

Orissa Panchayat Samiti Act, 1959

7 of 1960

[23 January 1961]

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Orissa Panchayat Samiti Act, 1959

7 of 1960

[23 January 1961]

AN ACT TO ESTABLISH 2[* * *] PANCHAYAT SAMITIS IN THE STATE OF ORISSA Whereas it is expedient to provide for the establishment of 2[* * *] Panchayat Samitis in the State of Orissa and for matters connected therewith or incidental thereto in the manner hereinafter appearing; It is hereby enacted by the Legislature of the State of Orissa in the Tenth Year of the Republic of India as follows : For Statement of Objects and Reasons see Orissa Gazette Extraordinary, dated the 12th December 1958 (No. 61) and for Report of Select Committee, see ibid, dated the 17th December 1959 (No. 668). 1. Inserted vide Orissa Act No. 24 of 1961. 2. Omitted vide Orissa Act No. 1 of 1968.

CHAPTER 1
PRELIMINARY

1. Short Title, Extent, Commencement And Application :-

3[Commencement and application]

(1) This Act may be called the Orissa 1[Panchayat Samiti] 2[* * *] Act, 1959.

4[(2) It shall extend to the whole of the State of Orissa :

Provided that save as otherwise expressly contained in this Act nothing therein shall apply to any local area with a population of more than twenty thousand to which the provisions of the Orissa Municipal Act, 1950 (Orissa Act 23 of 1950) or to any area to which the provisions of the Cantonments Act, 1924, (2 of 1924) have been or may hereafter be extended].

(3) This section and Sub-section (2) of Section 2 shall come into force at once and the remaining provisions of this Act shall come into force in any district on such date as the Government may by notification appoint.

(4) Any notification, order or rule and any appointment to an office to be issued or made or any election to be held under this Act may be so issued, made or held after the date of passing of this Act and shall take effect on the date of the coming into force of the remaining provisions thereof in pursuance of a notification referred to in Sub-section (3).

5[(5) 6[* * *]

1. Inserted vide Orissa Act No. 24 of 1961.

2. Omitted vide Orissa Act No. 1 of 1968.

3. Substituted vide Orissa Act No. 7 of 1994 (O.G.E.No. 427 dated 18.4.1994).

4. Substituted vide Orissa Act No. 24 of 1961.

5. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated 18.4.1994).
6. Omitted vide Orissa Act No. 16 of 1997 (O.G.E.No. 1565 dated 22.12.1997).

2. Enactments Repealed :-

(1) With effect from the date appointed in the notification under Sub-section (3) of Section 1 in respect of any district the enactments specified in the Schedule so far as they are in force in the State of Orissa, shall as regards such districts be repealed to the extent mentioned in the third column of the said Schedule.

(2) The Orissa District Boards and Local Boards (Control and Management) Act, 1954, shall, notwithstanding anything contained therein continue to remain in force in any district till the date appointed in accordance with Sub-section (3) of Section 1 and on and from such date the provisions of the aforesaid Act shall stand repealed in respect of such district. On such repeal, the provisions of Section 5 of the Orissa General Clauses Act, 1973, shall apply.

3. Definitions :-

In this Act, unless the context otherwise requires-

(a) "Block" means the Block notified under Section 15;

1[(a-1)"Director of Panchayat Samitis" (hereinafter referred in this Act as Director) means the Director of Grama Panchayats appointed under the Orissa Grama Panchayats Act, 1964];

(b) "District Board" means a District Board, Local Board, Union Board or Union Committee constituted for the local administration of the district or any part thereof under the Bihar and Orissa Local Self-Government Act, 1885, the Madras Local Boards Act, 1920 as applied to the district of Koraput or the Sambalpur Local Self-Government Act, 1939;

2[(b-1) "Election Commission" means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under Article 243-K of the Constitution;

(b-2)"Finance Commission" means the Finance Commission constituted by the Governor under Article 243-I of the Constitution;]

(c) "Government" means the State Government of Orissa;

3[(d) "Grama" and "Grama Panchayat" shall respectively mean the "Grama" and "Grama Panchayat" constituted under the Orissa Grama Panchayat Act, 1964, (Orissa Act 1 of 1965);]

4[(d-1) "Official" shall have reference to Government servants and the word "non-official" shall be constituted accordingly;

(d-2) "Ordinary resident in any area" with all its grammatical variations and cognate expressions shall have reference to a person whose name finds place in the electoral roll for the time being in force prepared under the Representation of the People Act, 1950 in so far as the roll relates to such area;

(e) "Panchayat Samiti" hereinafter referred to as the "Samiti" means the Panchayat Samiti constituted under Section 16;

4[(e-1) "Population" means the population as ascertained in the last preceding census of which the relevant figures have been published];

(f) "Prescribed" means prescribed by rules made under this Act;

5[(f-1) "Samiti Area" or "Area of the Samiti " shall mean block;

6[(f-2)"Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution;

(g) "Year" means the financial year;

7[(h) * * *].

1. Inserted vide Orissa Act No. 5 of 1993 (O.G.E. No. 438 dated. 26.3.1993).

2. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No.427 dated. 18.4.1994).

3. Substituted vide Orissa Act No. 18 of 1991 (O.G.E. No. 792 dated. 4.7.1991).

4. Inserted vide Orissa Act No. 24 of 1961.

5. Inserted vide Orissa Act No. 20 of 1995 (O.G.E.No. 1447 dated. 21.12.1995).

6. Inserted vide Orissa Act No. 16 of 1997 (O.G.E. No. 1565 dated. 22.12.1997).

7. Omitted vide Orissa Act No. 1 of 1968.

CHAPTER 2

CONSTITUTION OF ZILLA PARISHADS AND THEIR FUNCTIONS

4. Section 4 :-

5. Section 5 :-

6. Section 6 :-

7. Section 7 :-

8. Section 8 :-

9. Section 9 :-

10. Section 10 :-

11. Section 11 :-

12. Section 12 :-

13. Section 13 :-

14. Section 14 :-

Section 4 to 14 - [Omitted]

1[Omitted]

1. Omitted vide Orissa Act No. 1 of 1968.

CHAPTER 3

CONSTITUTION OF PANCHAYAT SAMITIS AND THEIR FUNCTIONS

15. Constitution Of Blocks :-

2[(1)] The Government shall, by notification, divide each district into such number of local areas as they deem fit. Each such area shall be known as a block and be given such name as may be specified in the said notification.

1[(2) Government may from time to time by notification re-delimit any local area referred to in Sub-section (1) by-

(i) excluding from such local area any Grama; or

(ii) including in such local area any Grama contiguous thereto, and may alter the name given to such local area-

(3) On the issue of a notification under Sub-section (2) the duties and responsibilities for the execution of development works and all assets and liabilities in respect of such works within the Grama shall, subject to the rules, if any, made in that behalf be adjusted and apportioned as between the concerned Samitis in such manner as 3[The Collector] may direct and in the case of any dispute the decision of Government thereon shall be final :

Provided that Government may, while issuing a notification under Sub-section (2), make such temporary orders or give such temporary directions as they consider necessary for the aforesaid purpose.

(4) Upon the transfer of a Grama from one Block to another in pursuance of a notification under Sub-section (2) the members of the Samiti ordinarily residing in such Grama shall, with effect from the date of the notification, cease to be members of the Samiti in which the Grama was represented and without prejudice to the provisions of Sub-section (3) of Section 16, become members of

the Samiti of the Block to which the Grama is transferred.]

1. Inserted vide Orissa Act No. 24 of 1961.
2. Re-numbered vide Orissa Act No. 24 of 1961.
3. Substituted vide Orissa Act No. 1 of 1968.

15A. Appointment Of Block Development Officer :-

1[For every block constituted under Section 15 there shall be a Block Development Officer to be appointed by Government :

Provided that Government may nominate a member or employee of any non-official Organisation engaged within the Block in development work, with the consent of such Organisation and the Samiti constituted in respect of the block, to exercise the powers, discharge the duties and perform the functions of the Block Development Officer and may in like manner modify or cancel such nomination.

Explanation - The person so nominated shall be deemed to be the Block Development Officer and an official member of the Samiti for all purposes of this Act.]

1. Inserted vide Orissa Act No. 24 of 1961.

15B. Appointment Of Additional Block Development Officer :-

1[Government may appoint an Additional Block Development Officer in the block under the administrative control of the Block Development Officer, who shall exercise such powers, discharge such duties and perform such functions as Government may by order determine.]

1. Inserted vide Orissa Act No. 19 of 1984.

16. Constitution Of The Panchayat Samiti :-

1[(1) Every block shall have a Samiti consisting of the following members, namely :

- (a) the Chairman and the Vice-Chairman of the Samiti elected in the manner provided in Sub-section (3);
- (b) one member elected directly on the basis of adult suffrage from every constituency within the Block in the prescribed manner;
- (c) Sarpanchas of the Grama Panchayats situated within the Block;
- (d) every member of the House of the People and of the Legislative Assembly representing constituencies which comprise wholly or partly the area of the Samiti; and
- (e) every member of the Council of States who is registered as an elector within the area of the Samiti:

Provided that a Sarpanch suspended from office under the provisions of the Orissa Grama Panchayats Act, 1964 shall cease to be a member of the Samiti during the period of his suspension and the Naib-Sarpanch or, in his absence, the person elected or nominated under Section 21 of the said Act to exercise the powers

and perform the functions of the Sarpanch shall be deemed to be a member of the Samiti in place of the Sarpanch so suspended.]

2[Explanation - For the purpose of Clause (b), "constituency" shall mean a constituency as may be determined under Sub-section (2-A) subject to Article 243-C of the Constitution].

4[(2) (a) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Samiti and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election under 1[Clause (b)] of Sub-section (1) in that Samiti as the population of the Scheduled Castes and the Scheduled Tribes in that Samiti area bears to the total population of that area 3[and such seats shall be allotted by rotation to different constituencies in the Samiti area] :

Provided that where the population of the Scheduled Caste or, as the case may be the Scheduled Tribes in a Samiti area is not sufficient for reservation of any seat, one seat for the Scheduled Caste, or as the case may be, one seat for the Scheduled Tribes shall be reserved in that Samiti area.

5[Provided further that in the Scheduled Areas, not less than one-half of the total number of seats to be filled by such direct election shall be reserved for the Scheduled Tribes.]

(b) As nearly as may be, but not less than, one third of the total number of seats reserved under Clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be the Scheduled Tribes :

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

6[(b-1) As nearly as may be, but not less than, twenty seven per centum of the total number of seats to be filled up by direct election in every Samiti shall be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-D of the Constitution in the prescribed manner 7[and shall be allotted by rotation to different constituencies thereof] :

Provided that where, after reservation of the required number of seats for the Scheduled Castes and the Scheduled Tribes in a Samiti, the remaining seats are found to be insufficient for the purpose of reservation in favour of backward class of citizens, as nearly as may be, but not less than, twenty seven per centum of the remaining seats shall be reserved in favour of such citizens in

that Samiti.

(b-2) As nearly as may be but not less than one-third of the total number of seats reserved under Clause (b-1) shall be reserved for women belonging to the backward class of citizens :

Provided that where only two seats are reserved for the backward class of citizens, one of the two seats shall be reserved for women belonging to the backward class of citizens;]

(c) As nearly as may be, but not less than, one third (including the number of seats reserved for women belonging to the Scheduled Castes 8[the Scheduled Tribes and the backward class of citizens]) of the total number of seats to be filled by direct election in every Samiti shall be reserved for women and allotted by rotation to different constituencies in a Samiti.

8[(d) * * *]

2[(2-A) The manner in which the Samiti area shall be divided into constituencies for the purpose of Clause (b) of Sub-section (1) and the seats therein shall be reserved for the purposes of Clauses (a), (b) 7[(b-1), (b-2)] and (c) of Sub-section (2), shall be as follows :

(a) The Collector shall divide the Samiti area into constituencies in such a manner that-

(i) every constituency shall, as far as practicable, have a population of not less than two thousand and more than ten thousand; and

(ii) the territorial area of a Grama is not bifurcated.

(b) The constituencies in which the density of population of the Scheduled Castes and the Scheduled Tribes is higher shall be reserved for the Scheduled Castes and the Scheduled Tribes respectively and shall rotate in descending order at every general election 7[and in case of backward class of citizens such reservation and rotation shall be in the prescribed manner.]

(c) Every constituency shall bear the same name as of the Grama and the names of the constituencies shall be arranged serially in Oriya alphabetical order:

Provided that where a constituency comprises more than one Grama, the constituency shall bear the name of the Grama of which the population is higher or, as the case may be, the highest.

(d) After the names of the constituencies are so arranged, the Collector shall reserve the required number of constituencies for women in the following manner :

(i) reservation of constituencies for women shall be made for the Scheduled Castes at the first instance, 8(then for the Scheduled Tribes and thereafter for the backward class of citizens] and, in computing one-third of the total number of constituencies, the

constituencies, reserved for women belonging to the Scheduled Castes 8[the Scheduled Tribes and backward class of citizens] shall be taken into account;

(ii) out of the constituencies left in the list of the Oriya alphabetical order for candidates other than the Scheduled Castes, the Scheduled Tribes and the backward class of citizens the constituency which appears second and, thereafter, every third constituency shall be reserved for women, until the required quota is completed; and

(iii) as nearly as may be, but not less than, one-third of the constituencies reserved for the members of the Scheduled Castes, the Scheduled Tribes and the backward class of citizens shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and backward class of citizens in the manner hereinbefore provided.

(e) This Collector shall, after previous publication in the prescribed manner inviting objections and suggestions from all persons interested within the prescribed period, and after considering all such objections and suggestions, publish a statement showing, the division of the Samiti area into constituencies and the seats to be reserved therein, in his notice board, which shall be final;]

10[(3) The members of the Samiti elected under 1[Clause (b)], of Sub-section (1) shall elect, in the prescribed manner, from among themselves-

(a) the Chairman of the Samiti at their first meeting 7[which shall be convened within twenty-two days, but not before the expiry of seven days, from the date of publication of their names under Sub-section (6)]; and

(b) the Vice-Chairman of the Samiti at a meeting convened for that purpose within thirty days from the date of election of the Chairman under Clause (a) :

Provided that in the case of every Samiti of which the Chairman elected in accordance with this Sub-section or nominated under Section 45-C is not a woman the office of the Vice-Chairman in respect of that Samiti shall be deemed to have been reserved for women.]

3[(3-a) Notwithstanding anything to the contrary in Sub-section (1)

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(i) offices of Chairman in Samitis shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the

total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the total population of the State :

5[Provided that in the Scheduled Areas, offices of Chairman of all the Samitis shall be reserved for the Scheduled Tribes.]

8[(ii) as nearly as may be, but not less than, one-third of the total number of offices of Chairmen reserved under Clause (i) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

(ii-a) as nearly as may be, twenty-seven per centum of the offices of Chairman in Samitis shall also be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-D of the Constitution;

(ii-b) as nearly as may be, one third of the total number of offices of Chairman reserved under clause (ii-a) shall be reserved for women belonging to the backward class of citizens; and

(ii-c) as nearly as may be, but not less than, one-third (including the number of offices reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward class of citizens) of the total number of offices of Chairman in Samitis shall be reserved for women; and]

2[(iii) reservation of offices of Chairman under this Sub-section shall be made by the Collector by rotation among different Samitis and, for that purpose, the procedure of reservation as provided for the members Of th« Samiti in Sub-section (2-A) shall, as far as may be, be applicable.]

(3-b) The reservation of seats under Clauses (a) and (b) of Sub-section (2) and the reservation of offices of Chairman (other than the reservation for woman 7[and backward class of citizens]) under Sub-section (3-a) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution;]

5[(3-c) Notwithstanding anything contained in this section, the Government may nominate to a Samiti in the Scheduled Areas persons belonging to such Scheduled Tribes as have no representation in the Samiti:

Provided that such nomination shall not exceed one-tenth of the total members to be elected under Clause (b) of Sub-section (1).]

(4) The-term of office of the elected members of the Samiti including the Chairman and the Vice-Chairman shall be five years commencing on the date of the first meeting referred to in Sub-section (3).

(5) The meetings of the Samiti shall be presided over the Chairman

or, in his absence, by the Vice-Chairman.

(6) The Collector of the District shall cause the names of the members elected under 1[Clause (b)] of Sub-section (1) of the Samiti to be published in the prescribed manner.]

1. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).
2. Substituted vide Orissa Act No. 20 of 1995 (O.G.E.No. 1447 dated. 21.12.1995).
3. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).
4. Substituted vide Orissa Act No. 18 of 1991.
5. Inserted vide Orissa Act No. 16 of 1997 (O.G.E. No. 1565 dated. 22.12.1997).
6. Inserted vide Orissa Act No. 20 of 1995 (O.G.E. No. 1447 dated. 21.12.1995).
7. Inserted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 28.5.2001.)
- 8 . Substituted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 28.5.2001.)
9. Omitted vide Orissa Act No. 20 of 1995 (O.G.E. No.1447 dated. 21.12.1995).
10. Substituted vide Orissa Act No. 5 of 1993 (O.G.E. No. 438 dated. 26.3.1993).

16A. No Person To Had More Than One Elected Office :-

1[Notwithstanding anything contained in the Orissa Panchayat Samiti Act, 1959 or in the Orissa Grama Panchayat Act, 1964, a person elected as a member of a Samiti and as the Sarpanch or a member of a Grama Panchayat shall, unless he submits to the Collector his resignation from one of the offices to which he has been so elected within 2[a period of seven days] from the day of publication of the notification under Sub-section (6) of Section 16, be deemed to have ceased to hold the office of the Sarpanch] 3[or as the case may be, the member of the Grama Panchayat 2[on and from the expiry of the said period]].

1. Inserted vide Orissa Act No. 5 of 1993 (O.G.E. No. 438 dated. 26.3.1993).
2. Inserted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 28.5.2001.)
3. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

16B. Superintendence, Direction And Control Of Elections To Vest In The Election Commission :-

2[1]3[The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Samitis shall be vested in the Election Commission.].

4[(2) In the absence of any provision in this Act or the rules made thereunder the provisions contained in the Representation of the People Act, 43 of 1950 and the Representation of the People Act, 1951 shall mutatis mutandis apply for the

purposes of election to Samitis in the following matter, namely :

- (i) preparation, revision and updating of electoral rolls;
- (ii) appointment of Electoral Registration Officers, Presiding Officers and Polling Officers;
- (iii) qualifications and disqualifications for registration as voter;
- (iv) such other matters which have to be, or may be required to be, deal with for the purpose of conducting free and fair election.

(3) Unless the Election Commission, by order published in the Gazette, directs otherwise, so much of the electoral roll of the Assembly constituency for the time being in force as relates to a Samiti constituency shall, subject to such revision or updating as may be necessary, be the electoral roll of the Samiti constituency for the purpose of election to the Samiti.]

1[(4) The Election Officers, Presiding Officers, Polling Officers, and any other officers appointed or designated for the time being for the conduct of elections under this Act shall be deemed to be on deputation to the Election Commission for the period commencing on the date of the notification calling for such election and ending with the date of declaration of the results of such election and, accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.]

1. Inserted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 28.5.2001.)

2. Re-numbered vide Orissa Act No. 20 of 1995 (O.G.E. No. 1447 dated. 21.12.1995).

3. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

4. Inserted vide Orissa Act No. 20 of 1995 (O.G.E. No. 1447 dated. 21.12.1995).

17. Incorporation Of Samitis :-

Every Samiti shall by name of the Block for which it is constituted be a body corporate and shall have perpetual succession and a common seal and subject to any restriction and qualification imposed by or under this or any other enactment, shall have power to acquire and hold property both movable and immovable and subject to any rules prescribed, to transfer any such property held by it, to enter into contracts and to do all other things necessary, proper or expedient for the purposes of this Act may use and be sued in its corporate name.

18. Conduct Of Business Of The Samiti :-

(1) The meetings of the Samiti 1[and the Standing Committees there of] shall be held and conducted in the prescribed manner.

2[(2) All the members of the Samiti specified in Sub-section (1) of Section 16 shall have the right to vote at the meetings of the Samiti.

(3) Nothing in this Act shall prevent any member referred to in Clauses (d) and (e) of Sub-section (1) of Section 16 to nominate a person to represent him in any meeting of the Samiti except the meeting convened under Section 46-B, where such member cannot attend the meeting due to other engagements, and, in every such case, the person so nominated shall have the right to speak in, and

otherwise take part in the proceedings of, the meeting of the Samiti but shall not, by virtue of this provision, be entitled to vote.)

3[(4) The 4[Revenue Divisional Commissioner, Collector and the Sub-divisional Officer having jurisdiction and such other officer as the Government may direct] shall have the right to speak and otherwise take part in the proceedings at a meeting of any Panchayat Samiti or any Standing Committee thereof functioning within the local limits of his jurisdiction but shall not be entitled to vote at any such meeting.]

5[(5) Every member of the Zilla Parishad as specified in Clause (a) of Sub-section (1) of Section 6 of the Orissa Zilla Parishad Act, 1991 representing constituency within the area of any Samiti, shall have right to speak in and otherwise take part in the proceedings of all the meetings of the Samiti, except meetings convened under Section 46-B of this Act.]

1. Inserted vide Orissa Act No. 24 of 1961.

2. Substituted vide Orissa Act No. 5 of 2001 (O.G.E. No. 992 dated. 28.5.2001.)

3. Inserted vide Orissa Act No. 18 of 1960.

4. Substituted vide Orissa Act No. 24 of 1961.

5. Inserted vide Orissa Act 15 of 2003 (O.G.E. No. 835 dated. 3.6.2003)

19. Chairman Of The Samiti To Be The Executive Authority

:-

1[(1) The executive authority of the Samiti shall vest in the Chairman and it shall be his duty to have the resolution of the Samiti implemented through the Executive Officer of the Samiti.

(2) The Block Development Officer shall be the Executive Officer of the Samiti and subject to such rules as may be prescribed in this behalf, shall function under the control of the Chairman of the Samiti.

(3) The Executive Officer of the Samiti shall exercise such other powers and perform such other functions as may be prescribed.]

1. Substituted vide Orissa Act No. 24 of 1961.

20. Powers And Functions Of Samiti :-

1[(1) A Samiti shall subject to such terms and conditions as Government may, from time to time by order specify, exercise the powers and perform the functions hereinafter provided-

(a) planning, execution and supervision of development

programmes, schemes and works in the block relating to Community Development including those pertaining to Tribal Development Blocks for the time being recognised by Government as such and of such other programmes, schemes and works as Government may from time to time by general or special order direct in respect of any Samiti;

2[(a-i) preparation of plans for economic development and social justice;

(a-ii) implementation of schemes for economic development and social justice and execution of any other scheme, performance of any act or management of any institution or organisation, as the Government may entrust to it including those in relation to matters listed in the Eleventh Schedule to the Constitution of India;]

(b) management, control and spread of primary education in the block;

(c) management of such trusts and endowments and other institutions as may be entrusted to them under any law for the time being in force or under orders of Government;

(d) supervision of enforcement of laws relating to vaccination and registration of births and deaths;

(e) borrowing of money and granting of loans subject to such terms and conditions as may be prescribed for carrying out the purposes of this Act with the previous approval of Government;

(f) supervisory powers over the Grama Panchayats within the block to be exercised in such manner and to such extent as may be prescribed; and

(g) such other functions as may be assigned to it by the Government from time to time :

3[Provided that the powers and functions of the Samiti in relation to primary education as specified in Clause (b) shall not include the powers and functions in respect of appointment, removal and transfer of and in respect of sanction of leave to the teachers and other members of the staff engaged in primary educational.

(2) The Chairman and every other non-official member of a Samiti shall, subject to such restrictions as may be prescribed, have power to supervise all works undertaken by the Samiti and all institutions under the control of the Samiti.

(3) The Samiti may entrust the execution of any work in any Municipal Area 4[* * *] within the block of the concerned Municipality 4[* * *] and may exercise such control and supervision over such Municipality 4[* * *] as may be necessary for the proper execution thereof.

(4) For the efficient discharge of its functions the Samiti shall constitute Standing committees whose numbers, composition, powers and functions shall be as may be prescribed :

Provided that the Samiti shall have power to co-opt such number of persons from outside as may be specified in rules made in that behalf.

5[(5) Notwithstanding anything to the contrary in this Act, in the Scheduled Areas, the Samiti shall, in consultation with the Grama Sasan, be competent -

(i) to exercise control and supervision, the nature and extent of which shall be such as may be prescribed, over institutions and functionaries of various social sectors in relation to the programmes and measures, as the Government may, by Notification, specify; and

(ii) to prepare the local plans including tribal sub-plans for the area and to exercise control over the resources for such plans.]

1. Substituted vide Orissa Act No. 18 of 1960.

2. Inserted vide Orissa Act 15 of 2003 (O.G.E. No. 835 dated. 3.6.2003)

3. Inserted vide Orissa Act No. 1 of 1968.

4. Omitted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

5. Inserted vide Orissa Act No. 16 of 1997 (O.G.E. No. 1565 dated. 22.12.1997).

20A. Powers And Functions Of The Chairman And Vice-Chairman Of The Samiti :-

1[(1) The Chairman of the Samiti shall-

(a) convene and conduct the meetings of the Samiti; and

(b) have power to inspect and supervise all works undertaken by the Samiti.

(2) The Vice Chairman of the Samiti shall exercise such powers and perform such functions as the Chairman may, from time to time, delegate to him in writing and the Chairman may, in like manner, withdraw all or any of the powers and functions so delegated.

(3) When the office of the Chairman is vacant the Vice-Chairman of the Samiti shall for all the purposes of this Act exercise the powers and perform the functions of the Chairman until a new Chairman is elected.

(4) The Chairman and in his absence the Vice-Chairman shall preside over the meetings of the Samiti and in the absence of both at the meeting any other non-official member of the Samiti present may be elected to preside over the meeting.

(5) When the office of the Chairman is vacant or the Chairman has been continuously absent from the block for more than fifteen days or is incapacitated for more than fifteen days and there is either a vacancy in the office of the Vice-Chairman or the Vice-Chairman has been continuously absent from the Block for, more than fifteen days or is incapacitated for more than fifteen days, the powers and functions of the Chairman shall devolve on a member of the Samiti from out of a panel of three such members in order of priority nominated by the Chairman in

that behalf who shall be the officiating Chairman and shall exercise the powers and perform the functions of the Chairman, subject to such restrictions and conditions as may be prescribed, until a Chairman or Vice-Chairman assumed office on being duty-elected or, as the case may be taken charge of his office.]

2[(6) The Chairman shall nominate the panel as referred to in Sub-section (5) within a period of one month from the date of the first meeting of the Samiti, failing which the Samiti shall nominate the panel in its first meeting held after the expiry of the aforesaid period of one month.

(7) Where the Chairman of a Samiti existing immediately before the commencement of the Orissa Panchayat Samiti (Amendment) Act, 1986, has not nominated the panel, he shall nominate it within a period of one month from the date of commencement of the said Amendment Act, failing which the Samiti shall nominate the panel in its first meeting held after the expiry of the aforesaid period of one month.]

1. Inserted vide Orissa Act No. 24 of 1961.

2. Inserted vide Orissa Act No. 19 of 1986.

21. Execution Of Work By Two Or More Samitis Jointly :-

(1) Whenever it appears that it will be for the common good for two or more Samitis undertaking any work jointly the said Samitis may, at the instance of the 1[Government] or of their own accord, subject to the previous sanction of the Government, execute such work jointly.

(2) When any such work is taken up jointly the concerned Samitis shall with the approval of the 2[Collector], select one person from amongst their executive authorities, who shall be kept in charge of the execution of the work.

(3) The 2[Collector] shall, for the purpose of such execution, determine the amount which shall be contributed by each of the concerned Samitis.

1. Inserted vide Orissa Act No. 19 of 1986.

2. Substituted vide Orissa Act No. 1 of 1968.

22. Section 22 :-

1[* * *]

1. Omitted vide Orissa Act No. 24 of 1961.

23. Section 23 :-

1[* * *]

1. Omitted vide Orissa Act No. 1 of 1965.

24. Budget Of The Samiti :-

(1) The executive authority of the Samiti shall in each year prepare and place before the Samiti on or before the prescribed date a budget estimate for the following year containing such particulars as may be prescribed and the Samiti shall sanction the budget with such modifications, if any, as it thinks fit.

(2) The budget of the Samiti shall after being so sanctioned, be submitted on or before the prescribed date to the 1[Collector] 2[* * *] The 1[Collector] shall, if 1[he] is satisfied that adequate provisions have not been made therein for the performance of any necessary service coining within the functions of the Samiti, have power to modify the budget in such manner as may be necessary to secure such provisions, and such modifications, if any, shall be made within the prescribed period failing which the budget of the Samiti shall become final.

(3) If in the course of a year, a Samiti, finds it necessary to alter the figures shown in the budget with regard to its receipts or to the distribution of the amounts to be expended on the different services undertaken by it, a supplementary or revised budget may be framed, sanctioned, submitted and modified in the manner provided in Sub-section (1) and (2).

1. Substituted vide Orissa Act No. 1 of 1968.

2. Omitted vide Orissa Act No. 1 of 1965.

25. Appointment And Conditions Of Service Of The Employees Of The Samiti :-

(1) The Samiti 1[* * *] with the approval of the Government, shall determine the number and grade of the employees to be appointed to the services of the Samiti.

(2) The Government may at any time, create such posts for the Samiti as they may consider necessary for carrying out the purposes of this Act.

(3) The manner of recruitment and the authority to appoint the employees of the Samitis, their qualifications and conditions of service shall be as may be prescribed.

1. Omitted vide Orissa Act No. 1 of 1968.

25A. Limitation Of Jurisdiction Over Municipalities :-

2[Save as otherwise expressly provided in this Act the power, control or authority of the 3[* * *] Samiti shall not extend over and 1[Municipality] notwithstanding the fact that 2[the Municipality] is within the block.]

1. Substituted vide Orissa Act No. 24 of 1968.
2. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).
3. Substituted vide Orissa Act No. 24 of 1961.

26. Section 26 :-

1[* * *]

1. Substituted vide Orissa Act No. 24 of 1961.

27. Section 27 :-

1[* * *]

1. Substituted vide Orissa Act No. 24 of 1961.

CHAPTER 4

PANCHAYAT SAMITI FUND

28. Panchayat Samiti Fund :-

1[* * *]

(1) All moneys received by a Samiti shall constitute a fund called the "Panchayat Samiti Fund". The fund shall vest in the Samiti and shall be applied for the purposes specified in this Act and for such other purposes and in such manner as may be prescribed.

2[(2) The Block Development Officer shall, subject to the control of the Government remain in charge of the Panchayat Samiti Fund and shall subject to such rules as may be prescribed administer the same in accordance with the decision of the Samiti.

(3) All moneys received by the Samiti shall be lodged in the nearest Government Treasury or with the sanction of the Government in any Bank approved by them.]

1. Omitted vide Orissa Act No. 1 of 1968.
2. Substituted vide Orissa Act No. 24 of 1961.

29. Income And Expenditure Of The Samiti :-

(1) The sources of income of a Panchayat Samiti shall consist of -

(i) funds relating to institutions and schemes transferred by the Government or Heads of Departments of the Government of the Panchayat Samiti;

(ii) funds relating to the Community Development Programme;

(iii) Central and State-aid and aid received from the All-India Bodies and institutions for the development of cottage and village industries, khadi, silk, coir handicrafts and the like;

(iv) donations and contributions received by the Samiti from

Panchayats, or from the public in any form;

(v) such share of the land-revenue, State taxes or fees as may be prescribed;

(vi) proceeds from taxes, surcharges or fees which the Samiti is empowered to levy under this Act or any other law.

(vii) such contributions as the Samiti may levy from Grama Panchayats, 1[* * *]

(viii) income from endowments, trusts or other institutions administered by the Samiti; 2[and]

3[(ix) grants from any authorities, organisations or statutory bodies.]

(2) The expenses of the Samiti shall include the salaries and allowances of its employees the travelling expenses incurred by the members of the Samiti for attending the meetings of the Samiti, any item of the expenditure directed by the Government for carrying out the purposes of this Act and such other expenses as may be necessary for such purposes.

(3) All amounts levied and realised on account of fees by the Samiti shall be separately accounted for and utilised solely for the purposes for which such fees had been respectively levied.

1. Omitted vide Orissa Act No. 24 of 1961.

2. Added by *ibid*.

3. Inserted by *ibid*.

30. Accounts Of The Samiti :-

The accounts of 1[* * *] the Samiti shall be maintained and published in the prescribed manner.

1. Omitted vide Orissa Act No. 1 of 1968.

31. Audit Of Samiti Funds :-

2[(1) The provisions of the Orissa Local Fund Audit Act, 1948 shall apply in regard to the audit of 1[* * *] Panchayat Samiti Funds.

(2) Notwithstanding anything contained in the aforesaid Act, for the purposes thereof, the Government may by notification appoint all Officer of Government to be the Examiner of Local Accounts and such number of Deputy or Assistant Examiners of Local Accounts as they may consider necessary to exercise such powers and discharge such functions of the Examiner as may be assigned to them by Government. The Examiner so appointed may, with the approval of the Government, appoint such number of auditors as he may deem necessary.]

1. Omitted vide Orissa Act No. 1 of 1968.
2. Substituted by ibid.

31A. Review Of Finance :-

1[(1) It shall be the duty of the Finance Commission to review the financial position of Samitis and to make recommendations to the Governor as required under Article 243-I of the Constitution.

(2) The Finance Commission may, for the purpose of maintaining sound financial position of Samitis, make such recommendations including measures needed for improvement of the financial position thereof, as it may deem fit.

(3) The Governor shall cause every such recommendation made by the Finance Commission together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly.]

1. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

CHAPTER 5

PROPERTY

32. Fund And Property Of A District Board To Vest In Governmental :-

(1) On the coming into force of this Act in any district all properties and institutions within the district that remained with the District Board and the fund belonging to such Board shall vest in and belong to and the liabilities of such board shall be taken over by the Government. All such properties and institutions shall be under the direction, management and control of the Government :

Provided that all such properties and institutions of a District Board which have been transferred either wholly or only for management to any Department of Government before the date of commencement of this Act shall be deemed to have been duty transferred under the provisions of this Act and to have wholly vested in the Government.

(2) It shall be lawful for the Government from time to time to direct that any property or institution belonging to or under their control and subject to such exceptions and conditions as the Government may make or impose be placed under the control and management of the 1[* * *] Samiti within whose 2[jurisdiction] such property or institution is situated.

3[(3) 1[* * *] Samiti may with the previous approval of the Government and subject to such terms and conditions as the Government may impose, place any property belonging to or under the control of such 1[* * *] Samiti, under the control and management 4[of any Grama Panchayat] having jurisdiction].

1. Omitted vide Orissa Act No. 1 of 1968.

2. Substituted vide Orissa Act No. 24 of 1961.
3. Inserted vide Orissa Act No. 24 of 1961.
4. Substituted vide Orissa Act No. 1 of 1972.

33. Recovery Of Sums Due At Commencement Of Act :-

(1) All sums due to the District Board on account of rates, taxes fees and other levies imposed by it including the arrears thereof and all other sums otherwise due to the Board on the date of repeal of the enactments specified in the Schedule may be recovered by the Government as though such sums were dues of Government.

(2) The dues specified above shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue.

CHAPTER 6 CONTROL

34. Inspecting And Superintending Officers Of Samiti :-

1[It shall be the duty of the Government 2[Director, the District Panchayat Officer appointed by the Government and such officers or authorities as the Government may authorise] to see that the proceedings of the Samitis are in conformity with the provisions of this Act and the rules made there under and that the implementation of the decisions taken therein and all actions taken by the Samitis for carrying out the provisions of this Act and the rules made there under are free from fraud, misappropriation embezzlement and other criminal hearings.]

1. Substituted vide Orissa Act No. 19 of 1972.
2. Substituted vide Orissa Act No. 5 of 2001.

35. Power Of Entry Of Inspecting Officers :-

The 1[Director, Collector, District Panchayat Officer appointed by the Government] or any officer or person whom the Government may empower in this behalf may at all times enter on and inspect or cause to be entered on and inspected-

- (a) any immovable property, or any work in progress, under the control of any 2[* * *] Samiti;
- (b) any school, hospital, dispensary, vaccination station, choultry, dharmasalas or other institutions maintained by or under the control of, any 2[* * *] Samiti and any records, registers or other documents kept in such institution; and
- (c) the office of any 2[* * *] Samiti and any records, registers or

other documents kept therein.

1. Substituted vide Orissa Act No. 5 of 2001.
2. Omitted vide Orissa Act No. 1 of 1972.

36. Access Of Inspecting Officers To Samiti Property :-

Subject to such rules as may be made in that behalf 1[the Samiti] and its Chairman and employees shall at all reasonable times be bound to afford to the officers and persons referred to in Sections 34 and 35 such access to the property or premises of the 2[* * *] Samiti and to all documents as may in the opinion of such officers or persons be necessary to enable them to discharge their duties under the said sections.

1. Substituted vide Orissa Act No. 19 of 1972.
2. Omitted vide Orissa Act No. 1 of 1972.

37. Power To Call For Report From Samiti :-

The 1[Director, Collector, District Panchayat Officer appointed by the Government] or any officer or person whom the Government may empower in this behalf may-

- (a) call for any record, register, or other document in the possession or under the control of any Samiti;
- (b) require any 2[* * *] Samiti 3[or its Chairman] to furnish any return, plain, estimate, statement, account or statistics;
- (c) require any 2[* * *] Samiti 3[or its Chairman] to furnish any information or report on any matter connected with such Samiti; and
- (d) record in writing for the consideration of any 4[* * *] Samiti 3[or its Chairman] any observations 5[* * *] in regard to its proceedings or duties.

1. Substituted vide Orissa Act No. 5 of 2001.
2. Omitted vide Orissa Act No. 1 of 1972.
3. Substituted vide Orissa Act No. 1 of 1972.
4. Omitted vide Orissa Act No. 1 of 1968.
5. Omitted vide Orissa Act No. 5 of 2001 (O.G.E.No. 992 dated. 28.5.2001.)

38. Power To Suspend Or Cancel Resolution Under The Act :-

1[(1) The Government may, by order in writing cancel any resolution or order passed by a 2[* * *] Samiti or by any of the

authorities 1[of such Samiti] if in their opinion such resolution or order-

(a) is not legally passed; or

(b) is in excess or abuse of the powers conferred by or under this Act; or

(c) on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray :

3[Provided that nothing in this sub-section shall apply to a resolution passed under Section 46-B.]

(2) The Government shall, before taking action under Sub-section (1) give the 4[Samiti] an opportunity for explanation.

4[(3) If in the opinion of the Collector immediate action is necessary to suspend any such resolution or order on any of the aforesaid grounds, he may, by order in writing, suspend the operation of the resolution or order and refer the matter to Government whose decision thereon shall be final] :

Provided that where 4[the Collector] makes an order on any of the grounds referred to in Clauses (a) and (b) of Sub-section (1) shall also record his reasons therefor in the said order.

1. Omitted vide Orissa Act No. 1 of 1972.

2. Substituted vide Orissa Act No. 24 of 1961.

3. Inserted vide Orissa Act No. 13 of 1977.

4. Substituted vide Orissa Act No. 1 of 1968.

39. Extraordinary Powers Of Collector Of The District :-

(1) In case of emergency the Collector of the district may, subject to the approval of the Government, direct or provide for the execution of any work, or the doing of any Act which a Samiti or its Chairman is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the implementation of developmental plans or safety of the public and may direct that the expense of executing such work or doing such act shall be paid out of the fund of the Samiti.

(2) If the expense is not so paid he may make an order directing the person having the custody of the Fund to pay it in priority to any other charge against such Fund. Such person shall so far as the Funds to the credit of the Samiti admit, be bound to comply with such order.

40. Governments Power To Take Action In Default Of A Samiti Or Its Chairman :-

(1) If at any time, it appears to the Government that a 1[* * *] Samiti or its Chairman has made default in performing any duty imposed by or under this Act or any other law for the time being in force they may, by order in writing fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Government may appoint some person to perform it and may direct that the expense of performing it shall be paid from the fund within such time as they may fix, to such person by the 2[* * *] Samiti 2[* * *].

(3) If expenses which the Government have directed under Sub-section (2), to be paid from the Fund are not so paid the Collector of the district with the previous sanction of the Government, may make an order directing the person having the custody of the fund to pay it in priority to any other charge against such Fund.

(4) Such person shall so far as the Fund to the credit of the 2[* * *] Samiti 2[* * *] admit, be bound to comply with such order.

1. Omitted vide Orissa Act No. 24 of 1961.

2. Omitted vide Orissa Act No. 1 of 1968.

40A. Removal Of Chairman And Vice-Chairman Of Samiti :-

(1) If in the opinion of the Government the Chairman 2[the Vice-Chairman or any member elected under Clause (h) of Sub-section (1) of Section 16 or nominated under Section 45-C] of the 1[* * *] Samiti wilfully omits or refuses to carry out or, violates the provisions of this Act or any rules, bye-laws or orders, made or issued thereunder or abuses the powers vested in him and Government are satisfied that further continuance of such person in office would be detrimental to the interest of the 1[* * *] Samiti they may, by order, published in the prescribed manner, remove such Chairman, 3[Vice-Chairman or member, as the case may be,] from office :

Provided that no such order for removal shall be made without giving the person concerned a reasonable opportunity of being heard.

(2) No person removed from the office of Chairman, 3[Vice-Chairman or an elected member] under this section shall for a period of four years from the date of the removal, be eligible to hold any of the said offices.]

1. Omitted vide Orissa Act No. 1 of 1968.

2. Inserted vide Orissa Act No. 24 of 1961.

3. Substituted vide Orissa Act No. 5 of 1993 (O.G.E. Mo. 438 dated. 26.3.1993).

40B. Revival Of Removal Proceedings :-

1[(1) Where any proceeding which was initiated under Section 40-A against any person holding office as the Chairman, the Vice-Chairman or an elected member of a Samiti could not be finalised due to the vacation of the offices by the Chairman, Vice-Chairman or the elected member, as the case may be, by resignation or otherwise and the said person is found to be holding office as the Chairman, the Vice-Chairman or an elected member of that Samiti during the term in which he so vacated or during the succeeding term the State Government may direct revival of

the said proceedings, whereupon the said proceedings shall be proceeded with from the stage it had reached by the date of vacation of the office by the Chairman, the Vice-Chairman or the elected member, as the case may be, and disposed of in accordance with the provisions of the said section.

2[* * *]

(2) No person removed from the office of the Chairman, the Vice-Chairman or an elected member as a result of the proceedings so revived shall, for a period of four years from the date of the removal, be eligible to hold any of the said offices.]

1. Substituted vide Orissa Act No. 5 of 1993 (O.G.E. Mo. 438 dated. 26.3.1993).

2. Omitted vide Orissa Act No. 20 of 1995 (O.G.E. No. 1447 dated. 21.12.1995).

41. Dissolution And Reconstitution Of Samitis :-

(1) If in the opinion of the Government a 1[* * *] Samiti is not competent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers they may by notification published in the prescribed manner, direct that 1[* * *] Samiti be dissolved 1[* * *].

2[* * *]

(2) Before publishing a notification under Sub-section (1) the Government shall communicate to the 1[* * *] Samiti the grounds on which they propose to do so, fix a reasonable period for the 1[* * *] Samiti to show cause against the proposal and consider the explanation and objections, if any, of such 1[* * *] Samiti.

(3) Upon the publication of such a notification all the members of the 1[* * *] Samiti including its Chairman shall forthwith be deemed to have vacated their offices as such and fresh elections shall be held in the prescribed manner.

(4) 3[* * *]

(5) During any interval between the dissolution and the reconstitution of a 1[* * *] Samiti directed under Sub-section (1), all or any of the powers and duties of the 1[* * *] Samiti and its Chairman may be exercised and discharged as far as may be and 4[to] such extent as the Government may, determine by such person or persons as they may appoint in that behalf.

(6) 2[* * *]

1. Omitted vide Orissa Act No. 1 of 1968.

2. Omitted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

3. Omitted vide Orissa Act No. 24 of 1961.

4. Substituted vide Orissa Act No. 24 of 1961.

42. Supersession Of Samiti :-

(1) If after the fresh election held under the last preceding section the 1[* * *] Samiti continues to be incompetent to perform or

abuse its powers for all or any of the reasons specified in Sub-section (1) of Section 41, the Government may by notification published in the prescribed manner, supersede it for a specified period 2[and may in like manner by stating reasons therefor, extend such period from time to time so that the total period of supersession does not exceed six months].

(2) Before publishing a notification under Sub-section (1), the Government shall follow the procedure laid down in Sub-section (2) of Section 41.

(3) The supersession of a 3[* * *] Samiti shall, if other date and time are fixed in the said notification, take effect from the date of publication thereof and thereupon all the members of the 3[* * *] Samiti including its Chairman shall forthwith be deemed to have vacated their offices.

(4) 4[* * *]

(5) The provisions of Sub-section (5) of Section 41 shall apply so far as may be in regard to the exercise and discharge during the period of supersession of a 3[* * *] Samiti under Sub-section (1) 4[* * *] of all or any of the powers and duties of the 3[* * *] Samiti and its Chairman.

(6) 4[* * *]

(7) 1[* * *]

1. Omitted vide Orissa Act No. 24 of 1961.

2. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

3. Omitted vide Orissa Act No. 1 of 1968.

4. Omitted vide Orissa Act No. 7 of 1994 (O.G.E. No.427 dated. 18.4.1994).

43. Devolution Of Assets And Liabilities Of Dissolved Or Superseded Samiti :-

When a 1[* * *] Samiti is dissolved under Section 41 or superseded under Section 42 the Government until the date of the reconstitution thereof and the reconstituted 1[* * *] Samiti thereafter shall be entitled to all the assets and be subject to all the liabilities of the 1[* * *] Samiti as on the date of dissolution or supersession and on the date of reconstitution respectively.

1. Omitted vide Orissa Act No. 1 of 1968.

44. Powers Of Officers Acting For Or In Behalf Of Samiti :-

When the Collector of the District or person appointed by the

Government lawfully takes action on behalf, or in default, of a 1[* * *] Samiti under this Act, he shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act as the 1[* * *] Samiti or its employees whose powers he is exercising and compensation shall be recoverable from the Fund of the 1[* * *] Samiti by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such 1[* * *] Samiti or its employees.

1. Omitted vide Orissa Act No. 1 of 1968.

Chapter : VIA - ELECTION DISPUTES

44A. Election Petitions :-

2[CHAPTER - VI-A]

No election of a person as a member of Samiti 1[* * *] held under this Act shall be called in question except by an election petition presented in accordance with the provisions of this chapter.

1. Omitted vide Orissa Act No. 24 of 1961.

2. Inserted vide Orissa Act No. 24 of 1961.

44B. Presentation Of Petitions :-

(1) The petition shall be presented on one or more of the grounds specified in Section 44-L before the 1[Civil Judge (Senior Division)]having jurisdiction over the place at which the office of the Samiti is situated] together with a deposit of 2[two hundred rupees] as security for costs within fifteen days after the day on which the result of the election was announced :

Provided that if the office of the 1[Civil Judge (Senior Division)] is closed on the last day of the period of limitation as aforesaid the petition may be presented on the next day on which such office is open :

Provided further that if the petitioner satisfies the 1[Civil Judge (Senior Division)] that sufficient cause existed for the failure to present the petition within the period aforesaid the 1[Civil Judge (Senior Division)] may in his discretion condone such failure :

Provided also that in cases where the result of the election was announced prior to the 26th day of January 1961, the aforesaid period of limitation shall be computed from the said date.

(2) 3[* * *]

4[(3) An election petition presented before a 1[Civil Judge (Senior Division)] may either suo moto or on an application, be transferred by the District Judge to any other 1[Civil Judge (Senior Division)] subordinate to him.]

(4) 3[* * *]

(5) No candidate who has been elected to be a Member, Chairman or Vice-Chairman of a 5[* * *] Samiti shall be debarred from holding office as such Member, Chairman or Vice-Chairman merely by reason &f any election petition having been filed against him unless his election has been declared void by the 1[Civil Judge (Senior Division)].

(6) 3[* * *]

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 7.9.2001).

2. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

3. Omitted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).
4. Substituted vide Orissa Act No. 19 of 1972.
5. Omitted vide Orissa Act No. 1 of 1968.

44C. Parties To The Petition :-

1(1) An election petition may be presented by any candidate as such election. 2[* * *]

(2) A person whose election is questioned and where the petition is to the effect that any other candidate is to be declared elected in place of such person, every unsuccessful candidate who has polled more votes than such candidate shall be made opposite party to the petition.

1. Substituted vide Orissa Act No. 19 of 1972.

2. Omitted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

44D. Contents Of Petitions :-

(1) An election petition-

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings.

(2) Any Schedule or Annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

44E. Relief That May Be Claimed By The Petitioner :-

A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

44F. Procedure Before The Civil Judge (Senior Division) :-

1[Civil Judge (Senior Division)]

(1) Subject to the provisions of this Act and of any rules made thereunder every election petition shall be tried by the 1[Civil Judge (Senior Division)] as nearly may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits.

(2) The 1[Civil Judge (Senior Division)] shall not be required to record or to have the evidence recorded in full but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case.

(3) The 1[Civil Judge (Senior Division)] for the purpose of deciding any issue, shall receive so much evidence, oral or documentary, as he considers necessary and may require the production of any evidence.

(4) The 1[Civil Judge (Senior Division)] may at any stage of the proceedings, require the petitioner to give further security for the payment of all costs incurred or which is likely to be incurred by any opposite party and if within the time fixed by him or within such further time as he may allow such security is not furnished, he may dismiss the petition.

(5) No witness or other person shall be required to disclose the name of the person for whom he has voted at an election.

(6) The provisions of the Indian Evidence Act, 1872 (1 of 1872) shall, subject to the provisions of this Act, be deemed to apply in the trial of an election petition.

(7) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

(8) Reasonable expenses incurred by any person in attending to give evidence may be allowed to such person which shall unless the 1[Civil Judge (Senior Division)] directs, be deemed to be part of the costs.

(9) Any order as to costs passed by the 1[Civil Judge (Senior Division)] shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money passed by himself in a suit.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated 7.9.2001).

44G. Appearance Before Civil Judge (Senior Division) :-

1[Civil Judge (Senior Division)]

Any appearance, application or act before the 1[Civil Judge (Senior Division)] may be made or done by the party in person or by a Pleader duly appointed to act on his behalf:

Provided that it shall be open to the 1[Civil Judge (Senior Division)] to direct any party to appear in person whenever the 1[Civil Judge (Senior Division)] considers it necessary.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated 7.9.2001).

44H. Powers Of Civil Judge (Senior Division) :-

1[Civil Judge (Senior Division)]

The 1[Civil Judge (Senior Division)] shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely :

(a) discovery and inspection;

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit ; and

(g) issuing commissions for the examination of witnesses,

and may summon and examine suo motu any person whose evidence appears to it to be material; and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 7.9.2001).

44I. Recrimination When Seat Claimed :-

(1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of the trial, given notice to the 1[Civil Judge (Senior Division)] of his intention to do so and has also given the security and the further security referred to in Sections 44-B and 44-F, respectively.

(2) Every notice referred to in Sub-section (1) shall be accompanied by the

statement and particulars required by Section 44-D in the case of an election petition shall be signed and verified in like manner.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 7.9.2001).

44J. Decision Of Civil Judge (Senior Division) :-

1[Civil Judge (Senior Division)]

(1) If the 1[Civil Judge (Senior Division)], after making such enquiry, as he deems necessary finds in respect of any person whose election is called in question by a petition that his election was valid, he shall dismiss the petition as against such person and may award costs at his discretion.

(2) If the 1[Civil Judge (Senior Division)] finds that the election of any, person was invalid, it shall either-

(a) declare a casual vacancy to have been created ; or

(b) declare another candidate to have been duly elected;

whichever course appears in the circumstances of the case, to be more appropriate and in either case, may award costs at his discretion.

(3) In the event of the 1[Civil Judge (Senior Division)] declaring a casual vacancy to have been created, it shall direct the Collector of the district or other authority prescribed in this behalf to take proceedings for filling the vacancy.

(4) All orders of the 1[Civil Judge (Senior Division)] 2[shall, subject to the order passed in an appeal, if any, be final and conclusive] :

Provided that the 1[Civil Judge (Senior Division)] may, on application presented within one month from the date of any of the orders made under this section or under Section 44-K by any person aggrieved, review such order on any ground and may, pending decisions in review direct stay of operation of such order.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 7.9.2001).

2. Substituted vide Orissa Act No. 19 of 1972.

44K. Other Orders To Be Made By The Civil Judge (Senior Division) :-

1[Civil Judge (Senior Division)]

At the time of making an order under Section 44-J the 1[Civil Judge (Senior Division)] shall also make an order-

(a) declaring any candidate found to have committed any corrupt practice to be disqualified for any period not exceeding five years for being elected as a member of the 2[* * *] Samiti 2[* * *] or for being appointed to or retained in any office or employment in the 2[* * *] Samiti; and

(b) fixing the total amount of cost payable and specifying the persons by and to whom costs shall be paid.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 7.9.2001).

2. Omitted vide Orissa Act No. 1 of 1968.

44L. Grounds For Declaring Election Void :-

(1) The 1[Civil Judge (Senior Division)] shall declare the election of a returned candidate void, if he is of the opinion-

(a) that such person committed during or in respect of the election proceedings a corrupt practice as specified in Section 44-N;

(b) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes or for any other reason was not duly elected by a majority of lawful votes;

(c) that such person disqualified for election under the provisions of this Act. 2[* * *];

(c) that any nomination paper has been improperly 3[rejected or];

4[(e) that there has been any non-compliance with, or breach of any of the provisions of this Act or the rules made thereunder.]

(2) The election shall not be declared void merely on the ground of any mistake in the forms required thereby or of any error, irregularity or informality on the part of the officer or the officers charged with carrying out the provisions of this Act or of any rules made thereunder unless such mistake, error, irregularity or informality has materially affected the result of the election.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 7.9.2001).

2. Omitted vide Orissa Act No. 5 of 1993 (O.G.E. No. 438 dated. 26.3.1993).

3. Substituted vide Orissa Act No. 5 of 1993 (O.G.E. No. 438 dated. 26.3.1993).

4. Inserted *ibid*.

44M. Grounds For Which A Candidate Other Than The Returned Candidate May Be Declared To Have Been Elected

:-

If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate, has been duly elected and the 1[Civil Judge (Senior Division)] is of opinion-

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

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

the 1[Civil Judge (Senior Division)] shall alter declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

1. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 7.9.2001).

44N. Corrupt Practices :-

The following shall be deemed to be corrupt practices for the purposes of this Chapter, namely :

(1) bribery, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf or any gratification to any person whomsoever-

(i) with the object, directly or indirectly of including-

(a) a person to stand or not to stand as or to withdraw from being a candidate, or to retire from contest at such election; or

(b) an elector to vote or refrain from voting at such election, or

(ii) as a reward to-

(a) a person for standing or refraining from standing as a candidate, or for having withdrawn his candidate or for having retired from contest; or

(b) an elector for having voted or for refraining from voting.

Explanation-For the purposes of this clause, the term "gratification" includes all forms of entertainment and all forms of employment for rewards but it does not include the payment of expenses bona fide incurred for the purposes of such election.

(2) under influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf, with the free exercise of the electoral right of any person:

Provided that-

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein, who-

(i) threatens any candidate or any elector or a person in whom a candidate or an elector is interested with injury of any kind including social ostracism and ex-

communication or of expulsion from any caste or community; or

(ii) includes or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause; and

(b) a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to interference within the meaning of this clause;

(3) the systematic appeal by a candidate or by any other person on his behalf to vote or refrain from voting on grounds of caste, race, community or religion or of the use of national symbols, such as the National Flag or the National Emblem for the furtherance of the prospects of the candidates election;

(4) the publication by the candidate or by any other person on his behalf of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospect of that candidates election;

(5) the hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on his behalf for the conveyance of any elector, other than the candidate or any member of his family to or from any polling station or place fixed for the poll :

Provided that the hiring of vehicle or vessel by an elector or by several electors at their joint cost for purpose of conveying him or them to or from any such polling station or place fixed for the poll, 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 of railway carriage by any elector at his own cost for the purpose of going to or coming from any polling station or place, shall not be deemed to be a corrupt practice under this clause.

Explanation- In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise;

(6) the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf of any assistance, other than the casting of a vote for the furtherance of the prospects of the candidates election from any person in the service of the Government or in the employ of any local authority.

440. Withdrawal Of Petition :-

1[(1)] The petitioner may, at any time withdraw the election petition filed by him on payment to the respondent such cost as he might have incurred or such portion thereof as the 2[Civil Judge (Senior Division)] may direct :

Provided that if there are more petitioners than one, on application to withdraw the election petition shall be made except with the consent of all the petitioner.

3[(2) No application to withdraw an election petition shall be granted if, in the opinion of the 2[Civil Judge (Senior Division)], such application has been included by any bargain or consideration which ought not to be allowed.

(3) If the application is granted-

(a) the 2[Civil Judge (Senior Division)] shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as he may specify and thereupon the notice shall be published accordingly;

(b) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in Place of the party withdrawing and upon compliance with the conditions, if any, as to the security,

shall be entitled to be so substituted and to continue the proceedings upon such terms as the 2[Civil Judge (Senior Division)] may deem fit.]

1. Re-numbered vide Orissa Act No. 19 of 1972.

2. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 7.9.2001).

3. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

44P. Abatement Of Petition :-

1[(1)] An election petition shall abate only on the death of petitioner or where there are more than one petitioners on the death of all the petitioners and such abatement shall be communicated to the concerned 3[* * *] Block Development Officer by the 2[Civil Judge (Senior Division)].

4[(2)] Where the election petition abates under Sub-section (1) the 2[Civil Judge (Senior Division)] shall cause the fact to be published in such manner as he may deem fit.

(3) Any person who might himself have been petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the 2[Civil Judge (Senior Division)] may deem fit.]

1. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

2. Substituted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 7.9.2001).

3. Omitted vide Orissa Act No. 1 of 1968.

4. Inserted vide Orissa Act No. 19 of 1972.

44Q. Appeal :-

1[Any person aggrieved by an order passed by the 2[Civil Judge (Senior Division)] under Sub-section (1) or Sub-section (2) of Section 44-J may, within such period as may be prescribed, prefer an appeal before the District Judge having jurisdiction.]

1. Inserted vide Orissa Act No. 19 of 1972.

2. Substituted vide Orissa Act No. 12 of 2001 (O.G.E.No. 1651 dated. 7.9.2001).

CHAPTER 7

MISCELLANEOUS

45. Disqualification For Becoming A Member And Continuing As A Member :-

1[(1)] A person shall not be eligible to stand for election 2[under Sub-section (1) 3[* * *] of Section 16] if he-

(a) 4[***]

2[(b) is not ordinarily residing within the Block; or

(c) is of unsound mind; or

(d) is an applicant to be adjudicated as an insolvent or is an undischarged insolvent; or

(e) is a deaf-mute or is suffering from leprosy or tuberculosis; or

(f) is convicted of an election offence under any law for the time being in force; or,

(g) is not a citizen of India; or

(h) is convicted for an offence involving moral turpitude; or

(i) holds any office of profit under the State or Central Government or any local authority; or

(j) is a teacher in any school recognised under the provisions of the Orissa Education Code for the time being in force; or

(k) holds the office of a Minister either in the Central or in the State Government ; or

5[(k-1) as a member of the .House of the People or of the Council of States or of the State Legislature; or]

(I) has been dismissed from service of the State of Central Government or any Local Authority; or

6[(m) has been in arrears of any dues payable by him to the Grama Panchayat; or]

5[(m-1) being a member of any society registered under the Orissa Co-operative Societies Act, 1951 (Orissa Act 11 of 1952) has failed to pay any arrears of any kind accrued due by him to such society for a continuous period of two years or more; or]

(n) is in the habit of encouraging litigation in the villages and has been declared to be so on enquiry by the prescribed authority in the prescribed manner; or

(o) is interested in a subsisting contract made with or any work being done for the Samiti 8[or any Government] except as a shareholder other than a Director in a Company or except as may be prescribed; or

(p) is a paid and retained legal practitioner on behalf of the Samiti; 7[or] 8[(q) is disqualified by or under any law for the time being in force for the purpose of election to the Legislature of the State; or

(r) is disqualified by or under any law made by the Legislature of the State; 7[or]]

9[(s) is less than twenty-one years of age; or

(t) is not able to read and write Oriya; or

(u) has more than one spouse living; or

(v) has more than two children]:

Provided that the disqualification under Clause (h) or (i) may be, removed by the Government in the prescribed manner] :

9[Provided further that the disqualification under Clause (v) shall not apply to a person who has more than two children on the date of commencement of the Orissa Panchayat Samiti (Amendment) Act, 1994 or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year.]

(2) An elected member of a Samiti 10[including the Chairman and Vice-Chairman] shall cease to be a member if he-

11[(i) is not ordinarily residing within the Block or ceases to so reside or is becomes subject to any of the other disqualifications specified in Sub-section (1); or]

11[(ii) has been continuously absent from the Block for more than six months without prior intimation in writing-

(a) in the case of a Chairman, to the Samiti;

(b) in the case of any other member or Vice-Chairman to the Chairman; or]

12[(iii)has absented himself without permission from three consecutive ordinary meetings of the Samiti on passing a resolution by the Samiti to that effect in the manner hereinafter specified, namely:

(a) any member including the Chairman and Vice-Chairman desiring to absent himself from a meeting of the Samiti shall submit his written application to the Samiti through the Block Development Officer prior to the date of such meeting;

(b) an application received after the date of the meeting and before the next meeting of the Samiti, may be accepted for consideration, if the Samiti is satisfied that there was sufficient reason for which the applicant failed to submit the application in time;

(c) the Block Development Officer shall place the application in the immediately following meeting of the Samiti for consideration and the Samiti may grant or refuse permission;

(d) where such refusal of permission shall result in absence from three consecutive meetings, the Samiti shall specify in the resolution whether the applicant shall cease to continue as a member, Chairman, or Vice-Chairman, as the case may be, of the Samiti;

(e) any absence without an application required under Clause (a) or (b) shall be deemed to be an absence without permission.

Explanation-The meetings which are adjourned without transacting any business shall not be reckoned as ordinary meetings of the Samiti.]

13[(iv) being a legal practitioner appears or acts as such against the Samiti.]

(3) Where a person ceases to be a member under Clause (f) of Sub-section (1), he shall be restored to office for such portion of the term of office as may remain unexpired as the date of such restoration, if the sentence is reversed or quashed on appeal or revision or the offence is pardoned or the disqualification is removed by an order of the Government and any person filling the vacancy in the interim period shall, on such restoration, vacate the

office.

(4) 14[* * *]

(5) 14[* * *]

(6) 15[* * *]

1. Substituted vide Orissa Act No. 24 of 1961.

2. Substituted vide Orissa Act No. 18 of 1991 (O.G.E. No. 792 dated. 4.7.1991).

3. Omitted vide Orissa Act No. 7 of 1994 (O.G.E.No. 427 dated. 18.4.1994).

4. Omitted vide Orissa Act No. 1 of 1966.

5. Inserted vide Orissa Act No. 1 of 1966.

6. Substituted vide Orissa Act No. 12 of 2001 (O.G.E. No. 1651 dated. 7.9.2001).

7. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

8. Inserted vide Orissa Act No. 18 of 1991 (O.G.E. No.792 dated. 4.7.1991).

9. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

10. Inserted vide Orissa Act No. 13 of 1977.

11. Substituted vide Orissa Act No. 13 of 1977.

12. Substituted vide Orissa Act No. 19 of 1986.

13. Inserted vide Orissa Act No. 24 of 1961.

14. Omitted vide Orissa Act No. 1 of 1968.

15. Omitted vide Orissa Act No. 13 of 1977.

45A. No Person To Stand For More Than One Samiti :-

1[No person shall be eligible to stand for election under Section 16 for more than one Samiti.]

1. Substituted vide Orissa Act No. 1 of 1968.

45B. District Judge To Decide Question Of Disqualification :-

(1) Whenever it is alleged that any member of a 1[* * *] Samiti is or has become disqualified, or whenever any such member is himself in doubt whether or not he is or has become disqualified such member or any other member may, and the Chairman at the request of 1[* * *] the Samiti 1[* * *] shall, apply to the District Judge, having jurisdiction over the place where the office of the 1[* * *] Samiti 1[* * *] is situated, for a decision on the allegation or doubt.

(2) The District Judge, 2[after holding an enquiry in the prescribed manner] shall determine whether or not such member is or become disqualified and his decision shall be final.

(3) Pending such decision the member shall be entitled to act as if he was not disqualified.

1. Omitted vide Orissa Act No. 20 of 1969

2. Substituted vide Orissa Act No. 1 of 1968.

45C. Nomination On Failure Of Election, And Dereservation In Certain Cases :-

1[2[Nomination on failure of election, and dereservation in certain cases]

3[(1)] If for any reason whatsoever any of the electorates fails to return a candidate in accordance with any of the provisions of this Act, a fresh election shall be held in respect of the vacancy on such date and in such manner as may be prescribed and in case the electorate still fails to return a member at such fresh election the State Government shall nominate a person who is otherwise eligible to be elected and the person so nominated shall, subject to the provision of Sub-section (2) of Section 45 be deemed to have been validly and properly elected.]

4[(2) Where the seat of any member is reserved under Sub-section (2) of Section 16 for any particular category and the Government fails to nominate under Sub-section (1) a person to such seat for non-availability of any eligible person belonging to that category, such seat shall, on recommendation being made to that effect by the Collector, be dereserved by the Government after such enquiry as it may deem fit and shall, thereafter, be filled up by fresh election.]

1. Substituted vide Orissa Act No. 24 of 1961.

2. Substituted vide Orissa Act 5 of 2001 (O.G.E. No. 992 dated. 28.5.2001.)

3. Re-numbered *ibid*.

4. Inserted vide Orissa Act 5 of 2001 (O.G.E. No. 992 dated. 28.5.2001.)

45D. Section 45D :-

1[* * *]

1. Omitted vide Orissa Act No. 1 of 1968.

46. Resignation Of Chairman, Vice-Chairman And Members :-

2[The Chairman, Vice-Chairman or any member of the 1[* * *] Samiti may resign his office as such Chairman, Vice-Chairman or member by giving notice in writing 1[* * *] to the Samiti. Except in a case where the person resigning delivers the notice of resignation personally to 1[* * *] the Block Development Officer, such officer shall on receipt of a notice of resignation, obtain confirmation from the person concerned as to its genuineness. A resignation delivered personally or confirmed as aforesaid shall take effect on and from the date on which the notice was received.]

1. Omitted vide Orissa Act No. 1 of 1968.

2. Substituted vide Orissa Act No. 5 of 1993 (O.G.E. No. 438 dated. 26.3.1993).

46A. Nomination Of A Person To Represent A Grama Panchayat Under Dissolution Or Supersession :-

1[In the case of dissolution or supersession of a Grama Panchayat, the Collector shall nominate a person, who is otherwise eligible to be elected as a member of such Grama Panchayat, to represent the Grama Panchayat in the Samiti, during

the period of such dissolution or supersession, as the case may be, and the person so nominated shall, for all purposes, be deemed to be a member of the Samiti.]

1. Inserted vide Orissa Act No. 5 of 1993.

46B. Vote Of No Confidence Against Chairman And Vice-Chairman Of Samiti :-

(1) Where at a meeting of the 1[* * *] Samiti specially convened in that behalf a resolution is passed, supported by a majority of 2[not less than two-thirds of] the total number of members having a right to vote, recording want of confidence in the Chairman or Vice-Chairman of such 1[* * *] Samiti the resolution shall forthwith be published by such authority and in such manner as may be prescribed and with effect from the date of such publication the Chairman or Vice-Chairman, as the case may be, shall be deemed to have vacated office.

(2) In convening a meeting under Sub-section (1) and in the conduct of business at such meeting the procedure herein specified shall be followed, namely :

(a) no such meeting shall be convened except on a requisition signed by at least one-third of the members with a right to vote, along with a copy of the resolution proposed to be moved at the meeting;

2[(b) the requisition shall be addressed to the Sub-divisional Officer;]

(c) 3[the Sub-divisional Officer] on receipt of such requisition shall fix the date, hour and place of such meetings and give notice of the same to all the members with a right to vote, alongwith a copy of the requisition and of the proposed resolution, at least seven clear days before the date so fixed;

4[(d) the Sub-divisional Officer or when he is unable to attend any other Gazetted Officer not below the rank of a 3[Class-II Officer of the State Civil Service], authorised by him, shall preside over and conduct the proceedings of the meeting;]

(e) the voting at all such meetings shall be by secret ballot;

(f) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Chairman or the Vice-Chairman shall be taken up for consideration at the meeting;

5[(f-1) no such resolution shall be taken up for consideration 4[unless it has been proposed by one member and has been seconded by another member at the meeting;]

6[(f-2) after the resolution is taken up for consideration the member proposing the resolution may open the discussion thereon and other members may speak on the resolution in the order in which they are called upon by the Presiding Officer :

Provided that no member shall, unless so permitted by the Presiding Officer, have the right to speak more than once and if any member who is called upon does not speak he shall not be entitled, except by the permission of the Presiding Officer, to speak at a later stage of the discussion;

(f-3) wheTe the Chairman or as the case may be, the Vice-Chairman, against whom the resolution has been tabled, is present, he shall be given an opportunity to speak by way of reply to the resolution and the discussion made at the meeting;

(f-4) the Presiding Officer may fix the time within which each member, including the Chairman and Vice-Chairman, shall conclude his speech;

(g) if the number of members present at the meeting is less than 7[a majority of two-thirds] of members having a right to vote the resolution shall stand annulled ; and

(h) if the resolution is passed at the meeting supported by 7[a majority of two-thirds] of members having a right to vote, 7[the Sub-divisional Officer] shall forward the resolution to the authority prescribed in pursuance of Sub-section (1).]

8[(3) When a meeting has been held in pursuance of Sub-section (2) for recording want of confidence in the Chairman or Vice-Chairman, as the case may be, no fresh requisition for a meeting shall be maintainable-

(a) in cases falling under Clauses (g) and (h) of the said sub-section or where the resolution is defeated after being considered at the meeting so held, before the expiry of one year from the date of such meeting; or

(b) where the notification calling for general election to the Samiti has already been published under or in pursuance of Sub-section (2) of Section 49.]

6[(4) Without prejudice to the provisions of Sub-section (3) no requisition under Sub-section (2) shall be maintainable in the case at a Chairman or Vice-Chairman, as the case may be, before the expiry of 9[two years] from the date on which such Chairman or Vice-Chairman enters office :

10[Provided that all requisitions received under Sub-section (2) prior to the date of commencement of the Orissa Panchayat Samiti (Second Amendment) Act, 1993 on which no meeting for recording want of confidence has been held by the said date, shall stand abated.]

1. Omitted vide Orissa Act No. 1 of 1968.

2. Substituted vide Orissa Act No. 1 of 1968.

3. Substituted vide Orissa Act No. 19 of 1986.

4. Substituted vide Orissa Act No. 26 of 1970.

5. Inserted vide Orissa Act No. 1 of 1966.

6. Inserted vide Orissa Act No. 26 of 1970.

7. Substituted vide Orissa Act No. 1 of 1966.

8 . Substituted vide Orissa Gazette Ext. No. 1282/18.10.1994-Notfn. No. 13982/Legis./18.10.1994-O.A. No. 21 of 1994.

9. Substituted vide Orissa Act No. 26 of 1993 (O.G.E. No. 1596 dated. 9.12.1993).

10. Inserted ibid.

46C. Section 46C :-

1[* * *]

1. Omitted vide Orissa Act No. 18 of 1991 (O.G.E. No. 792 dated. 4.7.1991).

46D. Section 46D :-

1[* * *]

1. Omitted vide Orissa Act No. 18 of 1991 (O.G.E. No. 792 dated. 4.7.1991).

47. Casual Vacancies :-

1[(1) If the elected member of the Samiti ceases to be a member by reason of his death, resignation or otherwise the vacancy so caused shall be filled up, so far as may be, in the manner provided 2[under Clause (b) of Sub-section (1)] of Section 16 and the member so elected shall hold office for the unexpired term of the member in whose place he has been elected.]

3[(2) If the Chairman 4[or the Vice-Chairman] of the 5[* * *] Samiti ceases to be such Chairman by reason of his resignation or otherwise the vacancy so caused shall be filled up, so far as may be, in the manner provided 3[under Sub-section (3) of Section 16] 6[and the person filling up such vacancy shall hold office for the unexpired term of the Chairman 4[or, as the case may be, Vice-Chairman], in whose place he has been elected.]

7[(3) Notwithstanding anything contained in Sub-section (1) or Sub-section (2), where a vacancy occurs under any of the said sub-sections and the term of office of the member or the Chairman,

1[or as the case may be, Vice-Chairman] would, in the ordinary course of events, have expired within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

5[***]

1. Substituted *ibid*.

2. Substituted *vide* Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

3. Inserted *vide* Orissa Act No. 24 of 1961.

4. Inserted *vide* Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

5. Omitted *vide* Orissa Act No. 1 of 1968.

6. Inserted *vide* Orissa Act No. 19 of 1972.

7. Inserted *vide* Orissa Act No. 22 of 1975.

48. Vacancy Not To Invalidate Proceedings :-

No act or proceeding of the 1[* * *] Samiti shall be questioned on account of any vacancy in the membership or any defect or irregularity in any such act or proceeding not affecting the merits of the case.

1. Omitted *vide* Orissa Act No. 1 of 1968.

49. Duration Of Samiti And Elections Thereto :-

1[(1) Every Samiti unless sooner dissolved or superseded under this Act, shall continue for five years from the date appointed for its first meeting referred to in Clause (a) of Sub-section (3) of Section 16, and no longer :

Provided that a Samiti constituted on the dissolution or supersession of a Samiti before the expiration of its duration shall continue only for the remainder of the period for which the dissolved or, as the case may be, superseded Samiti would have continued under this sub-section had it not. been dissolved or, as the case may be, superseded.

(2) An election to constitute a Samiti shall be completed-

(a) before the expiry of its duration specified in Sub-section (1), or

(b) where a Samiti is dissolved or superseded before the expiry of its duration, 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 or, as the case may be, superseded Samiti would have continued is less than six months, it shall not be necessary to hold

any election under this sub-section for constituting the Samiti for such period.]

1. Inserted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

50. No Members To Receive Remuneration :-

(1) No 1[* * *] member of a 2[* * *] Samiti shall receive or be paid any salary or other remuneration for services rendered by him in any capacity whatsoever except with the sanction of the Government but shall be allowed travelling allowance for such purpose and at such rates as may be prescribed.

3[(2) The members of the Samiti including the Chairman and Vice-Chairman shall be paid such sitting fee or daily allowance or both for every meeting they attend as the Government may, by notification from time to time, determine and all such fees and allowances shall be paid from out of the Panchayat Samiti Fund.]

1. Omitted vide Orissa Act No. 7 of 1994 (O.G.E.No. 427 dated. 18.4.1994).

2. Omitted vide Orissa Act No. 1 of 1968.

3. Substituted vide Orissa Act No. 7 of 1994 (O.G.E. No. 427 dated. 18.4.1994).

51. Appointment Of Employees Of The District Board, Local Board Etc., To The Samiti Etc :-

(1) Notwithstanding anything contained in any law, rule, order or contract in force on the date of constitution of a 1[* * *] Samiti the Government may direct that the employees of any District Board, shall be appointed under the 1[* * *] Samiti or the Government according to their qualification and nature of duties assigned to them in the said Board and thereupon soon employees shall cease to be employed of the said District Board and they shall become employees of the 1[* * *] Samiti or the Government, as the case may be such employee shall, as far as practicable, be appointed to posts of a grade or class similar to the one they were holding previously.

(2) The appointment under Sub-section (1) shall be deemed to be a. continuation of service of the employee and he shall be entitled to the benefits of his previous service as regards leave or provident fund, which accrued to him, before such appointment.

1. Omitted vide Orissa Act No. 1 of 1968.

52. Chairman, Vice-Chairman And Employees To Be Public Servants :-

1[(1) The Chairman, the Vice-Chairman and the employees of the Samiti shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

(2) The employees of the Samiti shall be governed by the Orissa Government Servants Conduct Rules, 1959.

1. Substituted vide Orissa Act No. 19 of 1972.

53. Protection Of Action Taken Under The Act :-

No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

54. Notice Of Suit Or Proceeding :-

No suit or other legal proceedings, shall be instituted against any 1[* * *] Samiti or the Chairman, member or employee thereof in respect of any act purporting to be done by them in their official capacity, until the expiration of two months next after notice in writing has been delivered to or left at the office of -

(a) in the case of a suit or proceeding against the 1[* * *] Samiti, the Chairman; and

(b) in the case of a suit or proceeding against the Chairman member or employee, delivered to them or left at their office stating the cause of action, the name, description and place of residence of the plaintiff or petitioner and the-relief which he claims and the plaint or petition shall contain a statement that such notice has been so delivered or left.

1. Omitted vide Orissa Act No. 1 of 1968.

54A. Revision And Review :-

2[(1) The Government may, either suo motu or on an application from any person interested, call for and examine the record of a 1[* * *] Samiti in respect of any proceeding 3[(including any proceeding under Section 46-B)] or the correctness, legality or propriety of any decision or order passed therein and if, in any case, it appears to the Government that any such decision or order should be modified, annulled or reversed or remitted for reconsideration, they may pass orders

accordingly :

Provided that the Government shall not pass any order prejudicial to any party unless such party has had an opportunity of making a representation.

(2) The Government may stay the execution of any such decision or order pending the exercise of their powers under Sub-section (1) In respect thereof.

(3) The Government may, suo motu at any time or on an application received from any person interested within ninety days of the passing of any order under Sub-section (1) review any such order if it was passed by them under any mistake, whether of fact or of law, or in ignorance of any material fact. The provisions contained in the proviso to Sub-section (1) and in Sub-section (2) shall apply in respect of any proceeding under this sub-section as they apply to a proceeding under Sub-section (1).

(4) Every application preferred under Sub-section (11) or Sub-section (3) of this section shall be accompanied by a fee of fifteen rupees.

1. Omitted vide Orissa Act No. 1 of 1968.

2. Inserted vide Orissa Act No. 24 of 1961.

3. Inserted vide Orissa Act No. 13 of 1977.

54B. Delegation Of Powers :-

The Government may, by notification, delegate all or any of their powers under this Act except those conferred upon them by Sections 20, 38, 41, 42, 47, 57, 57-A and 58 to any person or authority subordinate to them and may in like manner withdraw any power so delegated. The exercise of any powers delegated under this section shall be subject to such restrictions, limitations and conditions and to such control and revision by such authority as may be specified in the notification.

55. Limitation :-

No suit or proceeding referred to in Section 54 shall, unless it be a suit or proceeding for the recovery of immovable property or for a declaration of title thereto, be commenced after the expiry of six months from the date on which the cause of action arose or in the case of a continuing injury or damage after the expiry of six months from the date of cessation thereof.

56. Recovery Of Amounts Due To Samiti :-

All amounts due to be recovered under this Act shall without prejudice to any other mode of recovery be recoverable as arrears of land revenue.

57. Power To Make Rules :-

(1) The Government may after previous publication make rules consistent with the provisions of this Act to carry out all or any of the purposes of this Act and prescribe forms for any matter for which they consider that a form should be provided.

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

(i) the conditions subject to which property may be acquired or transferred by sale, mortgage, lease, exchange or otherwise by a Samiti;

(ii) regulating the duties, functions and powers of a Samiti;

(iii) generally determining the relations between Grama Panchayats and Samitis and for the guidance of Samitis in all matters connected with the carrying out of the provisions of this Act;

1[(iii-a) regulation of all elections under this Act including deposits to be made by candidates at an election to the office of the Chairman, the conditions for forfeiture of refund of such deposit and the qualifications of a proposer or seconder;]

(iv) any other matter which has to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Assembly may make during the said period.

1. Inserted vide Orissa Act No. 13 of 1977.

57A. Power To Make Bye-Laws :-

1[2[(1) Subject to such rules as may be made, a Samiti may, with the approval of the Collector, make bye-laws for carrying out any of the purposes for which it is constituted.]

(2) The Government shall have power to make rules regarding the procedure for making of bye laws under this section, the publication thereof and the date on which they shall come into effect.]

1. Inserted vide Orissa Act No. 24 of 1961.

2. Substituted vide Orissa Act No. 1 of 1968.

58. Issue Of Order And Removal Of Difficulties :-

1[(1) The Government may from time to time with a view to ensure the proper functioning of the 2[* * *] Samitis and the proper implementation of the provisions of this Act issue such administrative orders, direction and instructions as they deem fit not inconsistent with the aforesaid provisions and the rules made thereunder for the guidance of the 2[* * *] Samitis.

(2) Without prejudice to the provisions of the Sub-section (1) if any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for the purpose of removing the doubt or difficulty.]

1. Substituted vide Orissa Act No. 24 of 1961.

2. Omitted vide Orissa Act No. 1 of 1968.

58A. Section 58A :-

1[2[* * *]

1. Inserted vide Orissa Act No. 24 of 1961.

2. Substituted vide Orissa Act No. 1 of 1968.

58B. Transitory Provisions :-

(1) Every Samiti with its members, Chairman and Vice-Chairman as on the date of its first constitution shall be deemed to have been legally and validly constituted and shall be deemed to have been vested with all powers, functions and duties under this Act fully and effectively notwithstanding the deficiency, defect, illegality or irregularity, if any-

(a) in such constitution, or the nomination, election or appointment, as the case may be, of such members, Chairman or Vice-Chairman or in any of the proceedings relating thereto; or

(b) in any of the provisions of, or in relation to any of the rules, orders, notices or notifications made or issued or purporting to have been so made or issued under this Act or any action, taken or things done or purporting to have been so taken or done in pursuance of the said provisions; or

(c) in the constitution of or membership in the bodies forming the electorates for the purposes of election to the said 1[* * *] Samitis.

(2) Where for the purposes of the first constitution of a Samiti, any nomination has been made in respect of a seat to be held by an elected member not being a nomination made by reason of any failure on the part of an electorate to return a member, the person so nominated shall cease to hold office as member with effect from the date the member elected in accordance with the provisions of this Act and the rules made thereunder assumes charge of office but such member shall be deemed to have held office with effect from the date of the first constitution of the Samiti.

Explanation-For the purposes of this Act the 26th day of January, 1961 shall be deemed to be the date of the first constitution of the Samiti and also the date from which its members on its first constitution shall be deemed to have held office.

(3) The provisions of this section shall have effect notwithstanding anything to the contrary in any of the other provisions of this Act.

1. Omitted vide Orissa Act No. 1 of 1968.

SCHEDULE 1

SCHEDULE I

(Enactments repealed)

[See Section 2]

Number and year	Short title	Extent of repeal
1	2	3
Bengal Act 3 of 1885	Bihar and Orissa Local-Self Government Act, 1885	The whole
Madras Act 14 of 1920	Madras Local Boards Act, 1920	The whole
Madras Act 14 of 1920	Madras Local Boards Act, 1920 as applied to the district of Koraput	The whole

Orissa Act 6 of 1939	The Sambalpur Local-Self Government Act, 1939	The whole
Orissa Act 22 of 1950	Orissa Local Government Act, 1949	The whole

SCHEDULE 2

ANNEXURE

PROVISIONS OF THE AMENDING ACTS NOT INCORPORATED IN THE ORIGINAL ACT THE ORISSA ZILLA PARISHAD (AMENDMENT) ACT, 1961

(Orissa Act 24 of 1961)

38. Amendment of Section 45, Orissa Act 7 of 1960.

(1) Deleted.

(2) Notwithstanding anything in Sub-section (2) of Section 45 of the Principal Act a member of the Samiti who is subject to the disqualification specified in Clause (i) of Sub-section (1) of the said section on the date of commencement of this Act shall cease to remain such a member on the expiry of the period of ninety days from the said date, unless he earlier ceases to be so disqualified.

48. Saving.--

(1) All actions taken, things done or orders made or purporting to have been taken done or made under the rules made or purporting to have been made under the Principal Act in respect of election petitions and disputes shall be deemed to have been taken, done or made under the provisions of the Principal Act as amended by Section 37 of this Act.

(2) All questions relating to the disqualifications on the ground of residence of a member elected or deemed to have been elected to a Samiti prior to the commencement of this Act shall be governed by the provisions of the Principal Act as if this Act had never been passed.

(3) Notwithstanding the cesser of operation of the Orissa Zilla Parishad (Miscellaneous Provisions) Ordinance, 1960 (Orissa Ordinance 6 of 1960) and the Orissa Zilla Parishad (Miscellaneous Provisions) Ordinance, 1961 (Orissa Ordinance 1 of 1961) anything done or any action taken or purporting to have been so done or taken in accordance with the provisions of the said Ordinances shall be deemed to have been validly done or taken and shall have force and effect as fully and effectively as if the said provisions had been incorporated in this Act and this Act had been in force at all relevant times :

Provided that any person who had been nominated by Government under Section 12 of the Orissa Zilla Parishad (Miscellaneous Provisions) Ordinance, 1960 (Orissa Ordinance No. 6 of 1960) to represent a Grama for which no Grama Panchayat had been constituted shall cease to hold office on and from the date with effect from which the member elected to the Samiti under Clause (d) of Sub-section (1) of Section 16 of the Principal Act by the newly constituted Grama Panchayat, if any, holds office or on the 26th day of January, 1965, whichever is earlier.

(4) Any person holding office as a member of a Parishad on the date of commencement of this Act by virtue of being a member of the House of the People, the Council of States or of the State Legislature, shall cease to hold such office with effect from the said date.

49. Term of office of the Grama Panchayats.--

(1) Notwithstanding anything to the contrary contained in Sub-section (8) of Section 10 of the Orissa Grama Panchayats Act, 1948 (Orissa Act No. 15 of 1948) but subject to the other provisions of that Act-

(a) the term of office of the members of Grama Panchayat constituted under the said Act shall be four years with effect from the date specified in the said sub-section :

Provided that-

(i) members of Grama Panchayat first constituted in respect of Grama Sasan; and
(ii) members of a Grama Panchayat reconstituted under the provisions of the said Act prior to the 26th day of January, 1965 shall cease to hold office with effect from that date;

(b) all members of Grama Panchayats continuing to hold office under the provisions of the said Act or purporting to have so continued in office; in spite of the defect, illegality or irregularity, if any, relating thereto, immediately before the date of commencement of this Act shall be deemed to have validly continued in office by the said date and also thereafter, and shall cease to hold office with effect from the 26th day of January, 1965 :

Provided that where on the expiry of the term of members of a Grama Panchayat all the new members for such Grama Panchayat have in accordance with the provisions of the said Act been elected or appointed prior to the date of commencement of this Act and the Gram Panchayat stands reconstituted but for the election of the Sarpanch and Naib-Sarpanch nothing in this clause shall be construed so as to debar such new members of the Grama Panchayat from entering office in accordance with Sub-section (8) of Section 10 of the said Act and continuing in office till the 26th day of January, 1965 :

Provided further that such members shall remain in office after the said date till the first meeting of the newly elected members of the Grama Panchayat at which the Sarpanch is elected.

(2) For removal of doubts it is hereby declared that in the event of any repugnancy with Sub-section (8) of Section 10 of the said Act the provisions of this section shall prevail.