

## **Maharashtra Gramdan Act, 1964**

**23 of 1965**

**[22 March 1965]**

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## **Maharashtra Gramdan Act, 1964**

**23 of 1965**

**[22 March 1965]**

An Act to provide for the establishment of Gramdan villages in pursuance of the Gramdan movement initiated by Acharya Vinoba Bhave, for the constitution of Gram Mandals therefor and for matters connected therewith. WHEREAS it is expedient to provide for the establishment of Gramdan villages in pursuance of the Gramdan movement initiated by Acharya Vinoba Bhave, for the constitution of Gram Mandate therefor and for matters connected therewith; it is hereby enacted in the Fifteenth year of the Republic

of India as follows:-- 1 For Statement of Objects and Reasons, see Maharashtra Government Gazette. 1964, Part V, Extra, pages 259-60; for Report of the Joint Committee, see *ibid.*, Part V, Pages 379-409. \* 1st September 1984 vide Government Notification, Revenue and Forests Department No. GDN. 1082/3771/G-1, dated the 28th August 1984 published in Maharashtra Government Gazette, Part IV-B (Ord.), Sr. No. 515, dated, the 20th September 1984, P 1159. \*\* 1st March 1986 vide Government Notification, Revenue and Forests Department No. GDN. 1077/2151/CR-12/Part II published in Maharashtra Government Gazette, Part IV-B (Extra.), dated, the 27th February 1986, P 82.

## CHAPTER 1 Preliminary

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

- (1) This Act may be called the Maharashtra Gramdan Act, 1964.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint.

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

In this Act unless the context requires otherwise--

- (a) "Gramdan" means a voluntary donation of land in a village for the purposes of this Act, and in accordance with the provisions thereof;
- (b) "Gramdan Kisan" means a person who holds land on lease as such under this Act and includes his heirs and successors-in-interest;
- (c) "Gramdan Village" means a village declared to be a Gramdan village under section 4;
- (d) "Gram Mandal" or "Mandal" means the Gram Mandal constituted under section 9;
- (e) "member" means a member of the Gram Mandal;
- (f) "owner" means--
  - (i) in relation to alienated land, the occupant, tenure holder, or as the case may be, a person who has permanent and heritable rights of possession of land, and
  - (ii) in relation to alienated land, the superior holder, and includes a person holding land under a grant, lease or assignment (without permanent rights) from the Government; and the expression "to own" with its grammatical variations shall be

construed accordingly;

( g ) "Panchayat" means Panchayat established under the Panchayats Act;

(h) "Panchayats Act" means the Bombay Village Panchayats Act, 1958 (Bom. III of 1959.);

(i) "person interested" in relation to any land means any person claiming right, title or interest in the land and includes a person having a right of easement over such land;

(j) "prescribed" means prescribed by rules;

1[(k) "President" and "Vice-President" means the President and the Vice-President, respectively, of a Gram Mandal;

(l) "regulation" means a regulation made by the Gram Mandal;

(m) "village" means a revenue village, or a village within the meaning of the Panchayats Act and includes any local area which the State Government may declare to be a village for the purposes of this Act.

(2) Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the law relating to land revenue for the time being in force in any part of the State, as the context may require.

1 This clause was substituted by Mah. 16 of 1984, s.2.

### **3. Act To Have Overriding Effect :-**

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

#### **CHAPTER 2**

#### **Gramdan Village**

### **4. Declaration Of Village As Gramdan Village :-**

(1) Where, in a village--

(a) the extent of lands in respect of which the declarations filed under Section 5 have been confirmed, is not less than sixty per cent, of the total extent of lands owned by persons residing in that village;

(b) the number of persons whose declarations have been so confirmed is not less than seventy-five per cent. of the total number of persons owning land and residing in the village;

(c) the number of persons in respect of whom declarations made under subsections (1) and (3) of section 5 have been confirmed is not less than seventy-five per cent. of the persons (excluding

minors) residing in that village; and

(d) not less than fifty-one per cent. of persons attending the meeting held under section 6 have expressed their willingness to constitute the village a Gramdan village by joining the Gramdan community.

the Collector may, after making such inquiry and in such manner as may be prescribed, by notification in the Official Gazette, declare that village to be a Gramdan village with effect from the date specified in such notification.

(2) A copy of every notification under sub-section (1) shall be displayed in a prominent place in the village, and another copy affixed on a conspicuous part in the office of the Collector within whose jurisdiction the village is situated, and the substance of every such notification shall also be published in the prescribed manner.

(3) Where the conditions mentioned in sub-section (1) are not satisfied within a period not exceeding six months commencing on the prescribed date, the Collector may by order declare in the manner prescribed that the village is not qualified to be a Gramdan village, and thereupon every declaration under section 5 shall, notwithstanding that it had been confirmed, cease to have effect.

## **5. Declaration Of Voluntary Transfer Of Lands By Way Of Gramdan :-**

(1) Any owner of land, not being a minor, may file a declaration in the prescribed form before the Collector that he donates, that is to say, voluntarily and without consideration agrees to transfer to the Mandal all his land in the village specified in the declaration by way of Gramdan. The declaration shall specify the lands which he would like to hold as Gramdan Kisan, and which may be distributed to landless persons under this Act:

Provided that, where any such owner has transferred any of his lands in the village by way of Bhoodan, this sub-section shall have effect as if the lands so transferred were included in the total extent of his lands:

Provided further that, in specifying the lands to be held by him as Gramdan Kisan, an owner shall specify such lands as are subject to any encumbrances.

(2) Every declaration filed under sub-section (1) shall also contain an undertaking that the owner shall--

(i) join the Gramdan community of that village, and

(ii) make a periodic contribution to the Gram Mandal, in accordance with the provisions of clause (d) of sub-section (1) of section 27, for community purposes.

(3) Any person residing in a village (not being a minor), who does not own any land therein may file a declaration undertaking to join the Gramdan community of that village, and may agree to pay a periodic contribution equal to one-fortieth of his net annual income to the Mandal, for community purposes. Such declaration may be made either individually or collectively.

(4) The Collector shall, as soon as may be, after the receipt of the declaration under sub-section (1) publish the same in the prescribed manner together with a notice requiring all persons interested in the land to submit their objections, if any, in writing to him within forty-five days of such publication.

(5) On the expiry of the period specified in sub-section (4), the Collector may, after considering the objections if any, received and after making such enquiries as he deems fit, by order, either confirm the declaration or refuse to confirm it.

(6) Any person aggrieved by any order of the Collector made under sub-section (5) may file an appeal to the Commissioner within forty-five days of the date of the order, and subject to the decision of the Commissioner, such order shall be final.

(7) No order refusing to confirm a declaration shall be made under this section unless the person making the declaration is given a reasonable opportunity to show cause against such refusal to confirm the declaration.

(8) A declaration, which the Collector has, by order, refused to confirm under subsection (5) shall, unless such declaration is confirmed in appeal under sub-section (6), be of no effect.

## **6. Collector To Hold Meeting Of Gram Sabha Constituted Under :-**

Panchayats Act to ascertain if majority of persons residing in village or donating land or willing to join Gramdan community

(1) As soon as the Collector is satisfied, that having regard to the population of the village, a sufficient number of declarations has been received under section 5, he may call a meeting--

(a) of the Gram Sabha of the village constituted under the Panchayats Act, where a village has a panchayat, or

(b) of all persons (not being minors) residing in the village, where there is no panchayat,

and also of persons who have donated lands in the village, but are

residing outside the village,  
for ascertaining whether the persons attending the meeting are willing to constitute the village a Gramdan village by joining the Gramdan community.

(2) The Collector shall fix the date, time and place of the meeting, and a copy of the notice containing this information shall be displayed in a prominent place in the village, and another copy affixed on a conspicuous part in the office of the Collector within whose jurisdiction the village is situated; and the substance of every such notice shall also be published in such other manner as is in the opinion of the Collector best calculated to bring the matter to the notice of persons concerned.

(3) The meeting shall be presided over by the Collector who shall have the right to speak and otherwise take part in the proceedings of the meeting, but shall not be entitled to vote. The procedure to be followed at the meeting shall be such as may be prescribed, and the quorum shall be fifty-one per cent. of the total number of persons entitled to attend the meeting under sub-section (1).

## **7. Prohibition Against Transfer Of Lands :-**

(1) No person shall transfer any land in respect of which a declaration has been filed, until an order under section 5 refusing to confirm the declaration has become final or an order under section 4 declaring the village in which the land is situate as not qualified to be a Gramdan village is made, or an order under section 8 rescinding the declaration by way of Gramdan is made.

(2) Any transfer of land made in contravention of the provisions of sub-section (1) shall be void and inoperative.

## **8. Effect Of Declaration As Gramdan Village :-**

Notwithstanding any thing to the contrary contained in any other law for the time being in force, with effect from the date on which a village is declared to be a Gramdan village and on the Gram Mandal being constituted therefor--

(a) all the right, title and interest of persons whose declarations have been confirmed under section 5, in or over the lands covered by such declarations, shall, save as otherwise provided in this Act, cease and shall stand transferred to, and vest in, the Gram Mandal established for that Gramdan village, but subject to any rights, encumbrances or equities lawfully subsisting in favour of any other persons:

(b) the Gram Mandal shall be entitled to receive the contributions referred to in section 5;

(c) the Gram Mandal shall be liable for--

(i) the payment of land revenue, rent, cesses, rates and taxes in respect of lands vested in the Gram Mandal which would have been payable by the donors, but for the donation, irrespective of whether the liability arose before or after the date of the vesting; and

(ii) the discharge of all encumbrances created in respect of any land vested in the Gram Mandal, prior to the date of filing of the declaration in respect thereof under section 5:

Provided that, for the payment of any land revenue, rent, cesses, rates or taxes, due on, or the discharge of any encumbrance created before the date of such vesting of the land, for which the Gram Mandal is so liable, it shall be competent for the Gram Mandal to recover the amount, either before or after such payment or discharge, from the owner who donated the land by way of Gramdan as if it were an amount due to the Gram Mandal:

Provided further that, where in any case it appears to the Gram Mandal that the encumbrances and other liabilities in respect of land donated by way of Gramdan are excessive, or for any other reason, it is of opinion that it is not desirable to undertake the discharge of such liabilities, the Gram Mandal may, after giving the person to whom the land would belong but for the Gramdan, an opportunity of being heard, rescind by order the donation by way of Gramdan, and thereupon all rights, title and interest in or over those lands shall revert to such person and all liabilities of the Gram Mandal in respect of those lands, except the liabilities, if any, that arose during the period the property remained vested in the Gram Mandal, shall cease, and the declaration filed under section 5 in respect of the Gramdan aforesaid shall not continue in force:

(d) the land revenue, cesses, rates and taxes due in respect of the lands situated in a Gramdan village and in respect of which a donation by way of Gramdan has not been made under section 5 or section 29 shall be payable to the Gram Mandal by the person liable for the same:

Provided that, all amounts so realized shall, after deduction of such collection charges as may be prescribed, be remitted to the State Government within such time and in such manner as may be prescribed.

### CHAPTER 3

#### Constitution of Gram Mandal



## **9. Gram Mandal :-**

(1) On the declaration of a village to be Gramdan village under section 4 all persons whose names are included in the register referred to in section 10 shall be deemed to constitute a Gram Mandal for the Gramdan village from the date specified in the declaration aforesaid; and the Gram Mandal shall have all such powers and discharge all such functions as are vested in, or conferred on, it by or under this Act, or otherwise.

(2) Every Gram Mandal so established shall be a body corporate by the name of "Gram Mandal of....." having perpetual succession and a common seal, with power to enter into contracts; and subject to the provisions of this Act, to acquire, hold, administer or dispose of property, both movable and immovable, whether within or without the limits of the Gramdan village over which it has authority, and may in its corporate name sue and be sued.

## **10. Register Of Members :-**

(1) The electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950 (43 of 1950) for such part of the constituency of the Assembly as is included in the Gramdan village shall be the register of members of the Gram Mandal for such Gramdan village. The register shall also include names of persons who have donated their lands by way of Gramdan but who are not residing in the village.

(2) An officer designated by the Collector in this behalf shall maintain the register of members for Gramdan village, and it shall be brought up-to-date at such intervals as may be prescribed.

(3) Every person whose name is in the register of members shall, unless disqualified under any law for the time being in force, be qualified to vote at a meeting of the Mandal.

(4) Subject to any disqualification incurred by a person, the register of members shall be conclusive evidence for determining under this section whether any person is qualified or is not qualified to vote at any meeting of the Mandal.

## **11. Election And Term Of Office Of President And Vice-President Of Gram Mandal :-**

1[(1) Every Gram Mandal shall be presided over by a President, who shall be elected by the Mandal, from amongst its members. The Mandal shall also elect one of its members to be its Vice-

President:

Provided that, no person shall be elected as President or Vice-President, if he has not filed a declaration of voluntary transfer of any land by way of Gramdan under sub-section (1) of section 5 of this Act or if he is disqualified for being chosen as, or for continuing as, a member of a Panchayat under the Panchayats Act.

(2) The Gram Mandal shall make regulations for the conduct of election of the President and the Vice-President, including provision for deposit, if any, to be made by candidates, and for their return or forfeiture, for appeal against the decision of a returning officer accepting or rejecting the nomination paper, for settling disputes arising as to validity of election of the President and the Vice-President, and finality of such decision in such cases.

(3) Save as otherwise provided in this Act, the President and the Vice-President shall hold office for a term of four years commencing on the date of their election; but shall, subject to the provisions of section 13, be eligible for re-election.

(4) The President shall exercise such powers and discharge such duties and functions as are conferred or imposed on him by this Act and as may be provided by regulations made in this behalf. In the absence of the President the powers and duties of the President shall save as may be otherwise provided by regulations made by the Mandal be exercised and performed by the Vice-President.

(5) The President shall notwithstanding the expiration of his term continue to carry on such of the administrative duties of his office as may be specified by regulations made in the behalf until his successor enters upon his office.

1 Sections 11, 12, 13 and 14 were substituted by Mah. 16 of 1984, s. 3.

## **12. Resignation Of President And Vice-President :-**

(1) The President may resign his office by writing under his hand addressed to the Collector.

(2) The Vice-President may resign his office by writing under his hand addressed to the President and if the office of the President is vacant, to the collector.

(3) The resignations of the President and the Vice-President shall take effect from such dates, as may be provided by regulations made in this behalf.

## **13. Removal Of President-And Vice-President :-**

(1) The President or the Vice-President may be removed from office by passing a no-confidence motion at a special meeting (of which notice of not less than seven days is displayed in a prominent place in the office of the Gram Mandal, before the meeting) in accordance with the regulations made in this behalf:

Provided that no President or Vice-President shall be removed from office unless such motion is carried by a majority of not less than two-thirds of the total number of members present and voting at the meeting and the President or the Vice-President, as the case may be, has been given a reasonable opportunity to furnish an explanation.

(2) If the President, and in his absence the Vice-President, fails to call the Special meeting, within ten days of a requisition therefor, any member may request the Collector to call the meeting and the Collector shall, notwithstanding anything contained in this Act or in any regulations made thereunder, within ten days of the receipt of such request, call the special meeting of the Mandal for the consideration of the no-confidence motion. The Collector shall preside at such meeting; but he shall neither speak on the merits of the motion nor shall be entitled to vote.

(3) A President or a Vice-President removed from office as aforesaid shall not be eligible for re-election during the remainder of the term of his office.

#### **14. Vacancy In The Office Of President Or Vice-President :-**

(1) In the event of a vacancy in the office of the President, or the Vice-President by reason of death, resignation, removal or otherwise, the vacancy shall, subject to the provisions of sections 11 and 13, be filled as conveniently as may be by election of a new President or a new Vice-President, as the case may be, who shall hold office so long only as the President or the Vice-President in whose place he is elected would have held that office, if the vacancy had not occurred.

(2) When the office of the President becomes vacant, the Vice-President shall, pending the election of the President, exercise all the powers and perform all the duties and functions of the President.

(3) If both the offices of the President and the Vice-President are vacant, such officer of the Mandal as the Collector may appoint in this behalf shall, pending the election of the President or the Vice-President, exercise all the powers and perform all the duties and

functions of the President, but he shall not have the right to vote at any meeting of the Mandal or of any Committee thereof].

**15. Committees :-**

Every Gram Mandal shall appoint in the manner hereinafter provided an Executive Committee and may also appoint such other Committees as it thinks fit.

**16. Executive Committee :-**

(1) The Gram Mandal shall establish an Executive Committee consisting of--

(a) the President, and

(b) such number of members (not being less than two and not more than fourteen) as may be determined by the Gram Mandal and elected by it from amongst its members in the manner provided by regulations in that behalf:

Provided that no person shall be elected a member if he is disqualified for being chosen as or for continuing as a member of a panchayat under the Panchayats Act.

(2) The President shall be the ex-officio Chairman of the Executive Committee.

**17. Appointment Of Functional And Other Committees :-**

(1) A Gram Mandal may, subject to regulations made in this behalf, appoint the following functional committees, namely:--

(a) Agriculture Committee,

(b) Education Committee, and

(c) Health Committee.

Each such committee shall consist of such number of members, and shall exercise such powers and discharge such duties, as the Gram Mandal may determine in this behalf.

(2) A Gram Mandal may, subject to regulations made in this behalf, from time to time appoint any committee consisting of such number of members and other persons and for such period as the Mandal may decide, and refer to such committee for inquiry and report such matters relating to the purposes of this Act as the Mandal may think fit; and direct that the committee shall submit its report to the Executive Committee.

**18. Terms Of Office Of Members Of Executive Committee, Resignation, Etc :-**

- (1) The term of office of members of an Executive Committee shall be such as may be provided by regulations made in that behalf.
- (2) Any member of an Executive Committee may resign his office by writing under his hand addressed to the Chairman; and his office shall thereupon become vacant.
- (3) In the event of a vacancy in the office of any member by reason of death resignation or otherwise, the vacancy shall be filled in as conveniently as may be by election of a new member who shall hold office so long as the member in whose place he is elected would have held it if the vacancy had not occurred.
- (4) During any vacancy in an Executive Committee, the continuing members may act as if no vacancy had occurred.

### **19. Powers And Duties Of Executive Committee :-**

An Executive Committee shall exercise such powers, discharge such duties and perform such functions as may be provided by regulations made in this behalf:

Provided that, it shall be lawful for an Executive Committee to delegate any of its powers, duties and functions to the Chairman in accordance with regulations made in that behalf.

### **20. Conduct Of Business Of Gram Mandal And Committees :-**

The business of a Gram Mandal and of its committees shall be conducted in such manner as may be prescribed by regulations, and such regulations may specify the cases in which the decisions of the Gram Mandal or of its committees shall be on the basis of unanimity or near unanimity, that is, a majority of not less than seventy-five per cent of the members present and voting at the meeting.

### **21. Officers And Employees Of Gram Mandal :-**

- (1) A Gram Mandal may appoint--
  - (a) a Secretary who shall exercise such powers and discharge such duties as may be prescribed by regulations or as may be delegated to him by the President;
  - (b) such other officers and employees as may be necessary for the efficient performance of its functions.
- (2) The Secretary and other officers and employees shall be paid such salaries and allowances and shall be subject to such terms and

conditions as may be prescribed by regulations made in that behalf.  
(3) A Gram Mandal may, in such circumstances and in such manner as may be prescribed by regulation, remove the Secretary or other officer or employee from service.

#### CHAPTER 4

Establishment of Maharashtra Gramdan Board and Gram Samitis

### **22. Maharashtra Gramdan Board And Its Functions :-**

(1) For the purposes hereinafter specified, the State Government shall by notification in the Official Gazette establish a Board to be called the Maharashtra Gramdan Board.

(2) The Gramdan Board shall consist of a Chairman and such number of other members (including the Secretary) being not less than five and not more than nine. The Chairman and members shall be appointed by the State Government.

(3) The Chairman and members of the Board shall hold office for a term of four years from the date of their appointment which shall be notified in the Official Gazette; and they shall be eligible for re-appointment.

(4) The Chairman or any member of the Board may resign his office by writing under his hand addressed to the State Government, but the office shall not become vacant unless the resignation is accepted.

(5) In the event of a vacancy occurring on the Board, the Chairman or Secretary shall forthwith communicate the occurrence to the State Government and the vacancy shall be filled as soon as conveniently may be, but the person appointed shall hold office so long only as the member in whose place he was appointed would have held it if the vacancy had not occurred.

(6) The time, place of sitting, conduct of business and procedure to be followed at a meeting shall be such as the Gramdan Board may by regulations determine.

(7) It shall be the duty of the Gramdan Board--

(a) to train workers for the purposes of implementing the aims and objects of this Act and assign them to Gramdan villages;

(b) to study and evaluate general experience in the development of Gramdan villages;

(c) to expedite legal and other formalities in connection with the Gramdan village.

### **23. Establishment Of Gram Samitis :-**

- (1) For every Gramdan village, 1[there may be a Gram Samiti.]
- (2) The Gram Samiti shall consist of--
  - (a) one representative of each family residing in the Gramdan village and
  - (b) one representative of each family of non-resident donors of land in the Gramdan village.
- (3) The Gram Samiti shall be presided over by a Chairman who shall be elected in the manner provided by regulations made in that behalf.
- (4) The term of office of members of the Gram Samiti and the Chairman, their resignation, vacancies in their office to be filled the conduct of business of a Gram Samiti and all matters incidental thereto shall be determined or regulated according to regulations made in that behalf.
- (5) The Gram Samiti may perform such functions being of an advisory nature as may be provided for by regulations made by the Mandal in this behalf.

Explanation.--For the purposes of this section, family includes a Hindu undivided family, and in the case of other persons, a group or unit the members of which by custom or usage, are joint in estate or possession or residence.

1 These words were substituted by Mah. 21 of 1985, s. 2.

#### CHAPTER 5

Constitution of Land-pool and Distribution of land

### **24. Land-Pool :-**

- (1) All lands vesting in a Gram Mandal by way of Gramdan or otherwise for the purpose of this Act shall constitute the land-pool.
- (2) The Mandal shall, having regard to the declarations made under section 5, either set apart not less than five per cent of the area of lands out of the land-pool as the Mandal may determine for the benefit of landless persons, and the remaining lands for return to their former owners, as hereinafter provided or the Mandal may alternatively purchase a compact block of land of an area not less than five per cent of all the donated lands at the cost of the donors, and each donor shall pay towards the purchase price a sum for an area equal to five per cent of land donated by him.

### **25. Power Of Mandal To Grant Leases :-**

Notwithstanding anything to the contrary contained in any law for the time being in force, but subject to the provisions of this Act, A

Gram Mandal shall have power to lease out lands vesting in it and the lessees shall not have, and shall not be entitled to claim, any rights in relation to such lands except as are provided for, by or under this Act.

## **26. Distribution Of Land On Lease :-**

(1) The Mandal shall in accordance with regulations made in that behalf--

(a) out of lands set apart or purchased for the benefit of landless persons under section 24 lease any land to any landless person or group of landless persons 1[who have filed declarations undertaking to join the Gramdan community under sub-section (3) of section 5] (preferably to a co-operative farming society of such landless persons registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) for personal cultivation.

(b) lease the remaining lands to their former owners.

(2) Any person aggrieved by any proposed lease under this section may make an application to the Gram Mandal to that effect; and the Mandal shall, on receipt of such application, refer the matter for arbitration to an Arbitration Board constituted under sub-section (3).

(3) The Arbitration Board shall consist of three persons one to be nominated by each party and the third to be appointed jointly by the applicant and the Mandal; and if there is disagreement as regards the appointment of the third arbitrator, then, he shall be appointed by the Collector.

(4) The Arbitration Board shall regulate its own procedure.

(5) The decision of the Arbitration Board shall be final and binding on the parties.

1 This portion was inserted by Mah. 16 of 1984, s.4.

## **27. Conditions Of Lease :-**

(1) A person who is given land on lease under section 26 shall hold it on the following terms and conditions, namely:--

(a) the leasehold rights shall, on the death of the lessee, pass to his heir,

(b) the lease shall not transfer his interest in the land, except--

(i) to a person who has joined the Gramdan community in respect of the village in which the land is situated on the terms and conditions agreed upon between them;



(ii) to the Gram Mandal; or

(iii) to a co-operative society or any institution approved by the State Government in this behalf or to Government, for securing payment of any money borrowed from any such society, institution or Government:

Provided that, a landless person shall not transfer his interest as aforesaid without the previous approval of the Gram Mandal;

(c) the lessee shall pay to the Mandal an amount equal to the land revenue, rent, cesses, rates and other taxes payable, if any, in respect of the land, before such date or dates as may be prescribed;

(d) the lessee shall annually contribute one-fortieth of his net annual agricultural income or such other lesser share as the Mandal may determine in this behalf;

(e) the lessee shall not allow the land to remain uncultivated for a period exceeding two years;

(f) subject to the provisions of section 30, the Mandal shall not disturb possession of the land held by a lessee or his heir, except with his consent;

(g) in the case of land subject to any lease subsisting immediately before it was donated, the Gramdan Kisan shall have the right to recover possession thereof in accordance with the provisions of any law for the time being in force relating to land tenures as if he continued to be the lessor thereof, and pending termination of the lease, he shall also have the right to recover the rent payable by the lessee in respect of such land;

(h) in the case of land subject to a mortgage with possession immediately before it was donated, the Gramdan Kisan shall have the right to obtain possession thereof after the redemption of the mortgage by the Gram Mandal if he pays to the Gram Mandal the amount paid for the purpose of redeeming the mortgage together with all expenses connected therewith;

(i) such other terms and conditions, as the Mandal may, regard being had to the circumstances prevailing in relation to any Gram Mandal, determine by an order made in that behalf.

(2) Nothing contained in sub-section (1) shall be deemed to confer -

(a) on a Gramdan Kisan any right which he did not possess.

(b) on a landless person any right which the Mandal did not possess,

Immediately before the Gramdan Kisan donated his land, or as the case may be, the Mandal leased it to the landless person.

**28. Powers And Functions Of Gram Mandal :-**

(1) The Gram Mandal shall manage the lands which are vested in it, including such lands as may come under its management, and undertake activities for the welfare of the village community and the members thereof, and do all other things incidental thereto.

(2) In particular, and without prejudice to the generality of the foregoing power, the Gram Mandal may--

(a) take steps to inculcate and develop in the village community the spirit of collective responsibility, mutual aid and promote or undertake or participate in co-operative activities;

(b) take steps to promote many sided and integrated development of the village community;

(c) arrange for the maintenance of destitute children and old and infirm persons;

(d) prepare and implement schemes for the improvement of agriculture in the village, and the best utilisation of lands in the village;

(e) set apart land for community purposes;

(f) prepare and implement schemes for the general development of the village, including the promotion of small scale industries therein and the proper utilisation of local resources and man power;

(g) distribute such lands as are available for the purpose to landless persons;

(h) prepare and implement, subject to the approval of the State Government, schemes for regional self-sufficiency in articles of food clothing and other necessities of life, and to that end secure the co-operation and assistance of the State Government, and other institutions or agencies operating in the village or in its neighbourhood;

(i) promote consolidation of holdings;

(ii) grant loans to any member of the Gram Mandal, whether a lessee of its land or not, for any purpose, whether agricultural or not;

(k) take measures for the improvement of lands and reclamation of waste lands and the introduction of improved methods of cultivation;

(l) promote the industrial development of the village;

(m) facilitate the elimination of unemployment in the village;

(n) raise voluntary contributions from the village for community

purposes;

(o) maintain the accounts of the Gram Nidhi;

(p) prepare and maintain village records including register giving details of land holdings in the possession of persons under the Gram Mandal;

(q) raise a village peace force or Shanti Dal for the maintenance of the tranquility of the village by peaceful means;

(r) prepare and implement schemes for housing, education and medical relief for the village community under its charge;

(s) encourage conciliation in respect of private debts of its members;

(t) perform such other functions and duties and exercise such other powers as may from time to time be prescribed.

### **29. Power Of Gram Mandal To Accept Donations Of Land After Establishment Of Gramdan Village :-**

(1) Any owner of land (not being a minor), holding land in a Gramdan village, may donate all his lands by way of Gramdan in the same manner and subject to the same conditions as are provided for in the case of a donation under section 5, and thereupon, subject to the provisions of sub-section (2), the provisions of this Act shall, as far as may be, apply as if such donation were made under that section:

Provided that, no declaration made under this section shall be confirmed by the Collector without the approval of the Gram Mandal.

(2) With effect from the date on which the declaration referred to in sub-section (1) is confirmed, all the rights, title and interest of any person whose declaration is so confirmed in or over the lands covered by such declaration, shall, save as otherwise provided by this Act, cease, and shall stand transferred to, and vest in, the Gram Mandal established for that Gramdan village; and thereupon, the provisions of this Act shall, as far as may be, apply, as if such declaration were confirmed under section 5.

(3) Any person (not being a minor) residing in a Gramdan village who has not made a donation by way of Gramdan under section 5 or sub-section (1) of this section, may join the Gramdan community in the same manner and subject to the same conditions as are provided in sub-section (3) of section 5, and thereupon, the provisions of this Act shall, as far as may be, apply, as if such declaration were made under sub-section (3) of section 5.

### **30. Power Of Mandal To Cancel Lease Etc :-**

(1) Where any lessee from the Gram Mandal,--

(a) transfers his interest in the land in contravention of the provision of clause (b) of sub-section (7) of section 27, or

(b) fails to pay any dues in respect of the land leased to him, or

(c) fails to cultivate the land for two consecutive years,

the Gram Mandal may make an application to the Collector, for cancelling the lease, and if he is in possession thereof, for the eviction of the lessee therefrom; and thereupon, the Collector may, after making such inquiry as he deems fit and after giving the lessee an opportunity to be heard, cancel the lease, or as the case may be, pass an order of eviction, and in the latter case, restore possession of the land to the Gram Mandal after ejecting the lessee or any other person found in possession of the land:

Provided that, the right of any person who is in lawful possession of such land shall not be affected thereby.

(2) Any order restoring possession of the land under this section shall be executed by the Mamlatdar or Tahsildar within whose jurisdiction the land is situate in the manner provided in section 21 of the Mamlatdars Courts Act, 1906(Bom. II of 1906) , as if it were the decision of the Mamlatdar under that Act.

(3) Notwithstanding anything contained in sub-section (1), the Collector may instead of cancelling the lease or ordering his eviction on any of the grounds falling under clause (b) or clause (c) of that sub-section, by order direct the Gram Mandal to assume management of the land in such manner, and for such period as he may specify; and make such further order as he may think fit for enabling the Gram Mandal to assume management of the land.

(4) In any case where the management of any land is assumed under sub-section (3), the Gram-Mandal shall, in such manner and at such intervals as may be prescribed, pay to the lessee the surplus income. If any, derived from the land during the period of management after deducting all amounts due to the Gram Mandal from the lessee on account of land revenue, rent, cesses, rates, taxes and other dues and on account of incumbrances, if any.

(5) Any person aggrieved by any order of the Collector under this section may file an appeal to the Commissioner within forty-five days of the order. The Commissioner may, after giving the parties an opportunity of being heard, pass such order on appeal as he thinks just and proper. Subject to the decision of the Commissioner, every order of the Collector made under this section

shall be final.

### **31. Power To Borrow :-**

(1) Subject to rules made in this behalf, a Gram Mandal may raise money for carrying out the purposes for which it is established on the security of the Gram Nidhi or any property vested in, or belonging to it.

(2) A Gram Mandal may, for any of such purposes, also obtain a loan from any Government on such terms and conditions as that Government may determine.

### **32. Gram Mandal To Recover Dues As Arrears Of Land Revenue :-**

Any arrear of land revenue, cesses, rates or taxes or any other sum due to the Gram Mandal by way of contribution or otherwise, shall, on a certificate issued to the Collector by the Gram Mandal, be recovered by the Collector as an arrear of land revenue and paid to the Gram Mandal.

#### **CHAPTER 7**

#### **Gram Nidhi**

### **33. Gram Nidhi :-**

(1) There shall be in each Gramdan village a fund, which shall be called the Gram Nidhi. It shall be kept separate and distinct from the village fund constituted under the Panchayats Act.

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

(a) all sums and moneys received by the Gram Mandal including the profits of any cultivation or any enterprise undertaken by it; and the rent, fee or other charges, charged or imposed on persons to whom lands are leased under this Act;

(b) all sums received by way of loans from any Government;

(c) all sums received by way of grants, donations, gifts, bequests or contributions.

### **34. Application Of Gram Nidhi :-**

Subject to the provisions of this Act, the Gram Nidhi shall be applied by the Gram Mandal only for the purposes of this Act. The Gram Nidhi shall be kept in such custody as may be prescribed.

### **35. Accounts And Audit :-**

1[(1) The manner in which payment from the Gram Nidhi shall be made, and the accounts shall be kept, shall be regulated in accordance with regulations made in that behalf.

(2) The audit of the accounts of a Gram Mandal 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 Collector, the Tahsildar and the Gram Mandal within two months of the completion of the audit.

(3) On receipt of the audit note referred to in sub-section (2), the Gram Mandal shall either remedy any defects or irregularities which may have been pointed out in the audit note and send to the Tahsildar within three months an intimation of its having done so or shall, within the said period, supply to the Tahsildar any further explanation in regard to such defects or irregularities as it may wish to give.

(4) On receipt of such intimation or explanation, the Tahsildar may, in respect of all or any of the matters discussed in the audit note,--

(a) accept the intimation or explanation given by the Gram Mandal and recommend to the Collector to drop the objection;

(b) suggest that the matter be re-investigated at the next audit or at any earlier date; or

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

(5) The Tahsildar shall send a report of his decision to the Collector within one month of the date of receipt by him of the intimation or explanation referred to in sub-section (3), or in the event of the Gram Mandal failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (3) and shall forward a copy of such report to the auditor and Gram Mandal. If the Tahsildar holds that any defects or irregularities have not been removed or remedied the Tahsildar shall state in the report whether in his opinion the defects or irregularities can be regularised and if so, by what method and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The Tahsildar shall also state whether the amounts to which the defects or irregularities relate should in his opinion be surcharged or charged as hereinafter provided.

(6) The Collector may, after considering the report of the Tahsildar 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 (including a member making or authorising the making of the illegal payment, and may charge against any person (including a member) responsible therefor the amount of any deficiency or loss caused by the gross negligence or misconduct of that person or member or any sum received which ought to have been, but is not, brought into account, by that person or member; and may after taking his explanation, direct by order in writing that such person or member, shall pay to the Gram Mandal the amount so surcharged or charged and where the Collector considers it necessary, also an interest on the amount so surcharged or charged at such rate as may be determined by him. If such amount or interest directed to be paid by the Collector under his order is not paid by the person or member aforesaid within one month from the date of receipt of such order by him, the Collector shall recover it as an arrear of land revenue and credit it to the Gram Nidhi.

(7) Any person or member aggrieved by any order of surcharge or charge or interest thereon made by the Collector under this section may within one month from the receipt by him of the decision of the Collector, apply to the District Court to modify or set aside such order, and that Court after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge or interest thereon and make such order as to costs as it thinks proper in the circumstances.

1 These sections were substituted by Mah. 21 of 1985. s. 3.

### **35A. Liability Of Member For Loss, Waste Or Misapplication**

:-

(1) Every member of a Gram Mandal shall be personally liable for the loss, waste or mis-application of any money or other property of the Gram Mandal to which he has been a 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 mis-application of any money or other property of the Gram Mandal is a direct consequence of misconduct or gross neglect on his part, the Collector shall by order in writing direct such member to pay the Gram Mandal before a fixed date, the amount required to reimburse for such loss, waste or mis-application. If the amount is not so paid, the Collector shall recover it as an arrear of land revenue and credit it to the Gram Nidhi.

(3) Any person aggrieved by the decision of the Collector may apply to the District Court as provided in sub-section (7) of section 35, within the like time for redress of his grievance, and that Court may pass any order thereon which it can pass under that section.]

**36. Restriction On Sale Of Lands Held By Gram Mandal, Gramdan Kisan Or Landless Person :-**

Where the interest of a Gramdan Kisan or a landless person in any land donated to the Gram Mandal or where the interest of the Gram Mandal in any land, is sold on account of any default in the payment of any amounts due from the Gramdan Kisan, landless person or Gram Mandal, as the case may be such interest shall not be sold to any person other than the Gram Mandal or a person who has joined the Gramdan community of the village in which the land is situate.

**37. Registration Of Gram Mandal As Cooperative Society :-**

Any Gram Mandal may register itself as a co-operative society under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961).

**38. Power To Exempt From Stamp Duty, Etc :-**

The State Government may, by notification in the Official Gazette, remit--

(a) the stamp duty with which, under any law relating to stamp duty for the time being in force, any declaration made under this Act or any instrument executed by or on behalf of a Gram Mandal is chargeable;

(b) any fee payable, by any person in respect of any instrument transferring his land by way of Gramdan, or by or on behalf of a Gram Mandal under any law relating to the registration of documents for the time being in force.

**39. Gram Mandal To Be Empowered To Function As Panchayat :-**

(1) The State Government shall, on the establishment of a Gram Mandal for a Gramdan village in which a panchayat is functioning, by notification in the Official Gazette, declare that the Gram Mandal shall exercise all the powers and discharge all the duties and functions of the panchayat in relation to the Gramdan village.

(2) Upon the issue of a notification under sub-section (1)--

(a) the panchayat which functioned immediately before the date of the notification shall, in relation to the Gramdan village, cease to



function therein;

(b) all the powers, duties and functions attaching to the panchayat under the Panchayats Act, or under any law for the time being in force in the State, shall, in relation to the Gramdan village, attach to the Gram Mandal, and accordingly, the Gram Mandal shall exercise the powers and discharge the duties and functions aforesaid; and the officers and servants of the panchayat shall, subject to the provision of the Panchayats Act, become the officers and servants of, or as the case may be, work under the Gram Mandal;

(c) The person elected by the panchayat for the purpose of constituting a Nyaya Panchayat under section 64 of the Panchayats Act shall be deemed to be the person elected by the Gram Mandal out of its members for the constitution of that Nyaya Panchayat until the Gram Mandal elects any other person as provided by section 64 of that Act;

(d) the provisions of the Panchayats Act shall, subject to such restrictions and modifications as the State Government may specify in the notification, apply to the Gram Mandal as if it were panchayat constituted under that Act for the Gramdan village;

(e) the Gram Mandal shall be entitled to all the assets and be subject to all the liabilities of the panchayat including all rights and liabilities under any contract made by it as on the date of the notification;

(f) where immediately before the date of the notification aforesaid, a panchayat was a party to any legal proceeding in any court or tribunal in the State the Gram Mandal shall stand substituted for that panchayat as a party to that proceeding, or added as a party thereto, as the case may be, and the proceedings continued accordingly.

(3) Any notification issued under sub-section (1) may contain such supplemental, incidental and consequential provisions as the State Government may deem necessary and in particular may direct--

(i) that any tax, fee or other sum due to the panchayat shall be payable to the Gram Mandal;

(ii) that appeals, petitions or other applications with reference to any such tax, fee or sum which are pending on the date of such notification shall be disposed of by the Gram Mandal.

**40. President And The Vice-President Of Gram Mandal, Etc. To Be Public Servants :-**

The President 1[and the Vice-President] of the Gram Mandal and the members of the Executive Committee constituted under this Act and the officers and servants of the Gram Mandal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

1 These words were inserted by Mah. 16 of 1984, s.5.

#### **41. Powers To Delegate :-**

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 or Tahsildar powers exercisable by the Commissioner or, as the case may be, the Collector under this Act.

#### **42. Super-Session Of A Gram Mandal :-**

(1) If, in the opinion of the State Government, a Gram Mandal--

- (a) is not competent to perform or persistently makes default in performing the duties assigned to it by this Act, or
- (b) exceeds or abuses the powers assigned to it under this Act, or
- (c) is not functioning in a manner consistent with the provisions of this Act or the rules framed thereunder,

the State Government may, by notification in the Official Gazette, stating the reasons for its order, declare that Gram Mandal to be incompetent or in default or to have exceeded or abused its powers or to have not been functioning in a manner consistent with the provisions of this Act or the rules framed thereunder, as the case may be, and supersede it for such period not exceeding one year at a time as may be specified in the notification:

Provided that, before any such notification is issued, the Gram Mandal concerned shall be given a reasonable opportunity of showing cause why the proposed declaration should not be made.

(2) On the supersession of a Gram Mandal under sub-section (1),--

- (a) the President 1[and the Vice-President] and members of all committees constituted by the Gram Mandal shall from the date specified in the notification vacate their office;
- (b) all the powers and duties of the Gram Mandal or any committee thereof, shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may from time to time appoint in this behalf;
- (c) all properties vested in the Gram Mandal and any balance of the Gram Nidhi, shall be vested in and such of its liabilities as may have incurred in the discharge of its legitimate functions or which

have been incurred in the course of normal duties performed by the Gram Mandal concerned, shall be transferred to, the State Government which shall make such arrangements, as may be deemed necessary, until the expiration of the period of supersession.

(3) Before the expiration of the period of supersession specified in the notification, the State Government may, if in its opinion it is so necessary, extend the period of supersession for such further term, as it may consider necessary, but not exceeding one year at a time, and on the expiration of the period of supersession either as originally specified or extended, the Gram Mandal shall resume its functions and elect its President 2[and the Vice-President] and constitute the committees:

Provided that, the State Government may, at any time before the expiration of the period of supersession, withdraw any notification issued under sub-section (1).

(4) The income derived from the Gramdan village during the period of supersession shall first be utilised towards the cost of management during the period of supersession and liquidation of liabilities of the Gram Mandal and the balance shall be credited to the Gram Nidhi.

1 These words were inserted by Mah. 16 of 1984, s.6(a).

2 These words were inserted, *ibid.*, s.6(b).

### **43. Rules :-**

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particulars and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) enquiry to be made and the manner in which it shall be made under sub-section (1), the manner of publishing substance of notification under sub-section (2), prescribing the date for the purpose of computing the period of six months, and the manner of declaring a village as not qualified to be a Gramdan village under sub-section (3) of section 4;

(b) the form of declaration to be filed under sub-section (1), the manner of publishing the declaration, under sub-section (4), the inquiries to be made by the Collector under sub-section (5) of section 5;

(c) the collection charges to be deducted and the time within which and the manner in which they shall be remitted to the State

Government under section 8;

(d) the intervals at which the register of members shall be brought upto date under sub-section (2) of section 10;

(e) date or dates before which the land revenue or rent or any cesses, taxes or other taxes shall be paid under clause (c) of sub-section (1) of section 27;

(f) other functions, duties and powers to be performed and exercised under clause (f) of sub-section (2) of section 28;

(g) the manner in which and the intervals at which surplus income may be paid to a lessee under sub-section (4) of section 30;

(h) rules subject to which money may be raised under section 31;

(i) the custody in which Gram Nidhi shall be kept under section 34.

1[(i-1) the authority by whom, and the manner in which, the audit of the accounts shall be carried out under sub-section (2) of section 35;]

(3) The rules made under this section shall be subject to the condition of previous publication.

1 This clause was inserted by Mah. 21 of 1985, s. 5 in 4.

#### **44. Regulations :-**

(1) The Gram Mandal may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act or rules made thereunder generally for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Gram Mandal may make regulations to provide for--

(a) the conduct of election for the President 1[and the Vice-President] from amongst the members of the Mandal under sub-section (2) (including matters specified in that sub-sections, the powers to be exercised and duties to be discharged by the President under sub-section 2[(4)], and the administrative duties to be carried on under sub-section 3[(5)], of section 11;

4[(b) the dates from which the resignation of the President and the Vice-President shall take effect under section 12;]

(c) the removal of the President 5[and the Vice-President] under section 13;

(d) the manner of electing members of an Executive Committee under section 16;

(e) regulation subject to which a committee may be appointed under section 17;

- (f) the term of office of members of an Executive Committee under section 18;
- (g) the powers to be exercised, duties to be discharged and functions to be performed by an Executive Committee, and the powers, duties and functions to be delegated to the Chairman under section 19;
- (h) the conduct of business of the Gram Mandal and of committee under section 20;
- (i) the powers to be conferred on, and duties to be discharged by a Secretary, and salaries and allowances and terms and conditions of service of the Secretary and other officers and employees, and the circumstances and manner in which, a Secretary and other officers and employees of a Mandal may be removed from office, under section 21;
- (j) regulating leasing of land under section 26;
- 6[(k) the manner of making payment from Gram Nidhi, and the keeping of account of Gram Mandal under sub-section (1) of section 35.]
- 7[(l) any other matter for which regulations are to be or may be made.]

1 These words were substituted by Mah. 16 of 1984, s. 7(a)(i).

2 These brackets and figure were substituted *ibid.*, s. 7(a)(ii).

3 These brackets and figure were substituted *ibid.*, s. 7(a)(iii).

4 This clause was substituted *ibid.*, s. 7(b).

5 These words were inserted by Mah. 16 of 1984, s.7 (c).

6 This clause was added, *ibid.*, s. 7 (d)

7 This clause was substituted by Mah. 21 of 1985, s. 5.

#### **45. Laying Of Orders And Rules Before Legislature :-**

Every order made under section 39 and every rule made under section 43 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 is so laid or the session immediately following, both Houses agree in making modification in the order or rule or both Houses agree that the order or rule should not be made the order or rule shall from the date of publication of a notification in the Official Gazette of such decision have effect only in such modified form, or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity

of anything previously done or omitted to be done under that order or rule.

**46. Amendment Of Mah. V Of 1962 :-**

In the Maharashtra Zilla Parishads and Panchayat Samits Act, 1961 (Mah. V of 1962),--

(1) in section 57,--

(a) in sub-section (1), in clause (f), for the words "Sarpanchas elected by members of Panchayats" the words and figures "Sarpanchas and Chairman, elected by members of panchayats and of Executive Committees constituted under the Maharashtra Gramdan Act, 1964 (Mah. XXIII of 1965), respectively," shall be substituted.

(b) in sub-section (2).--

(i) after the words "members of Panchayats" at both the places where they occur the words "and of Executive Committees";

(ii) after the words "the Sarpanchas" the words "and Chairman";

(iii) after the words "those Panchayats" the words "and Executive Committees", and

(iv) after the words "one Sarpanch" the words "or Chairman", shall be inserted;

(2) in section 58, in sub-section (2), after the word "Sarpanchas" the words "or Chairmen of Executive Committees" shall be inserted;

(3) in section 59, in the proviso, in clause (c), after the word "Sarpanch" at both the places where it occurs the words "or Chairman of the Executive Committee" shall be inserted.