchayats" shall be deleted. (2) Section 52A shall be repealed. (3) In

		Section 109, Sub-Section (1) shall be repealed.
3. Hyderabad Act I of 1956.	The Hyderabad District Boards Act, 1955.	Section 203 shall be repealed.
4. Saurashtra Act XXV of 1956.	The Saurashtra District Panchayat Act, 1956.	(1) In Section 28, in the first paragraph for the words, "Gram Panchayat" wherever they occur the words "Village

panchayat",  
and for the  
words and  
letters  
"Saurashtra-  
Gram-  
Panchayats  
Ordinance,  
1949" the  
words and  
letters "the  
Bombay  
Village  
Panchayats  
Act, 1958"  
shall  
respectively  
be  
substituted;  
and the  
proviso shall

	be repealed. (2) Sections 30 and 83 shall be repealed.
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