

## **Orissa Zilla Parishad Act, 1991**

**17 of 1991**

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## **Orissa Zilla Parishad Act, 1991**

**17 of 1991**

AN ACT TO ESTABLISH ZILLA PARISHADS IN THE STATE OF ORISSA Whereas it is expedient to provide for the establishment of Zilla Parishads 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 Forty-second Year of the Republic of India as follows :

\* Published vide Orissa Gazette Ext. No. 793 dated. 5.7.1991-Notification.No. 9896-Legis.- D/4.7.1991. Assented to by the Governor on the 2nd July 1991 and came into force with effect from 1st December, 1992

## **CHAPTER 1 PRELIMINARY**

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

1[Short title, extent, commencement and application]

(1) This Act may be called the Orissa Zilla Parishad Act, 1991.

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

Provided that save as otherwise expressly contained in this Act nothing herein shall apply to any local area to which the provisions of the Orissa Municipal Act, 1950 or to any area to which the provisions of the Cantonments Act, 1924 have been, or may hereafter be extended.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force 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 coming into force of the remaining provisions thereof in pursuance of the notification issued under Sub-section (3).

(5) 2[\* \* \*].

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E.No. 1189 dated. 1.9.1993).

2. Omitted vide Orissa Act No. 17 of 1997 (O.G.E. No. 1566 dated. 22.12.1997).

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

In this Act, unless the context otherwise requires,-

(a) "Block" means the Block notified under Section 15 of the Orissa Panchayat Samiti Act, 1959.

1[(a-1 ) "Council" means the State Council of Parishad as constituted under Section 31 -A;

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

(a-3)"Finance Commission" means the Finance Commission

constituted by the Governor under Article 243-I of the Constitution;]

(b) "Government" means the Government of Orissa;

(c) "Grama" means a Grama Constituted under the Orissa Grama Panchayat Act, 1964;

(d) "Grama Panchayat" means the Grama Panchayat Constituted under the Orissa Grama Panchayat Act, 1964;

(e) "Official" shall have reference to Government official and the word "non-official" shall be construed accordingly;

(f) "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;

(g) "Panchayat Samiti" hereinafter referred to as the "Samiti" means the Panchayat Samiti constituted under Section 16 of the Orissa Panchayat Samiti Act, 1959;

2[(9-1) "Parishad area or area of Parishad" shall mean the territorial area of a district excluding any Municipal area as defined in the Orissa Municipal Act, 1950 and any other area which is specified for the time being to be an industrial township under that Act or to which the provisions of the Cantonments Act, 1924 is extended;]

(h) "Population" means populations as ascertained in the last census of which the relevant figures have been published;

(i) "Prescribed" means prescribed by rules;

(j) "Rules" means the rules made under this Act;

3[(j-1) "Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution;]

(k) "Year" means the financial year;

(l) "Zilla Parishad" hereinafter referred to as the "Parishad" means the body constituted under Sub-section (1) of Section 3).

1. Inserted vide Orissa Act No. 17 of 1993 (O.G.E. No.1189 dated. 1.9.1993).

2. Inserted vide Orissa Act No. 21 of 1995 (O.G.E. No. 1448 dated. 21.12.1995).

3. Inserted vide Orissa Act No. 17 of 1997 (O.G.E. No. 1566 dated. 22.12.1997).

## **CHAPTER 2 CONSTITUTION OF ZILLA PARISHADS AND THEIR FUNCTIONS**

### **3. Constitution And Function Of Parishad :-**

- (1) The Government may, by notification constitute a Parishad for every district.
- (2) Every Parishad shall, by the name of the district for which it is constituted, be a body corporate having perpetual succession and a common seal and subject to any restriction and qualification imposed by or under this Act or any other enactment shall have the power to acquire and hold property, both movable and immovable, to transfer any such property held by it, to enter into contracts and to do all other things as may be considered necessary, proper or expedient for the purpose of this Act and may sue and be sued in its corporate name.
- (3) Every Parishad shall have the power to -
- (i) undertake schemes or adopt measures including giving of financial assistance relating to the development of agriculture, social forestry, live stock, industries, co-operative movement, rural credit, water-supply, distribution of essential commodities, rural electrification including distribution of electricity, minor irrigation, public health and sanitation including establishment of dispensaries and hospitals, communications, primary, secondary and adult education including welfare and other objects of general public utility;
  - 1[(ii) prepare plans for economic development and social justice;
  - (ii-a) implement schemes for economic development and social justice and undertake execution of any other scheme, performance of any act or management of any institution or organisation, as the Government may, by order, entrust to it including those in relation to the matters listed in the Eleventh Schedule to the Constitution of India, subject to such terms and conditions as may be specified in the order];
  - (iii) manage or maintain any work of public utility or any institution vested in it or under its control and management;
  - (iv) grant aid to any school, public library, public institution of public welfare organization within the district;
  - (v) contribute such sums as may be agreed upon towards the cost of maintenance of any institution situated outside the district which is beneficial to and habitually used by the inhabitants of the district;
  - (vi) establish scholarships or award stipends within the State for the furtherance of technical or other special forms of education;
  - (vii) 2[\* \* \*]
  - (viii) make grants to Samitis or Grama Panchayat within the

district;

(ix) contribute, with the approval of Government, such sums as it may decide towards the cost of water-supply or anti-epidemic measures undertaken by a Municipal or Notified Area Council within the district;

(x) adopt measures for the relief of distress;

(xi) co-ordinate and integrate the development plans and the schemes prepared by a Samiti in the district;

(xii) 3[\* \* \*]

(xiii) prepare, execute and supervise the district plan relating to -

(a) monitoring and supervision of programmes like Jawahar Rojgar Yojana (J.R.Y). to be directly implemented by Grama Panchayat and Panchayat Samitis;

(b) implementation of anti-poverty programmes and monitoring supervision thereof;

(c) discharge of responsibilities and functions as assigned to the District Rural Development Agencies from time to time and

(d) distribution of untied funds; Explanation - The expression -

(1) a "District Rural Development Agency" means a society registered under the Societies Registration Act, 1860 and sponsored by the Central Government for implementation of Integrated Rural Development Programme in the State.

(2) "Jawahar Rojgar Yojana" means the Jawahar Rojgar Yojana as defined in the Orissa Grama Panchayats Act, 1964.

(4) Notwithstanding anything to the contrary in any other law for the time being in force, for the purpose of efficiently performing its functions under this Act, every Parishad may, within the limits of its jurisdiction

(a) Collect such data as it deems necessary;

(b) publish statistics or other information relating to the various aspects of the regulation of the development activities of Grama Panchayats and Samitis in the district;

(c) require any Grama Panchayat or Samiti to furnish such information as may be required by it in relation to the measures undertaken by that Grama Panchayat or Samiti for the regulation of its developmental activities and such other matters as may be prescribed.

(5) Every non-official member of a Parishad shall, subject to such restrictions as may be prescribed, have power to inspect and supervise the primary educational institutions, hospitals and dispensaries, agricultural farms and veterinary dispensaries, and hospitals situated within the jurisdictions of the Parishad and shall

submit his report along with his suggestion to the Parishad which shall, after examining the same, advise the Government as to the course of action to be adopted.

4[(6) Notwithstanding anything to the contrary in this Act or in any other law for the time being in force, in the Scheduled Areas,-

(a) no prospecting licence or mining lease for minor minerals or concession for the exploitation of minor minerals by auction shall be granted under any law on or after the commencement of the Orissa Zilla Parishad (Amendment) Act, 1997, except with the prior recommendation of the Parishad;

(b) no acquisition of land for development projects and for re-settling or rehabilitating persons affected by such projects shall be made under any law without prior consultation with the Parishad; and

(c) the Parishad shall plan and manage the minor water bodies.]

1. Substituted vide Orissa Act No. 21 of 1995 (O.G.E. No. 1448 dated. 21.12.1995).

2. Omitted vide Orissa Act No. 4 of 2001 (O.G.E.No 994 dated. 28.5.2001).

3. Omitted vide Orissa Act No. 17 of 1997 (O.G.E.No. 1566 dated. 22.12.1997).

4. Inserted vide Orissa Act No. 17 of 1997 (O.G.E. No. 1566 dated. 22.12.1997

#### **4. Standing Committee Of Parishad :-**

For the efficient discharge of its functions the Parishad shall constitute Standing Committees whose numbers, composition, powers and functions shall be such as may be prescribed:

Provided that the Parishad shall have power to co-opt such number of persons from outside as may be prescribed.

#### **5. Annual Report :-**

(1) The Parishad shall prepare in such form and at such time each year as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Government.

(2) The Government shall lay on the table of the Legislature all such reports together with their comments thereon.

(3) Every Parishad shall furnish to the Government such returns, statistics and other information with respect to its activities as the Government may from time to time require.

## **6. Members Of Parishad :-**

1[ (1) The Parishad shall consist of the following members, namely :

- (a) one member elected directly on the basis of adult suffrage from every constituency within the 2[Parishad area];
- (b) Chairman of each Samiti situated within the district.
- (c) every member of the House of the People and of the State Legislative Assembly representing constituencies which comprise wholly or partly the area of the Parishad;
- (d) members of the Council of States who are registered as electors within the area of the Parishad.

3[Explanation - For the purpose of Clause (a), Constituency shall mean a constituency as may be determined under Sub-section (3-A) Subject to Article 243-C of the Constitution.]

(2) The names of the members of the Parishad shall be published in the Gazette.

(3) (a) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Parishad 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 up by direct election in that Parishad as the population of the Scheduled Castes in that Parishad area or of the Scheduled Tribes in that Parishad area bears to the total population of that area and such seats shall be allotted on rotation to different constituencies in a Parishad :

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Parishad area is not sufficient for reservation of any seat one seat for the Schedule Castes or, as the case may be, one seat for the Scheduled Tribes shall be reserved in that Parishad area :

4[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 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.

5[(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 Parishad 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 6[and shall be allotted by rotation to different constituencies there of ] :

Provided that where, after reservation of the required number of seats of the Scheduled Castes and the Scheduled Tribes in a Parishad, 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 Parishad.

(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 the 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, 7[the Scheduled Tribes and the backward class of citizens]) of the total number of seats to be filled up by direct election in every Parishad shall be reserved for women and such seats shall be allotted by rotation to different constituencies in the Parishad.

(d) 8[\* \*]

9[(3-A) The manner in which the Parishad area shall be divided into constituencies for the purpose of Clause (a) of Sub-section (1) and the seat therein shall be reserved for the purpose of Clauses (a), (b) 6[(b-1), (b-2)] and (c) of Sub-section (3), shall be as follows :

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

(i) Every constituency shall as far as practicable, have a population of forty thousand or part thereof;

(ii) a constituency does not extend beyond the territorial limit of the Block;

(iii) the territorial area of a Grama is not bifurcated; and

(iv) a constituency is compact with due regard to geographical feature.

(b) The constituencies in which the density of population of the Scheduled Castes and the Scheduled Tribes is higher shall be reserved by the Collector for the Scheduled Castes and the Scheduled Tribes respectively and shall rotate in descending order

at every general election 6[and in case of backward class of citizens such reservation and rotation shall be in the prescribed manner].

(c) (i) The constituencies in every district shall bear the names of the respective Blocks and be arranged serially in Oriya alphabetical order.

(ii) The name of every constituency so arranged serially shall include its serial number in the district.

(d) After the names of constituencies are so arranged in Oriya alphabetical order, 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 7[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 7[the Scheduled Tribes and the backward class of citizens] shall be taken into account.

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

(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 backward class of the citizens shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward class of the citizens in the manner hereinbefore provided.

(e) The Collector shall prepare a draft statement showing the division of the parishad area into constituencies and the seats to be reserved therein and shall publish it in his office notice board and in the notice boards of the Sub-Collectors, Tahasildars, Executive Officers of Municipalities and Block Development Officers concerned, in the prescribed manner and for the prescribed period, inviting objections and suggestions from all persons interested within the said period.

(f) The Collector shall, after considering the objections and suggestions so received and making such further enquiry as he may deem fit, cause such alteration as may be necessary to be made in the draft statement referred to in Clause (e) and shall, thereafter, prepare a final statement showing the division of the Parishad area

into constituencies and the seats to be reserved therein and submit the same to the Government for approval.

(g) On receipt of the final statement from the Collector under Clause (f) the Government shall, if it is satisfied that the division and reservations shown therein have been made in accordance with the procedure provided herein before, accord its approval and published the same in the Gazette whereupon, the division of the Parishad area into constituencies and reservation of seats therein shall become final.]

6[(3-B) The reservation of seats under Clauses (a) and (b) of Sub section (3) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.]

(4) 5[(a)] The election of members specified in Clause (a) of Sub-section (1) shall be held in the prescribed manner :

Provided that where such election is contested on political party basis, the candidates contesting such election shall use their respective party symbols.

5[(b) In the absence of any provision in this Act or the rules the provisions of the Representation of the People Act, 1950 and the Representation of the People Act, 1951 shall mutatis mutandis apply for the purpose of election to Parishads 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, dealt with for the purpose of conducting free and fair election.

(c) 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 Parishad Constituency shall, subject to such revision or updating as may be necessary; be the electoral roll of the Parishad Constituency for the purpose of election to the Parishad.]

Explanation - For the purposes of this sub-section, -

(a) "candidates" means candidates duly sponsored by respective political parties.

(b) "party symbols" means the symbol allotted to a particular political party under the Elections Symbols (Reservation and Allotment) Order, 1968; and

(c) "political party" means a National Party or, as the case may be, a State Party within the meaning of paragraph 7 of the Order

referred to in Clause (b).

(5) All the members of the Parishad including the President and the Vice-President thereof shall have the right to vote in the meetings of the Parishad.]

4[(6) Notwithstanding anything contained in this section the Government may nominate to a Parishad in the Scheduled Areas persons belonging to such Scheduled Tribes as have no representation in the Parishad:

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

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

2. Substituted vide Orissa Act No. 22 of 1994 (O.G.E. No. 1283 dated. 18.10.1994

3. Substituted vide Orissa Act No. 21 of 1995 (O.G.E. No. 1448 dated. 21.12.1995).

4. Inserted vide Orissa Act No. 17 of 1997 ( O.G.E.No. 1566 dated. 22.12.1997).

5. Inserted vide Orissa Act No. 21 of 1995 (O.G.E. No. 1448 dated. 21.12.1995).

6. Inserted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001).

7. Substituted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001).

8. Omitted vide Orissa Act No. 21 of 1995 (O.G.E. No.1448 dated. 21.12.1995).

9. Substituted *ibid*.

**6A.** Superintendence, Direction And Control Of Elections To Vest In State Election Commission :-

1[ (1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Parishad, shall be vested in the Election Commission.

(2) The conditions of service and tenure of office of the State Election Commissioner constituting the Election Commission shall be such as the Governor may by rule determine under Clause (2) of Article 243-K of the Constitution.

( 3 ) The Governor shall, when so requested by the Election Commission, make available to the Election Commission such staff as may be necessary for the discharge of its functions].

2[(4) The Election Officers, Presiding 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 17 of 1993 (O.G.E.No. 1189 dated 1.9.1993)

2. Inserted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001).

## **7. Duration Of Parishads :-**

1[(1) Every Parishad, unless sooner dissolved under this Act, shall continue for five years from the date appointed for its first meeting referred to in Section 8, and no longer.

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

(a) before the expiry of its duration specified in Sub-section (1); or  
(b) where a Parishad is dissolved 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 Parishad would have continued is less than six months, it shall not be necessary to hold an election under this sub-section for constituting the Parishad for such period.

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

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E.No. 1189 dated. 1.9.1993).

## **8. Election Of President And Vice-President :-**

1[ (1) The members of the Parishad specified in Clause (a) of Sub-section (1) of Section 6 shall, -

(a) at its first meeting, which 2[shall be convened within twenty-two days, but not before the expiry of seven days, from the date of] publication of the names under Sub-section (2) of Section 6, elect in the prescribed manner a President from among them;

(b) at a subsequent meeting, which shall be specially convened for

the purpose within thirty days from the date of the election of the President, elect the Vice-President of the Parishad from among them :

Provided that where the office of the President is not reserved under this Act for women or where a President elected under this Act is not a woman, office of the Vice-President of the Parishad shall be reserved for women.

(2) Notwithstanding anything to the contrary in Sub-section (1)-

(a) offices of the Presidents in the Parishads 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 officers as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the total population of the State 3[\* \* \*] :

4[Provided that in the Scheduled Areas, offices of Presidents of all the Parishads shall be reserved for the Scheduled Tribes.]

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

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

(d) as nearly as may be, one-third of the total number of offices of Presidents reserved under Clause (c) shall be reserved for women belonging to the backward class of citizen and

(e) 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 Presidents in Parishads shall be reserved for women].

5[(3) Reservation of offices of President under Sub-section (2) for the Scheduled Castes, the Scheduled Tribes, 2[Backward class of citizens and women] shall be made by Government by rotation among different Parishads and their reservation so made shall be published in the Gazette.]

6[(4) The procedure provided in Sub-section (3-A) of Section 6 relating to reservation of seats in the Parishads for the Scheduled Castes, the Scheduled Tribes, 2[Backward class of citizens and women] shall, as far as may be, be applicable for the purpose of

reservation of offices of Presidents to be made by the Government under Sub-section (3)].

7[(5) The reservation of offices of Presidents under Clauses (a) and (b) of Sub-section (2) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.]

1. Substituted vide Orissa Act No.17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

2. Substituted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001).

3. Omitted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001).

4. Inserted vide Orissa Act No. 17 of 1997 (O.G.E. No.1566 dated. 22.12.1997).

5. Substituted vide (Panchayat Laws) Amendment Act, 1994 Orissa Act 3 of 1995.

6. Substituted vide Orissa Act No. 21 of 1995 (O.G.E. No. 1448 dated. 21.12.1995).

7. Inserted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001).

## **9. President To Be Executive Authority :-**

(1) The resolution of a Parishad shall be given effect to by the President in whom the executive powers of the Parishad shall vest in cases of emergency he may take a necessary action which shall be subject to the approval of the Parishad at its next meeting.

1[(2) When the office of the President is vacant the Vice-President of the Parishad shall, for all the purposes of this Act, exercise the powers and perform the functions of the President until the new President is elected.

(3) When the office of the President is vacant or the President has been continuously absent from the district 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-President or the Vice-President has been continuously absent from the district for more than fifteen days or is incapacitated for more than fifteen days, the powers and functions of the President shall devolve on an elected member of the Parishad from out of a panel of three such members in order of priority nominated by the President in that behalf who shall be the officiating President and shall exercise the powers and perform the functions of the President, subject to such restrictions

and conditions as may be prescribed, until the President or Vice-President assumes office on being duly elected or, as the case may be, takes charge of his office.

(4) The President shall nominate the panel as referred to in Sub-section (3) within a period of one month from the date of the first meeting of the Parishad, failing which, the Parishad shall nominate the panel in its first meeting held after the expiry of the aforesaid period of one month.]

1. Substituted vide Orissa Act No. 21 of 1995 (O.G.E.No. 1448 dated. 21.12.1995).

### **10. Payment Of Honorarium To President And Vice-President :-**

The President and the Vice-President shall be paid such honorarium per month as may be prescribed by Government from time to time.

### **11. Meetings Of Parishad And Conduct Of Business :-**

(1) A Parishad shall meet not less than four times during any year for the transaction of its business and a period of more than three months shall not be allowed to elapse between two successive meeting.

(2) The business of the Parishad shall be conducted in the prescribed manner.

1[(3) Nothing in this Act shall prevent any member referred to in Clauses (c) and (d) of Sub-section (1) of Section 6 to nominate a person to represent him in any meeting of the Parishad except the meeting convened under Section 39, 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 Parishad but shall not, by virtue of this provision, be entitled to vote.]

1. Inserted vide Orissa Act No. 4 of 2001 (O.G.E. No. 994 dated. 28.5.2001).

### **12. Budget Of Parishad :-**

(1) The Chief Executive Officer of the Parishad shall, in each year prepare and place before the Parishad through its President on or before the prescribed date a Budget estimate for the following year containing such particulars as may be prescribed and the Parishad



shall sanction the Budget with such modifications, if any, as it thinks fit and the Budget so sanctioned shall be submitted to the Government in the prescribed manner.

(2) If in the course of a year, a Parishad 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 prepared, sanctioned, submitted and modified in the manner provided in Sub-section (1).

### **13. Chief Executive Officer And Its Functions :-**

(1) The Collector of the district shall be the Chief Executive Officer of the Parishad who shall be subject to the provisions of this Act, exercise such powers and perform such functions as may be prescribed.

(2) The State Government may appoint such number of Executive Officers to the Parishad as may be expedient, who shall remain under the administrative control of the Chief Executive Officer and shall exercise such powers and perform such functions as may be prescribed.

(3) The 1[Project Officers, District Rural Development Agency] shall be the ex officio Secretary of the Parishad.

2[(4) The Chief Executive Officer and the Secretary of the Parishad shall attend all meetings thereof and may take part in the discussions therein, but shall not have the right to move for resolution or to vote.]

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

2. Inserted ibid.

## **CHAPTER 3 ZILLA PARISHAD FUND**

### **14. Zilla Parishad Fund :-**

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

(2) All moneys received by the Parishad shall be deposited in the State Bank of India or, with the sanction of the Government, in any other Bank approved by them.

(3) All order or cheques against the Zilla Parishad Fund shall be

signed by the Chief Executive Officer or other Executive Officers as the Government may by notification, specify.

#### **15. Income And Expenditure Of Parishad :-**

(1) The sources of income of a Parishad shall consist of -

- (i) the Central or State Government funds allotted to the Parishad;
- (ii) grants from All-India Bodies and Institutions for the development of cottage, village and small scale industries and the like;
- (iii) such share of the land cess or any other cess or State taxes allotted under any law or fees as may be prescribed;
- (iv) income from endowments, trusts or other institutions administered by the Parishad.
- (v) donations and contributions from the Samitis or from the public in any form.

(2) The expenses of the Parishad shall include the salaries and allowances of its employees, honorarium payable to the President and Vice-President, the traveling expenses incurred by the members of the Parishad for attending the meetings of the Parishad and any item of expenditure directed by the Government for carrying out the provisions of this Act.

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

1[(1) The Parishad shall keep regular accounts of receipts to and disbursement from the Zilla Parishad Fund and such accounts shall be published in the prescribed manner.

(2) The provisions contained in Sub-sections (2), (3), (4) and (5) of Section 100 of Orissa Grama Panchayats Act, 1964 shall mutatis mutandis apply in regard to the audit of the Zilla Parishad Fund.]

1. Substituted for Sections 16 and 17 by O.A. No.4 of 2001 (O.G.E. No. 994 dated. 28.5.2001).

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

#### **18. Review Of Finance :-**

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

(2) The Commission may, for the purpose of maintaining sound financial position of Parishads, make such recommendations including measures need 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 Legislature Assembly.]

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

## **CHAPTER 4 CONTROL**

### **19. Inspecting And Superintending Officers Of Parishad :-**

It shall be the duty of the Government and such officers or authorities as may be authorised by the Government to see that the proceedings of Parishads are in conformity with the provisions of this Act and the rules, and that the implementation of the decision taken therein and all actions taken by the Parishads for carrying out the provisions of this Act and the rules are free from fraud, misappropriation, embezzlement and other criminal bearings.

### **20. Power Of Entry Of Inspecting Officers :-**

(1) The Director of Grama Panchayats as defined in the Orissa Grama Panchayats Act, 1964 shall be the Director of the Parishad Administration in the State (hereinafter referred to as the Director).

(2) The Director or any officer whom the Government may authorise in this behalf may at any time enter upon and inspect or cause to be entered upon and inspected.

(a) any immovable property, or any work in progress, under the control of any Parishad;

(b) any school, hospital, dispensary, vaccination station, choultry, dharmasalas or other institutions maintained by or under the control of any Parishad and any records, registers or other documents kept in such institution;

(c) the office of any Parishad and any records, registers or other document kept therein.

(3) The Director shall have such other powers and functions as may be prescribed by the Government from time to time.

### **21. Access Of Inspecting Officers To Parishad Property :-**

Subject to such rules as may be made in that behalf, the Parishad and its President and employees shall, at all reasonable times, be bound to afford to the officers and authorities referred to in

Sections 19 and 20 such access to the property or premises of the Parishad and to all documents as may, in the opinion of such officers or authorities, be necessary to enable them to discharge their duties under the said sections.

## **22. Power To Call For Report From Parishad :-**

The Director 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 an Parishad;
- (b) require any Parishad or its President to furnish any return, plan estimates statement, account or statistic;
- (c) require any Parishad or its President to furnish any information or report on any matter connected with such President;
- (d) record in writing for the consideration of any Parishad or its President any observations which the Director or such officer or person may think proper in regard to its proceedings or duties.

## **23. Powers To Suspend Or To Cancel Resolutions And Orders :-**

(1) The Government may, by order in writing cancel any resolution order passed by a Parishad or by any of the authorities of such Parishad 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 is against the public interest; 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 :

Provided that nothing in this sub-section shall apply to a resolution passed under Section 39.

(2) Government shall, before taking action under Sub-section (1), give the Parishad an Opportunity for explanation.

(3) If in the opinion of the Director 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 the Director makes an order on any of the grounds referred to in Clauses (a) and (b) of Sub-section (1) he shall also record reasons thereof in the said order.

## **24. Extraordinary Powers Of Director :-**

(1) In cases of emergency the Director 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 Parishad or its President 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 expenses of executing such work or doing such act shall be paid out of the Fund of the Parishad.

(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 Parishad admit, be bound to comply with such order.

## **25. Governments Power To Take Action In Default Of A Parishad Or Its President :-**

(1) If at any time, it appears to the Government that a Parishad or its President 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 persons 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 Parishad.

(3) If expenses which the Government have directed under Sub-section (2) to be paid from the Fund, are not so paid, the Director, with 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 Parishad admit, be bound to comply with such order.

## **26. Removal Of The President And Vice-President Of Parishad :-**

(1) If, in the opinion of the Government, the President or Vice-President of the Parishad wilfully omits or refuses to carry out or violates the provisions of this Act or any rules, bye-laws or orders, made or issued there under or abuses the power vested in him and

the Government are satisfied that further continuance of such person in office would be detrimental to the interest of the Parishad, they may, by order published in the prescribed manner, remove such President or Vice-President from office :

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

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

## **27. Revival Of Removal Proceedings :-**

(1) Where any proceeding which was initiated under Section 26 against any person holding office as President or Vice-President of a Parishad could not be finalised due to the vacation of the office by the President or Vice-President, as the case may be, by resignation or otherwise and the said person is found to be holding office as President or Vice-President of that Parishad 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 state it had reached by the date of vacation of the office by the President or the Vice-President, as the case may be, and disposed of in accordance with the provisions of the said section.

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

## **28. Dissolution And Reconstitution Of Parishads :-**

(1) If in the opinion of the Government a Parishad 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 the Parishad be dissolved and immediately reconstituted. The notification shall specify the time within which the Parishad shall be reconstituted :

Provided that for the purpose of completing the elections to a Parishad which has been dissolved, the Government may, from time to time, extend the time fixed by them under this sub-section not exceeding six months in the aggregate for its reconstitution.

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

(3) Upon the publication of such a notification all the members of the Parishad including its President and Vice-President shall forthwith be deemed to have vacated their offices as such and fresh election shall be held in the prescribed manner.

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

(5) For all or any of the reasons specified in Sub-section (1) the Government may, by notification published in the prescribed manner, instead of dissolving a Parishad and reconstituting it, supersede it for any period which they may deem fit, whereupon, the relevant provisions of Section 29 shall mutatis mutandis-apply.

## **29. Supersession Of Parishad :-**

(1) If after the fresh election held under Section 28, the Parishad continues to be incompetent to perform or abuse its powers for all or any of the reasons specified in Sub-section (1) of the said section the Government may, by notification published in the prescribed manner, supersede it for a specified period, not exceeding 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 28.

(3) The supersessions of a Parishad shall, if no 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 Parishad including President and Vice-President shall forthwith be deemed to have vacated their offices.

(4) The provision of Sub-section (5) of Section 28 shall apply so far as may be in regard to the exercise and discharge, during the period of supersession of a Parishad under Sub-section (1), of all or any of the powers and duties of the Parishad and its President.

(5) The Government may reconstitute the Parishad before the

expiry of the period notified under Sub-section (1).

### **30. Devolution Of Assets And Liabilities Dissolved Or Superseded Parishad :-**

When a Parishad is dissolved under Section 28 or superseded under Section 29 the Government until the date of the reconstitution thereof and the reconstituted Parishad thereafter, shall be entitled to all the assets and be subject to all the liabilities of the Parishad as on the date of dissolution or supersession and on the date of reconstitution respectively.

### **31. Powers Of Officers Acting For Or In Default Of Parishad :-**

When the Director or person appointed by the Government lawfully take action on behalf, or in default, of a Parishad 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 Parishad or its employees whose powers he is exercising and compensation shall be recoverable from the Fund of the Parishad by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such Parishad or its employees.

#### **31A. State Council Of Parishads :-**

1[ (1) The Government may by notification, constitute a State Council of Parishads to aid and advise the Government in matters relating to the growth and development of Panchayati Raj institutions in the State.

(2) The Council shall consist of the following members, namely:

(i) Chief Minister;

(ii) Minister in charge of Panchayati Raj;

(iii) President of Parishad.

(3) The Chief Minister and the Minister in charge of Panchayati Raj shall be the Chairman and the Vice-Chairman, respectively of the Council.

(4) The Council may co-opt the Ministers in charge of Finance and Planning as its members and may also call for the participation of any officials connected with the development, administration, in its deliberation.

(5) The Director shall be the ex officio Secretary of the Council.

(6) Without prejudice to the generality of the powers exercisable



under Sub-section (1), it shall be competent for the Council to decide all disputes arising between two or more Parishads as may be referred to it from time to time in the manner prescribed.]

1. Inserted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

## **CHAPTER 5 ELECTION DISPUTES**

### **32. Election Disputes :-**

1[ (1) No election of a person either as a member or as the President or Vice-President of a Parishad held under this Act shall be called in question except by an election petition presented before the District Judge having jurisdiction over the place at which office of the Parishad is situated.

(2) For the purpose of Sub-section (1), the provisions contained in Chapter-VI-A (hereinafter referred to in this sections as the said Chapter) of the Orissa Panchayat Samiti Act, 1959 shall mutatis mutandis apply except as hereunder provided :

In the said Chapter -

(i) the reference to the expression "Samiti" and "Election Commissioner" wherever they occur, shall be construed as reference to "Parishad" and "District Judge" respectively;

(ii) an election petition presented before a District Judge may, either suo motu or on application, be transferred to any Additional District Judge;

(iii) for Sub-section (3) of Section 44-J the following Sub-section shall be substituted, namely :

"(3) In the event of the District Judge declaring a casual vacancy to have been created, it shall direct the appropriate authority to take steps for filling the vacancy" ; and

(iv) for Section 44-Q the following section shall be substituted, namely:

44-Q. Any person aggrieved by an order passed by the District Judge may prefer an appeal before the appropriate Court of law exercising civil appellate jurisdiction over the District Judge and in preferring such an appeal the provisions of the Indian Limitation Act, 1963 shall apply.]

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993

## **CHAPTER 6 MISCELLANEOUS**

### **33. Disqualifications For Becoming A Member And Continuing As Member :-**

(1) A person shall not be eligible to stand for election under Clause (a) of Sub-section (1) of Section 6, if he -

(a) is not ordinarily residing within the 1[Parishad area]; or

(b) is of unsound mind; or

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

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

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

(f) is not a citizen of India; or

(g) is convicted of an offence involving moral turpitude; or

(h) holds any office of profit under the State or Central Government or any Local Authority; or

(i) is a teacher in any School recognised under the provisions of the Orissa Education Act, 1969 for the time being force; or

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

(k) 2[\* \* \*]

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

(m) has been in arrears of any tax, fee or rate due by him to any Grama Panchayat for a continuous period of two years; or

(n) being a member of any Society registered under the Orissa Co operative Societies Act, 1962 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

(o) 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

(p) is interested in a subsisting contract made with, or any work being done for, the Parishad or any Government except as a shareholder other than a Director in a Company or except as may be prescribed; or

(q) is a paid and retained legal practitioner on behalf other Parishad; or

(r) is disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State; or

(s) is disqualified by or under any law made by the Legislature of the 3[State; or]

4[(t) is less than twenty-one years of age; or  
(u) is not able to read and write Oriya; or  
(v) has more than one spouse living; or  
(w) has more than two children] :

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

3[Provided further that the disqualification under Clause (w) shall not apply to a person who has more than two children on the date of commencement of the Orissa Zilla Parishad (Amendment) Act, 1993 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 Parishad including the President and Vice-President shall cease to be a member if he -

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

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

(a) in the case of a President, to the Parishad;

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

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

(a) any member including the President and Vice-President desiring to absent himself from a meeting of the Parishad shall submit his written application to the Parishad through the Chief Executive 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 Parishad may be accepted for consideration if the Parishad is satisfied that there was sufficient reason for which the applicant failed to submit the application in time.

(c) the Chief Executive Officer shall place the application in the immediately following meeting of the Parishad for consideration, and the Parishad may grant or refuse permission.

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

Parishad;

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

Explanation - The meeting which are adjourned without transacting any business shall not be reckoned as or ordinary meetings of the Parishad; or

(iv) being a legal practitioner, appears or acts as such against the Parishad.

(3) Where a person ceases to be member under Clause (e) of Sub-section (1), he shall be restored to office for such portion of the term of office as may remain unexpired at 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.

1. Substituted vide Orissa Act No. 22 of 1994 (O.G.E. No. 1283 dated. 18.10.1994).

2. Omitted vide Orissa Act No. 17 of 1993 (O.G.E.No. 1189 dated. 1.9.1993

3. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993.

4. Inserted *ibid*.

**33A.** No Person To Hold More Than One Elected Office :-

1[ (1) Notwithstanding anything contained in any other law, an elected member of the Parishad including the President and the Vice-President thereof shall not hold simultaneously.

(i) an elected office in any Samiti or Grama Panchayat; or

(ii) an office as a member of the House of the People or of the council of States or of the State Legislature.

(2) Where a person is elected as a member of the Parishad -

(i) while holding an elective office under any Samiti or Grama Panchayat he shall be deemed to have ceased to hold the first elected office; or

(ii) while continuing as a member of the House of the People or of the Council of States or of the State Legislature, he shall be deemed to have ceased to hold the elected offices in the Parishad.

On and from the expiry of a period of 2[Seven days] from the date of publication of his name under Sub-section (2) of Section 6, unless he submits within that period his resignation, in the prescribed manner, from one of such offices].

1. Inserted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993)
2. Substituted vide Orissa Act No. 13 of 2001 (O.G.E. No. 1650 dated. 7.9.2001)

#### **34. District Judge To Decide Question Of Disqualification :-**

(1) When ever it is alleged that any member of a Parishad 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 President at the request of the Parishad shall apply to the District Judge, having jurisdiction over the place where the office of the Parishad is situated, for a decision on the allegation or doubt.

(2) The District Judge shall, after holding an enquiry in the prescribed manner determine whether or not such member is or has 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.

#### **35. Nomination On Failure Of Election, And Dereservation In Certain Cases :-**

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

2[(1)] If for any reason whatsoever the electorate fails to return a member in accordance with the provisions of Clause (a) of Sub-section (1) and Sub-section (3) of Section 6, 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 after such fresh election, the Government shall nominate a person who is otherwise eligible to be elected and the person so nominated shall, subject to the provisions of Sub-section (2) of Section 33, be deemed to have been validly and properly elected.

3[(2) Where the seat of any member is reserved under Sub-section (3) of Section 6 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. 4 of 2001 (O.G.E. No. 994 dated. 28.5.2001).
2. Re-numbered ibid.
3. Inserted vide Orissa Act No. 4 of 2001 (O.G.E. 994 dated. 28.5.2001).

### **36. Oath Of Allegiance :-**

(1) Every elected member 1[including the President and the Vice-President] of the Parishad shall, before taking his seat, make at a meeting of the Parishad an oath or affirmation of his allegiance to the Constitution of India in the following form, namely :

"I.....having become 2[a member/the President/the Vice-President] of the Parishad, swear in the name of God/Solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established that I will faithfully discharge the duty upon which I am about to enter."

(2) 2[Any such member, President or Vice-President] who fails to make, within three months of the date with effect from which he holds office or at any one of the first three meetings of the Parishad whichever is later, the oath or affirmation as aforesaid, shall cease to hold office as such 3[ \* \* \*] and thereupon the seat shall become vacant.

(3) 2[No such member, President or Vice-President] shall take his seat at a meeting of the Parishad or do any act as such 3[\* \* \*] unless he has made the oath or affirmation as provided in this section.

1. Inserted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993
2. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).
3. Omitted ibid.

### **37. Resignation Of President, Vice-President And Members :-**

The President Vice-President or any member of the Parishad may resign his office as such President, Vice-President or member by giving notice in writing to the Parishad. Except in a case where the person resigning delivers the notice of resignation personally to the Chief Executive Officer, such officer shall, on receipt of a notice of resignation, obtains 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.

**38. Cessation Of Membership Of Chairman In The Samiti :-**

(1) Notwithstanding anything contained in any law for the time being in force, the Chairman of a Samiti shall cease to be the Chairman with effect from the date on which he ceases to be a member of the Parishad by tendering his resignation or otherwise.

(2) In the case of dissolution or supersession of a Samiti the Revenue Divisional commissioner shall nominate a person to represent the Samiti in the Parishad during the period of such dissolution or supersession, if such person is otherwise eligible to be elected as a member of such Samiti and the person so nominated shall, for all purposes, be deemed to be a member of the Parishad.

**39. Vote Of No Confidence Against President And Vice-President :-**

(1) Where at a meeting of the Parishad specially convened in that behalf a resolution is passed, supported by a majority of not less than two-third of the total members having a right to voter, recording want of confidence in the President or Vice-President of such Parishad, the resolution shall forth with be published by such authority and in such manner as may be prescribed and with effect from the date of such publication the president or Vice-President, 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 following, 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;

(b) the requisition shall be addressed to the Revenue Divisional Commissioner;

(c) the Revenue Divisional Commissioner, on receipt such requisition shall fix the date, hours and place of such meeting and give notice of the same to all the members with a right to vote, along with a copy of the requisition and of the proposed resolution at least seven clear days before the date so fixed;

(d) the Revenue Divisional Commissioner or when he is unable to attend, any other Gazetted Officer not below the rank of a Class- I

Officer of the State Civil Service, authorised by him, shall preside over and conduct the proceedings of the meetings.

(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 President or the Vice-President shall be taken up for consideration at the meeting;

(g) no such resolution shall be taken up for consideration unless it has been proposed by one member and has been seconded by another member at meeting;

(h) 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;

(i) where the President or, as the case may be, the Vice-President 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;

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

(k) if the number of members present at the meeting is less than a majority of two-thirds of members having a right to vote the resolution shall stand annulled.

(l) if the resolution is passed at the meeting supported by a majority of two-third of members having a right to vote, the Revenue Divisional Commissioner shall forward the resolution to the authority prescribed in pursuance of Sub-section (1).

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

(a) in cases falling under Clauses (k) and (l) 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



Parishad has already been published under or in pursuance of Sub-section (2) of Section 7].

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

1. Substituted vide Orissa Act No. 22 of 1994 (O.G.E. No. 1283 dated. 18.10.1994).

2. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

#### **40. Casual Vacancies :-**

1[ Where a vacancy occurs in the office of an elected member or of the President or Vice-President of a Parishad by reason of death, resignation or otherwise of the person holding such office, the vacancy shall be filled up, so far as may be, in same manner as provided for that office in Section 6 or 8, as the case may be, and the member or the President or Vice-President so elected shall hold office for the remainder of the term of office of the member or, as the case may be, the President or Vice-President in whose place he has been elected.]

1. Substituted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

#### **41. Vacancy Not To Invalidate Proceedings :-**

No act or proceeding of the Parishad shall be invalidated 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.

#### **42. Section 42 :-**

1. Omitted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

#### **43. No Member To Receive Remuneration :-**

(1) Save as provided in Section 10, no non-official member of a Parishad shall received 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 purposes and at such rate as may be prescribed.

(2) 1[\* \* \*]

1. Omitted vide Orissa Act No. 17 of 1993 (O.G.E. No. 1189 dated. 1.9.1993).

**44. President, Vice-President And Employees To Be Public Servant :-**

(1) The President, the Vice-President and the employees of the Parishad shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

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

**45. 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 there under.

**46. Notice Of Suit Or Proceeding :-**

No suit or other legal proceeding shall be instituted against any Parishad or the President, 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 -

(a) in the case of a suit or proceeding against the Parishad, at the office of the President; and

(b) in the case of a suit or proceeding against the President, member or employee, at the office of the Parishad 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.

**47. Revision And Review :-**

(1) The Government may, either suo motu or on an application from any person interested, call for and examine the record of a Parishad in respect, of any proceeding including any proceeding under Section 39 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 an 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 (1) or Sub-section (3) of this section shall be accompanied by a fee of fifteen rupees.

#### **48. Delegation Of Powers :-**

(1) The Government may, by notification, delegate all or any of their powers under this Act except those conferred upon them by Sections 3, 23, 28, 29, 51, 52 and 53 to any person or authority subordinate to them and may, in like manner, withdraw any power so delegated.

(2) The exercise of any powers delegated under Sub-section (1) shall be subject to such restriction, limitations and conditions and to such control and revision by such authority as may be specified in the notification.

#### **49. Limitation :-**

No suit or proceeding referred to in Section 46 shall, unless it be a suit of 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.

#### **50. Recovery Of Amount Due To Parishad :-**

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.

### **51. 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 1[of the purposes] of this Act and prescribe forms for any matter which they consider that a form should be provided.

(2) In particular and without prejudice to the generality of the foregoing powers 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 Parishad;

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

(iii) generally determining the relations between Grama Panchayat Samitis and the Parishad for the guidance of Parishads in all matter connected with the carrying out of the Provisions of this Act;

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

(v) specifying the responsibility of the District Level Officers of the Government to the Parishads :

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

1. Substituted vide Orissa Act No. 21 of 1995 (O.G.E. No. 1448 dated. 21.12.1995).

### **52. Power To Make Bye-Laws :-**

(1) Subject to such rules as may be made, a Parishad may, with the approval of the Government, 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 bye-law under this section, the publication thereof and the date on which they shall come into effect.

### **53. Issue Of Order And Removal Of Difficulties :-**

(1) The Government may, from time to time, with a view to ensuring the proper functioning of the Parishads and the proper implementation of the provisions of this Act issue such

administrative orders, directions and instructions as they deem fit not inconsistent with the aforesaid provisions and the rules made there under for the guidance of the Parishads.

(2) Without prejudice to the provisions of 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, by order, do anything which appears to them necessary for the purpose of removing the doubt or difficulty :

Provided that no order shall be issued under this Sub-section after the expiration of a period of two years from the date of commencement of Section 1 of this Act.