

Rajasthan Panchayats Raj Act, 1994

13 of 1994

CONTENTS

CHAPTER 1 :- Preliminary

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- CHAPTER II

3. Section 3
4. Section 4
5. Section 5
6. Section 6
7. Section 7
8. Section 8

CHAPTER 3 :- Panchayati Raj Institutions

9. Establishment Of Panchayat
10. Establishment Of Panchayat Samiti
11. Establishment Of Zila Parishad
12. Composition Of A Panchayat
13. Composition Of A Panchayat Samiti
14. Composition Of A Zila Parishad
15. Reservation Of Seats
16. Reservation Of The Offices Of Chairpersons
17. Duration Of, And Election To The Panchayati Raj Institutions
18. Electors And Electoral Rolls
- 18A. Making False Declaration
- 18B. Breach Of Official Duty In Connection With The Preparation Etc., Of Electoral Rolls
- 18C. Right To Vote
19. Qualifications For Election As A Panch Or A Member
- 19A. Restriction On Contesting Election For More Than One Seat In A Panchayati Raj Institution
20. Restriction On Simultaneous Or Double Membership Of A Panchayati Raj Institution
21. Restriction On Simultaneous Holding Of The Office Of A 1[Chairperson, Deputy Chairperson Or member] In A Panchayati Raj Institution And The Membership Of Parliament Or A State Legislature, Etc
22. Electoral Offences

- 22A. Restriction On Use Of Vehicles, Loud-Speakers Etc
- 23. Publication Of Election Results
- 24. Oath Or Affirmation
- 25. Handing Over Of Charge
- 26. Sarpanch And His Election
- 27. Procedure For Election Of Up-Sarpanch On The Establishment Of A Panchayat
- 28. Election Of Pradhan And Up-Pradhan
- 29. Election Of Pramukh And Up-Pramukh
- 30. Term Of Office Of Members, Chairpersons And Deputy Chairpersons
- 31. Section 31
- 32. Section 32
- 33. Section 33
- 34. Section 34
- 35. Section 35
- 36. Resignation Of Sarpanch, Up-Sarpanch, Panch, Pradhan, Up-Pradhan, Pramukh, Up-Pramukh And Members Of Panchayat Samiti Or Zila Parishad
- 37. Motion Of No-Confidence In Chairpersons And Deputy Chairpersons
- 38. Removal And Suspension
- 39. Cessation Of Membership
- 40. Judge To Decide Questions Of Disqualifications
- 41. Vacation Of Office Of Chairperson And Deputy Chairperson
- 42. Filling Up Vacancies
- 43. Determination Of Dispute As To Elections
- 44. Section 44
- 45. Section 45
- 46. Section 46
- 47. Section 47
- 48. Section 48
- 49. An Act Of The Panchayati Raj Institution Not To Be Invalidated By Vacancy Or Irregularity
- 50. Section 50
- 51. Section 51
- 52. Section 52
- 53. Section 53
- 54. Section 54
- 55. Section 55
- 56. Standing Committees Of The Panchayat Samiti
- 57. Standing Committees Of The Zila Parishad
- 58. Section 58
- 59. Section 59
- 60. Section 60
- 61. Section 61
- 62. Section 62
- 63. Section 63
- 64. Section 64
- 65. Section 65

- 66. Section 66
- 67. Section 67
- 68. Section 68
- 69. Section 69
- 70. Section 70
- 71. Section 71
- 72. Section 72
- 73. Section 73
- 74. Section 74
- 75. Section 75
- 76. Section 76
- 77. Section 77
- 78. Section 78
- 79. Section 79
- 80. Section 80
- 81. Section 81
- 82. Section 82
- 83. Section 83
- 84. Section 84
- 85. Section 85
- 86. Section 86
- 87. Section 87
- 88. Section 88
- 89. Section 89
- 90. Section 90
- 91. Section 91
- 92. Section 92
- 93. Section 93

CHAPTER 4 :- Power of the State Government etc

- 94. Power Of Government To Dissolve A Panchayati Raj Institution
- 95. Consequences Of Dissolution
- 95A. Transitional Provision As To Administrators
- 96. Section 96
- 97. Power Of Revision And Review By Government
- 97A. Appeals
- 98. Delegation Of Powers
- 99. Appointment Of Officers And Staff By Government
- 100. Section 100
- 101. Alteration In The Limits Of A Panchayati Raj Institution
- 102. Power To Make Rules
- 103. Section 103
- 104. Section 104
- 105. Section 105
- 106. Section 106
- 107. Section 107

CHAPTER 5 :- Miscellaneous

- 108. Members And Officers To Be Public Servants

- 109. Suits Etc., Against Panchayat, Panchayat Samiti And Zila Parishad
- 110. Section 110
- 111. Section 111
- 112. Section 112
- 113. Section 113
- 114. Section 114
- 115. Determination Of Seats After Each Census
- 116. Requisitioning Of Vehicles Etc. For Purposes Of General Elections
- 117. Bar To Interference By Courts In Certain Matters
- 118. Section 118
- 119. Officers And Staff Of State Election Commission
- 119A. Staff Of Local Authorities To Be Made Available
- 119B. Officers And Staff Deemed To Be On Deputation To State Election Commission
- 119C. Penalty For Staff
- 120. Delegation Of Functions Of Election Commission
- 121. Committee For District Planning
- 122. Section 122
- 123. Removal Of Difficulties
- 124. Repeal And Savings

Rajasthan Panchayats Raj Act, 1994

13 of 1994

An Act to consolidate and amend the law relating to Panchayati Raj Institutions in the State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Forty-fifth Year of the Republic of India as follows :-

CHAPTER 1 Preliminary

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Rajasthan Panchayati Raj Act, 1994.
- (2) It extends to the whole of the State of Rajasthan.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

- (1) In this Act, unless the context otherwise requires,-
 - (i) "Backward Classes" means such backward classes of citizens,

other than the Scheduled Castes and the Scheduled Tribes, as may be specified by the State Government from time to time for the purposes of this Act;

(ii) "Block" and "Panchayat Circle" shall respectively mean the local area over which a Panchayat Samiti or, as the case may be, a Panchayat exercises its jurisdiction;

(iii) "Chairman" means Chairperson of a Standing Committee of a Zila Parishad or a Panchayat Samiti or a Panchayat constituted under this Act;

(iv) "Chairperson" and "Deputy Chairperson" shall respectively mean the Sarpanch and Up-Sarpanch in the case of a Panchayat, the Pradhan and Up-Pradhan in the case of a Panchayat Samiti and the Pramukh and UP-Pramukh in the case of a Zila Parishad;

(v) "Commissioner" means the Divisional Commissioner or such other officer as may be appointed by the State Government to exercise the powers of a Commissioner under the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);

1. Came into force with effect from dated 23.4.1994 vide Rural Development & Panchayati Raj Departments Notification No.. F.4(1)RDP/Law/93/1468 dt. 23.4.1994, published in Rajasthan Gazette, E.O., Part VI-C dated 23.4.1994.

2 . Substituted by Notification No. F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No.2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) dated 6.1.2000 with immediate effect. (=S.2 of the Rajasthan Act No. 9 of 2000).

* First published in Rajasthan Gazette, E.O., Part-IV-A dated 23.4.94.

(vi) "Collector" means Collector of a District and includes Additional Collector;

(vii) "Competent Authority" means such officer or authority as the State Government may, by notification in the Official Gazette, appoint to perform such functions and exercise such powers of a Competent Authority with respect to such provisions of this Act and in relation to such Panchayati Raj Institutions as are specified in the

notification;

(viii) "Constituency" includes a ward;

1[(ix) 2[Director, Panchayati Raj]] means the Officer appointed as such by the State Government;]

2[(ix) "Director, Elementary Education" means the Officer appointed as such by the State Government; and

(x) "District" means a District constituted under the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);

(xi) "Finance Commission" means the commission constituted under Article 243-I of the Constitution of India;

(xii) "Government" or "State Government" means the State Government of Rajasthan;

(xiii) "Member" means a member of a Panchayati Raj Institution and includes a Sarpanch;

(xiv) "Officer-in-charge of Panchayats" means the person or officer appointed by the State Government under section 99 to be the officer-in-charge of Panchayats and includes an officer subordinate to him appointed under that section;

(xv) "Panch" means a member of a Panchayat, other than a Sarpanch;

(xvi) "Panchayat Area" or "Panchayat Circle" means the territorial area of a Panchayat;

(xvii) "Panchayati Raj Institution" means an institution of self-Government established under this Act for rural areas, whether at the level of a village or of a block or district;

(xviii) "Population", when used with reference to a local area, means the population of such local area as ascertained at the last preceding census of which the relevant figures have been published;

(xix) "Prescribed" means prescribed by or under this Act;

(xx) "Public Land" or "Common Land" means land which is not in exclusive possession and use of any individual but is used by the inhabitants of a local area commonly;

(xxi) "Standing Committee" means a Standing Committee constituted by a 2[Zila Parishad or a Panchayat Samiti or Panchayat] under this Act;

(xxii) "State Election Commission" means the Commission referred to in Article 243-K of the Constitution of India; and

1. Substituted by Section 2 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No.23 of 1994) published in Rajasthan Gazette, E.O., Part IV (A) dated 6.10.94 (w.e.f. 26.7.94).

2. Substituted by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No.2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) dated 6.1.2000 with immediate effect. (=S.2 of the Rajasthan Act No. 9 of 2000).

(xxiii)"Village" means a village specified by the Governor by public notification to be a village for the purpose of this Act and includes a group of villages so specified.

(2) Words and expressions used but not defined in this Act but defined in the Rajasthan Municipalities Act, 1959 shall have the meanings assigned to them in the later.

CHAPTER 2 CHAPTER II

3. Section 3 :-

4. Section 4 :-

5. Section 5 :-

6. Section 6 :-

7. Section 7 :-

8. Section 8 :-

CHAPTER 3 Panchayati Raj Institutions

9. Establishment Of Panchayat :-

(1) The State Government may, by notification in the Official Gazette, declare any local area, comprising a village or a group of villages not included in a municipality or a cantonment board constituted under any law for the time being in force to be Panchayat Circle and for every local area declared as such there shall be a Panchayat.

(2) Every Panchayat shall, by the name notified in the Official Gazette, be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and conditions imposed by or under this Act or any other law, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue and be sued.

(3) The State Government may, at any time, after one months notice published in the prescribed manner either on its own motion or at the request of the Panchayat or of the residents of the Panchayat Circle, and by notification in the Official Gazette, change the name 1[or place of office] of any such Panchayat.

10. Establishment Of Panchayat Samiti :-

(1) The State Government may, by notification in the Official Gazette, declare any local area within the same district to be a block and for every block declared as such there shall be a Panchayat Samiti having jurisdiction, save as otherwise provided in this Act, over the entire block excluding such portions of the block as are included in a municipality or a cantonment board constituted under any law for the time being in force.

Provided that a Panchayat Samiti may have its office in any area comprised within the excluded portion of the Panchayat Samiti.

(2) Every Panchayat Samiti shall, by the name notified in the Official Gazette, be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and conditions imposed by or under this Act or any other law, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue and

be sued.

(3) The State Government may, at any time, after one months notice published in the prescribed manner either on its own motion or at the request of the Panchayat Samiti or of the residents of any area within the block of the Panchayat Samiti, and by notification in the name 1[or place of office] of any such Panchayat Samiti.

11. Establishment Of Zila Parishad :-

(1) For every district, there shall be a Zila Parishad having jurisdiction, save as otherwise provided in this Act, over the entire district excluding such portions of the district as are included in a municipality or a cantonment board constituted under any law for the time being in force:

1. Inserted by Sec. 11 of Rajasthan Act 9 of 2000, w.e.f. 6.1.2000.

Provided that a Zila Parishad may have its Office in any area comprised within the excluded portion of the district.

(2) Every Zila Parishad shall bear the name of the District for which it is constituted and shall be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and conditions imposed by or under this Act or any other law, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue and be sued.

12. Composition Of A Panchayat :-

(1) A Panchayat shall consist of --

(a) a Sarpanch; and

(b) directly elected Panchas from as many wards as are determined under sub-section (2).

(2) The State Government shall, in accordance with such rules as may be framed in this behalf, determine the number of wards for each Panchayat Circle, and thereupon so divide the Panchayat Circle into single member wards that the population of each ward is, so far as practicable, the same throughout the Panchayat

Circle1[.]

13. Composition Of A Panchayat Samiti :-

(1) A Panchayat Samiti shall consist of--

(a) directly elected members from as many territorial constituencies as are determined under sub-section (2); 3[xxx]

(b) all members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Panchayat Samiti area;4[and]

5[(c)] chairpersons of all the Panchayats falling within the Panchayat Samiti]

Provided that the members referred to in 4[clause (b) and (c)] shall have a right to vote in all meetings of the Panchayat Samiti except those for election and removal of the Pradhan or Up-pradhan.

(2) The State Government shall, in accordance with such rules as may be framed in this behalf, determine the number of territorial constituencies for each Panchayat Samiti area and thereupon so divide such area into single member territorial constituencies that the population of each territorial constituency is, so far as practicable, the same throughout the Panchayat Samiti area:

Provided that a Panchayat Samiti area having population not exceeding one lakh shall consist of fifteen constituencies and in case of a Panchayat Samiti area whose population exceeds one lakh, then for every fifteen thousand or part thereof in excess of one lakh, the said number of fifteen shall be increased by two.

1 . Subs. by Notification No.F-4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No.2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (= Raj. Act. No. 9 of 2000).

2. Proviso deleted by Notification No.F-4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No.2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (= Raj. Act. No. 9 of 2000).

3. Word "and" deleted by Cl.(i) of Sec.2 of the Raj. Panchayati Raj

(Amendment) Act, 1999 (Act No.15 of 1999), published in Raj. Gazette, E.O., Part IV(A) dated 30.9.1999 (w.e.f. 28.5.1999).

4. Word "and" substituted for (:) by Cl.(ii) and (iv), of Sec.2, ibid.

5. Inserted by cl. (iii) of s.2, ibid.

14. Composition Of A Zila Parishad :-

(1) A Zila Parishad shall consist of-

(a) directly elected members from as many territorial constituencies as are determined under sub-section (2);

(b) all members of the Lok Sabha and of the State Legislative Assembly representing constituencies which comprise wholly or partly the Zila Parishad area; 1[xxx]

(c) all members of the Rajya Sabha registered as electors within the Zila Parishad area:2[;xxx]

3[(d) chairpersons of all Panchayat Samities falling within the Zila Parishad area;]

Provided that the members referred to in 2[clauses (b), (c) and (d)] shall have a right to vote in all meeting of the Zila Parishad except those for election and removal of the Pramukh or the Up-pramukh.

(2) The State Government shall, in accordance with such rules as may be framed in this behalf, determine the number of territorial constituencies of each Zila Parishad area and thereupon so divide such area into single member territorial constituencies that the population of each territorial constituency is, so far as practicable, the same throughout the Zila Parishad area:

Provided that a Zila Parishad area having population not exceeding four lakhs shall consist of seventeen constituencies and in case of a Zila Parishad area whose population exceeds four lakhs, then for every one lakh or part thereof in excess of four lakhs, the said number of seventeen shall be increased by two.

15. Reservation Of Seats :-

[(1) Seats to be filled by direct election in a Panchayati Raj

Institution shall be reserved for --

- (a) the Scheduled Castes;
- (b) the Scheduled Tribes; and
- (c) the Backward Classes, as also for women in accordance with the provisions contained in the succeeding sub-sections.

(2) The number of seats reserved for the Scheduled Castes and the Scheduled Tribes, shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in a Panchayati Raj Institution as the population of such Castes or, as the case may be, such Tribes in that Panchayati Raj Institution area bears to the total population of the area.

(3) Such percentage, not exceeding 5[twenty one], of seats in a Panchayati Raj Institution at each level shall be reserved for Backward Classes as the percentage of the combined rural population of Scheduled Castes and Scheduled Tribes in the concerned district in relation to the total rural population of the district falls short of fifty.

1. Deleted by cl. (i) of s.3 of the Raj Panchayati Raj (Amendment) Act, 1999 (Act No. 15 of 1999) published in Raj Gazette, E.O., Part IV(A) dated 30.9.99 (w.e.f. 28.5.99).

2. Substituted by cl. (ii) and (iv) of s.3, *ibid*.

3. Inserted by cl. (iii) of s.3, *ibid*.

4. Substituted by clause (a) of section 3 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, E.O., Part IV (A) dated 6-10-94 for the existing sub-section (1) of Section 15 (w.e.f. 26-7-94).

5. Subs. by s.3 of the Raj Panchayati Raj (2nd Amendment) Ordinance, 1999, published in Raj. Gazette, E.O. Part IV(B) dated 25.10.99. for word "fifteen".

Provided that at least one seat shall be reserved in each Panchayati Raj Institution at each level for Backward Classes where the combined rural population of Scheduled Castes and Scheduled Tribes in the concerned district does not exceed seventy percent of the total rural population of the district.

(4) Seats reserved in accordance with the provisions contained in the preceding sub-sections may be allotted by rotation to different

wards or, as the case may be, different constituencies in the concerned Panchayati Raj Institution. ;]

1[(5)] Not less than one-third of the total number of seats reserved under 2[sub-sections (2) and (3)] shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the Backward Classes.]

3[(6)] Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes) of the total number of seats to be filled by direct election in every Panchayati Raj Institution shall be reserved for women and such seats may be allotted by rotation to different wards or, as the case may be, constituencies in the concerned Panchayati Raj Institution in such manner as may be prescribed.

16. Reservation Of The Offices Of Chairpersons :-

(1) The offices of the Sarpanchas, the Pradhans and the Pramukhs shall be reserved for -

- (a) the Scheduled Caste
- (b) the Scheduled Tribes and
- (c) the Backward Classes,

as also for women in accordance with the provisions contained in the succeeding sub-sections;

(2) The number of each of such offices reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of each of such offices in the State as the population of such Castes or, as the case may be, such Tribes in the State bears to the total population of the State.

(3) Such percentage, not exceeding 5[twenty one] of offices of Sarpanch or Pradhan in a Panchayat Samiti or Zila Parishad, as the case may be, shall be reserved for Backward Classes, as the percentage of the combined population of Scheduled Castes and Scheduled Tribes in the Panchayat Samiti or Zila Parishad area in relation to the population of such Panchayat Samiti or Zila Parishad area, as the case may be, falls short of fifty.

Provided that at least one office of Sarpanch or Pradhan in a Panchayat Samiti or Zila Parishad shall be reserved for Backward Classes where the combined population of Scheduled Castes and Scheduled Tribes in the Panchayat Samiti or Zila Parishad area, as the case may be, does not exceed seventy percent of the total population of the Panchayat Samiti or Zila Parishad area.

(4) 5[twenty one] percent of the total number of offices of Pramukh in the State shall be reserved for the Backward Classes.

1. Renumbered as sub-section (5) instead of existing sub-section (2) and by clause (b) of section 3 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No.23 of 1994) published in Rajasthan Gazette, E.O., Part IV (A) dated 6.10.94 (w.e.f. 26.7.94).

2. Substituted by clause (c), of section 3, *ibid*, for the expression "sub-section (1)" (w.e.f. 26.7.94).

3. Renumbered as sub-section (5) instead of existing sub-section (2) by clause (b) of section 3, *ibid*.(w.e.f. 26.7.94).

4. Substituted by section 4, *ibid*, for the existing section 16 (w.e.f. 26.7.94).

5. Subs. by s.3 of the Raj. Panchayati Raj (2nd Amendment) Ordinance, 1999, published in Raj. Gazette, E.O., Part IV (B) dated 25.10.99 for fifteen".

(5) Not less than one-third of the total number of offices of Sarpanchas, Pradhans and Pramukhs in the State shall be reserved for women.

(6) Offices reserved under this section shall be allotted by rotation to different Panchayats, Panchayat Samities and Zila Parishads in the State in such manner as may be prescribed.

Explanation.- If a fraction forms part of the number of seats computed under section 15 or offices computed under this section, the number of seats or offices, as the case may be, shall be increased to the next higher number in case the fraction consists of half or more of a seat or office and the fraction shall be ignored in case it consists of less than half of a seat or office.

17. Duration Of, And Election To The Panchayati Raj Institutions :-

(1) Every Panchayati Raj Institution, unless sooner dissolved under this Act, shall continue for five years from the date of the first meeting of the respective institutions and no longer.

2[Explanation- The meeting held for the election of Chairperson of a Zila Parishad or Panchayat Samiti or, as the case may be, of up-Sarpanch of a Panchayat shall be deemed to be the first meeting of the respective Panchayati Raj Institution.]

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayati Raj Institutions shall be vested in the State Election Commission.

(3) The election to constitute a Panchayati Raj Institution shall be completed -

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

(b) in the case of dissolution, 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 Panchayati Raj Institution would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayati Raj Institution for such period.

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

(5) The State Government may, from time to time, make provisions by rules with respect to all matters relating to or in connection with the election to the Panchayati Raj Institutions including those in relation to the preparation of electoral rolls, the delimitation of wards or constituencies and all other matters necessary for securing the due constitution of such institutions.

18. Electors And Electoral Rolls :-

(1) For each of the wards or constituencies into which the area of a

Panchayati Raj Institution is divided under this Act, there shall be prepared and maintained in the prescribed manner by or under the supervision of the State Election Commission an electoral roll thereof.

(2) Subject to the provisions of Sub-sec. (3) to (6), every person who -

(a) is not less than eighteen years of age on the qualifying date, and

(b) is ordinarily resident in a ward or constituency of the Panchayati Raj Institution concerned.

shall be entitled to be registered in the electoral roll for the ward of constituency.

1 . Substituted by Section 16 of the Act No. 9 of 2000, w.e.f. 3.5.2000.

2. Added by Section 16 of the Act No. 9 of 2000. w.e.f. 3.5.2000.

3. Subs. by Sec. 2 of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No.F.4(12)Vidhi/2/99, dated 27.12.99, Pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.1999. (S.17 of the Raj. Act No. 9 of 2000).

Explanation- (i) "Qualifying date", in relation to the preparation or revision of every electoral roll under this Act, means the 1st day of January of the year in which it is so prepared or revised.

(ii) A person shall not be deemed to be ordinarily resident in a ward or constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(iii) A person absenting himself temporarily from his place of ordinary residence shall not, by reason thereof, cease to be ordinarily resident therein.

(iv) A member of Parliament or of the State Legislature shall not, during the term of his office, cease to be ordinarily resident in the ward or constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason only of his absence from that ward or constituency in connection with his duties as such member.

(v) A person who is a patient in any establishment maintained wholly or mainly for the treatment of persons suffering from mental illness or any other illness involving long treatment or who is detained in prison or in legal custody at any other place, or is residing in a hostel for study or is residing in a hotel etc., as a casual visitor shall not, by reason thereof, be deemed to be ordinarily resident therein.

(vi) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the relevant facts of the case and in accordance with such rules as may be made in this behalf.

(3) A person shall be disqualified for registration in the electoral roll for the ward or constituency if he-

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent Court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(4) The name of any person, who becomes so disqualified after registration, shall forthwith be struck off the electoral roll prepared under this Act :

Provided that the name of any person struck off the electoral roll of a ward or constituency by reason of a disqualification under Clauses (c) of Sub-sec. (3) shall forthwith be re-entered in that roll, if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

(5) No person shall be entitled to be registered in the electoral roll for more than one ward or constituency of any Panchayati Raj Institution in the State.

(6) No person shall be entitled to be registered in the electoral roll of a ward or constituency more than once.]

18A. Making False Declaration :-

If any person makes in connection with -

(a) the preparation, revision or correction of an electoral roll, or
(b) the inclusion or exclusion of any entry in or from an electoral roll, a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable, with imprisonment for a term which may extend to one year, or with fine, or with both.

1. Inserted by Section 2 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995) published in Rajasthan Gazette, E.O., Part IV-A dated 26.4.95 as new sections 18-A and 18-B after section 18 (w.e.f. 28.12.1994).

18B. Breach Of Official Duty In Connection With The Preparation Etc., Of Electoral Rolls :-

(1) If any Electoral Registration Officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall be punishable 1[with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.]

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

(3) No Court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from the State Election Commission or the Chief Electoral Officer or the Collector concerned.

18C. Right To Vote :-

(1) Except as expressly provided by this Act, every person, who is registered in the electoral roll of any ward or constituency of a Panchayati Raj Institution, shall be entitled to vote in that ward or constituency.

(2) No person shall vote at an election in any ward or constituency

if he is subject to any of the disqualifications referred to in Sub-sec. (3) of Sec.18.

(3) No person shall at any election vote in more than one ward or constituency and if a person votes in more than one ward or constituency, his votes in all the wards or constituencies shall be deemed to be void.

Explanation- Election for Panch or Sarpanch or member of a Panchayat Samiti or member of a Zila Parishad, when held simultaneously, shall be deemed as separate elections.

(4) No person shall at any election vote in the same ward or constituency more than once, notwithstanding that his name may have been registered in the electoral roll thereof more than once, and, if he does so vote, all his votes shall be deemed to be void.

(5) No person shall vote at any election under this Act if he is confined in a prison whether under a sentence or otherwise, or is in the lawful custody of the police.

19. Qualifications For Election As A Panch Or A Member :-

Every person registered as a voter in the list of voters of a Panchayati Raj Institution shall be qualified for election as a Panch or, as the case may be, a member of such Panchayati Raj Institution unless such person-

(a) is disqualified by or under any law for the time being in force for the purposes of election to the Legislature of the State of Rajasthan:

Provided that no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years;

3[(aa) is found guilty of a corrupt practice by order of a competent Court, consequent upon an election petition filed under and in accordance with the provisions of this Act or rules made thereunder.]

(b) holds a salaried whole-time or part-time appointment under a

local authority 4[,a university or any corporation, body, Enterprises or Co-operative Society, which is either controlled or wholly or partly financed by the State Government];

1. Subs. by Sec.4 by Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No.F.4(12)Vidhi/2/99, dated 27.12.1999, Pub. in Raj. Gazette, E.O., Part VI-B, dated 27.12.1999 (S.18 of Rajasthan Act No. 9 of 2000).

2 . Inserted by Sec.2 by Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No.F.4(12)Vidhi/2/99, dated 27.12.1999, Pub. in Raj. Gazette, E.O., Part VI-B, dated 27.12.1999.

3 . Inserted by Sec.4 by Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No.F.4(12)Vidhi/2/99, dated 27.12.1999, Pub. in Raj. Gazette, E.O., Part VI-B, dated 27.12.1999.

4. Inserted by Ordinance No. 9 of 1999 = Raj. Act No. 9 of 2000.

(c) has been dismissed from State Government service for misconduct involving moral turpitude and has been declared to be disqualified for employment in the public service;

(d) hold any salaried post or place of profit under any Panchayati Raj Institution;

(e) has directly or indirectly by himself or by his partner, employer or employees, any share or interest in any contract with, by or on behalf of the Panchayati Raj Institution concerned while owning such share or interest in any work done for;

(f) is a leper or is suffering form any other bodily or mental defect or disease rendering him incapable for work;

1[(g) has been convicted of any offence by a competent Court and sentenced to imprisonment for six months or more, such sentence not having been subsequently reversed or remitted or the offender pardoned;]

2[(gg) is under trial in the competent Court which has taken cognizance of the offence and framed the charges against him of any offence punishable with imprisonment for five years or more;]

(h) is for the time being ineligible for election under section 38;

(i) has not paid, for two months from the date of the presentation of the notice of demand therefor, the amount of any tax or fees imposed by the Panchayati Raj Institution concerned;

(j) is employed as a legal practitioner on behalf of or against the Panchayati Raj Institution concerned;

(k) has been convicted of an offence punishable under the Rajasthan Prevention of Mrityu Bhoj Act, 1960; 3[XXX]

(l) has more than two children 4[; and]

5[(m) earlier having been a Chairperson/Deputy Chairperson of any Panchayati Raj Institution has not paid dues even after the expiry of a period of two months from the date of notice, for depositing the dues of the Panchayati Raj Institution, was duly served upon such Chairperson/Deputy Chairperson and his name is included in the list of such defaulters supplied by the State Government to the Collector (Panchayats) at least two months before the issue of notification for election to such Panchayati Raj Institution;]

6[(n) in case of a seat reserved for the Scheduled Castes or Scheduled Tribes or Backward Classes of the State, is not a member of any of those Castes, or Tribes or classes, as the case may be,

(o) In case of a seat reserved for the women, is not a woman; and

(p) in case of a seat reserved for women belonging to Scheduled Caste or Scheduled Tribe or Backward Classes, is not a member of any of these Castes or Tribes or classes, as the case may be, and is not a woman]:

1. Subs. by Clause (ii) of Sec.5 of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No.F-4(12)Vidhi/2/99 dated 27.12.99, Pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.1999.

2. Inserted by Clause (iv) of Sec.5, ibid.

3. Deleted by Notification No. F.4(1)Vidhi/2/2000 dt. 6.1.2000 (Ordinance No. 2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4(Kha) dated 6.1.2000 with immediate effect.

4. Substituted by Notification No.F.4(1)Vidhi/2/2000 dated

6.1.2000 (Ordinance No.2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4(Kha) dated 6.1.2000 with immediate effect.

5. Inserted by Notification No. F.4(1)Vidhi/2/2000 dt. 6.1.2000 (Ordinance No. 2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4(Kha) dated 6.1.2000 with immediate effect.

6. Added vide Section 20 of the Act No.9 of 2000.

Provided that-

(i) a person shall not, by reason only of his being a share-holder in or a member of any incorporated company or a co-operative society registered under the law for the time being in force in the State of Rajasthan, be held to be interested in any contract entered between the company or co-operative society and the Panchayati Raj Institution;

1[(ia) for the purpose of Clause (aa), a person shall be deemed to be disqualified for a period of six years from the date of order referred to in Clause (aa);]

2[(ii) for the purpose of clauses (c), (g) and (k) any person shall become eligible for election after a lapse of six years from the date of his dismissal or the date of conviction, as the case may be;]

(iii) for the purpose of clause (i), a person shall not be deemed to be disqualified if he has paid the amount of the tax or fee due from him before the date of filling his nomination papers;

3[(iv) the birth during the period from the date of commencement of the Act, hereinafter in this proviso referred to as the date of such commencement, to 27th November, 1995, of an additional child shall not be taken into consideration for the purpose of the disqualification mentioned in clause (1) and a person having more than two children (excluding the child if any, born during the period from the date of such commencement to 27th November, 1995) shall not be disqualified under that clause for so long as the number of children he had on the date of commencement of this Act does not increase4[;]

5[(v) for the purpose of Clause (m), a Chairperson/Deputy Chairperson shall not be deemed to be disqualified if he pays the amount due from him before filling his nomination papers.]

Explanation.- For the purpose of clause (1) of section 19, where the person has only one child from the earlier delivery or deliveries on the date of commencement of this Act and thereafter, any number of children born out of a single subsequent delivery shall be deemed to be one entity.

19A. Restriction On Contesting Election For More Than One Seat In A Panchayati Raj Institution :-

(1) Notwithstanding anything contained in any other provisions of this Act, a person shall not be entitled to contest election,-

- (a) for more than one ward, in case of election of a Panch;
- (b) for the seat of Panch in that Panchayat if he contests election as a Sarpanch;
- (c) for more than one constituency of a Panchayat samiti, in case of election of a member of that Panchayat Samiti;
- (d) for more than one constituency of a Zila Parishad, in a case of election of member of that Zila Parishad;

1. Inserted by Clause (v) of Sec.5, of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No.F.4(12) Vidhi/2/99 dated 27.12.99, Pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.99.

2. Subs. by Clause (vi) of Sec. 5, ibid.

3. Substituted by Sec.3 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995) published in Rajasthan Gazette, E.O., Part IV-A dated 26.4.1995 for the existing proviso (iv) of Sec. 19 (w.e.f. 23.4.1994).

4 . Substituted by Notification No. F.4(1)Vidhi/2/2000, dated 6.1.2000 (Ordinance No.2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect.

5. Inserted by Notification No. F.4(1)Vidhi/2/2000, dated 6.1.2000 (Ordinance No.2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect.

6. Inserted by Clause (v) of Sec.5, of the Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F.4(12)Vidhi/2/99 dated 27.12.99, Pub. in Raj. Gazette, E.O., Part IV-B, Dated 27.12.99 (by S.21 of the Act No. 9 of 2000).

(2) Every person who may have filed his nomination for seats to a

Panchayati Raj Institution for more than one ward or constituency, as the case may be, in contravention of Sub-sec. (1), shall withdraw his candidature from all but one of the seats by a notice in writing which shall contain such particulars as may be prescribed and deliver the same before the time and date fixed for withdrawal of nomination:

Provided that if a person fails to withdraw his candidature as specified above, he shall be deemed to have withdrawn his candidature from all the seats to which he may have filed his nomination.

20. Restriction On Simultaneous Or Double Membership Of A Panchayati Raj Institution :-

(1) No person shall, save as expressly authorised by this Act, be a member of two or more Panchayati Raj Institutions.

(2) Where a person while being a member of one Panchayati Raj Institution, intends to contest as a candidate for membership of another Panchayati Raj Institution, he may stand as a candidate for such membership notwithstanding anything contained in sub-section (1):

Provided that if he is chosen for the seat for which he contested a candidate, the seat already held by him shall become vacant on the date on which he is so chosen unless the seat so held is in another Panchayati Raj Institution and the term of that Panchayati Raj Institution is to expire within a period of four months from the date on which he is so chosen.

(3) If any person is simultaneously chosen as a member of two or more Panchayati Raj Institutions, the person shall, within fourteen days from the date or the latter of the dates on which he is so chosen, intimate to the competent authority, one of the Panchayati Raj Institutions in which he wishes to serve and thereupon his seat in the Panchayati Raj Institution other than the one in which he wishes to serve, shall become vacant.

(4) Any intimation given under sub-section (3) shall be final and irrevocable.

(5) In default of intimation referred to in sub-section (3) within the aforesaid period, the competent authority shall determine the seat which he shall retain and thereupon the remaining seat from which he was chosen, shall become vacant.

21. Restriction On Simultaneous Holding Of The Office Of A 1[Chairperson, Deputy Chairperson Or member] In A Panchayati Raj Institution And The Membership Of Parliament Or A State Legislature, Etc :-

No. person shall remain both the 1[Chairperson, Deputy Chairperson or member] of a Panchayati Raj Institution and a member of Parliament or a State Legislature or a Municipal Board or a Municipal Council or a Municipal Corporation and if a person who is already a member of Parliament or a State Legislature or a member of a Municipal Board or a Municipal Council or a Municipal Corporation is elected as such 1[Chairperson, Deputy Chairperson or member], then, at the expiration of fourteen days from the date of being elected as such 1[Chairperson, Deputy Chairperson or member], he shall cease to be such 1[Chairperson, Deputy Chairperson or member], unless he has previously resigned his seat in the Parliament or the State Legislature or Municipal Board or the Municipal Council or the Municipal Corporation, as the case may be:

Provided that if a person, who is already the 1[Chairperson, Deputy Chairperson or member], of a Panchayati Raj Institution, is elected as a member of Parliament or the State Legislature or a Municipal Board or a Municipal Council or a Municipal Corporation, then, at the expiration of fourteen days from the date of being elected as a member of Parliament or the State Legislature or a Municipal Board or a Municipal Council or a Municipal Corporation, as the case may be, he shall cease to be such 1[Chairperson, Deputy Chairperson or member], unless he has previously resigned his seat in the Parliament or the State Legislature or the Municipal Board or the Municipal Council or the Municipal Corporation, as the case may be.

1 . Subs. by Sec.7 of the Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F.4Vidhi/2/99 dated 27.12.99, Pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.99 (by S.22 of the Act No. 9 of 2000).

22. Electoral Offences :-

The provisions of sections 1[125], 126, 127, 127-A, 128, 129, 130, 131, 132, 2[132-A], 133, 134, 134-A, 3[134-B, 135, 135-A, 135-B, 135-C and 136] of the Representation of the People Act, 1951 (Central Act XLIII of 1951) shall have effect as if-

(a) references therein to an election were references to an election under this Act;

(b) references therein to a constituency included references to a ward or a constituency of a Panchayati Raj Institution; and

(c) in section 134 and 136 thereof, for the words "by or under this Act", the words and figures "by or under the Rajasthan Panchayati Raj Act, 1994" were substituted.

4[(d) in Sub-sec. (1) of Sec. 135-B, for the words "House of the People or the Legislative Assembly of a State", the words "Panchayati Raj Institution" were substituted.]

22A. Restriction On Use Of Vehicles, Loud-Speakers Etc :-

(1) The State Election Commission may impose reasonable restrictions on the use of vehicles or loud speakers or on displaying of cut-outs, hoardings, posters and banners by any candidate or his duly authorised election agent during the period of election commencing from the date of publication of notification for election to the Panchayati Raj Institution and ending on the date on which the whole process of election is completed.

(2) If any candidate or his duly authorised election agent contravenes any of the restrictions imposed by the State Election Commission under Sub-sec. (1), he shall, on conviction, be punishable with a fine which may extend to Rs. 2000/-.

(3) Every person punished under Sub-sec. (1) shall, by an order of the Commission, be liable to be disqualified for being chosen as or for being a member of any Panchayati Raj Institution for a period which may extend to six years from the date of such order :

Provided that State Election Commission may by a subsequent order, for reasons to be recorded, remove any disqualification under this section or reduce the period of any such disqualification.

(4) No Court shall take cognizance of an offence referred to in Sub-sec. (2) except on the complaint made by an officer authorised in this behalf by any general or special order, by the State Election Commission.

23. Publication Of Election Results :-

The names of persons, whether elected as members of a Panchayati Raj Institution or as Chairpersons or Deputy Chairpersons of such Institutions shall be published in the prescribed manner.

24. Oath Or Affirmation :-

Every member or Chairperson or Deputy Chairperson of a Panchayati Raj Institution shall, before entering upon his duties as such, make and subscribe before the competent authority an oath or affirmation in the prescribed form.

25. Handing Over Of Charge :-

(1) Whenever the election of a member or Chairperson or Deputy Chairperson of a Panchayati Raj Institution has been declared to be void, or whenever such member or Chairperson or Deputy Chairperson-

(i) is not found qualified or becomes disqualified under section 19 to hold his office, or

(ii) ceases to be so under the provisions of this Act, or

1. Inserted by Sec.4 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No.7 of 1995), published in Rajasthan Gazette, E.O., Part IV-A, dated 26.4.1994 (w.e.f. 28.12.1994).

2. Inserted by Clause (a) of Sec.8 of Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F.4(12) Vidhi/2/99, dated 27.12.99, pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.1999.

3. Subs. by Clause (b) of Sec. 8, ibid.

4. Inserted by Clause (c) of Sec.8, of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F.4(12) Vidhi/2/99, dated 27.12.99, pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.1999 (by S.23 of the Act No. 9 of 2000).

5. Inserted by Sec. 24 of the Amendment Act No. 9 of 2000.

(i) is not found qualified or becomes disqualified under section 19 to hold his office, or

(ii) ceases to be so under the provisions of this Act, or

(iii) fails to make the prescribed oath or affirmation in accordance with the provisions of this Act, or

(iv) is removed from office or is suspended under section 38, or

(v) resigns his office under section 36, or

Whenever a motion of no-confidence is passed against the Chairperson or the Deputy Chairperson of a Panchayati Raj Institution under section 37; or

Whenever the term of office of a Panchayati Raj Institution expires or the election of all the members of a Panchayati Raj Institution with or without the Chairperson has been declared void, or such election or the proceedings subsequent thereto have been stayed by an order of a competent court; or

Whenever a Panchayati Raj Institution is dissolved under this Act,

Such member or Chairperson or Deputy Chairperson or all or any of them shall forthwith handover charge in the prescribed manner of his or their office including all papers and properties pertaining to such office in his or their actual possession or occupation -

(a) in the case of a member, to the Chairperson of the Panchayati Raj Institution concerned;

(b) in the case of a Chairperson, to the Deputy Chairperson of such Panchayati Raj Institution or, where there is no such Deputy Chairperson, to such member of such Panchayati Raj Institution or other person as the competent authority may direct 1[;]

2[Provided that charge of office of any Chairperson who was elected to an office reserved for the persons belonging to Scheduled Castes or the Scheduled Tribes or the Backward Classes or for Women, shall be handed over as per directions of the Competent Authority, to a member, if any, of the said Castes, Tribes or Classes or a Woman member, as the case may be, in the manner as may be prescribed and where there is no such member

belonging to said Castes, Tribes, Classes or a Woman member to whom charge can be given as aforesaid, the charge shall be handed over in the manner as may be prescribed, to any member not belonging to the aforesaid categories.]

(c) in the case of a Deputy Chairperson, to the Chairperson of the Panchayati Raj Institution concerned or, where there is no such Chairperson, to such member of such Panchayati Raj Institution or other person as the competent authority may direct;

(d) in the case of a Panchayati Raj Institution of which the term of office has expired, to such new Panchayati Raj Institution as has been constituted; and

(e) in the case of a Panchayati Raj Institution dissolved under this Act, to the Administrator appointed under section 95.

(2) Upon the election or appointment of a new member or Chairperson or Deputy Chairperson or upon the constitution of a new Panchayati Raj Institution, and after the oath or affirmation of office required by this Act has been duly made, the person holding, on the date on which such oath or affirmation is made, charge of the office of such member or Chairperson or Deputy Chairperson or the Panchayati Raj Institution shall in pursuance of sub-section (1), forthwith handover to the person so elected or to the Panchayati Raj Institution so constituted, as the case may be, the charge of office including all papers and properties pertaining to such office in his actual possession or occupation.

1. Subs. by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha), dated 6.1.2000 with immediate effect.

2. Proviso added by Notification No.F.4(1)/Vidhi/2/2000, (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha), dated 6.1.2000 with immediate effect. (= Act No. 9 of 2000).

(3) If any person fails or refuses to handover charge of office as required under sub-section (1) or sub-section (2), the competent authority may, by order in writing, direct the person so failing or refusing to hand over such charge forthwith to the person or persons entitled thereto under sub-section (1) or sub-section (2),

as the case may be.

(4) If the person to whom a direction has been issued under sub-section (3) fails to comply with the direction, he shall, on conviction, be punished with imprisonment for a term not exceeding one year or with fine not exceeding one thousand rupees or with both.

(5) Any officer empowered by the competent authority in this behalf may, without prejudice to any action that has been or may be taken under sub-section (4) use such force as may be deemed necessary for enforcing the provisions of sub-sections (1) and (2) and may for that purpose invoke in the prescribed manner the assistance of the police or the nearest Magistrate competent to do so.

26. Sarpanch And His Election :-

(1) Every Panchayat shall have a Sarpanch who must be a person qualified to be elected as a Panch and shall be elected by the electors of the whole Panchayat Circle in the prescribed manner.

(2) If the electors of a Panchayat Circle fail to elect Sarpanch in accordance with this section or if the Panchas fail to elect an Up-Sarpanch, the State Government shall appoint a person to the vacancy till vacancy is filled up by election within a period of six months and the person so appointed shall be deemed to be a duly elected Sarpanch or Up-Sarpanch, as the case may be.

27. Procedure For Election Of Up-Sarpanch On The Establishment Of A Panchayat :-

(1) Every Panchayat shall have an Up-Sarpanch.

(2) On the establishment of a Panchayat for the first time under this Act, or on its reconstitution or establishment thereafter, a meeting of the Panchayat shall be called immediately by the competent authority who shall himself preside over the meeting, but shall have no right to vote, and in such meeting the Up-Sarpanch shall be elected.

28. Election Of Pradhan And Up-Pradhan :-

(1) The elected members of the Panchayat Samiti shall, as soon as may be, choose two members from amongst themselves to be respectively the Pradhan and Up-Pradhan thereof, and so often as there is a casual vacancy in the office of Pradhan or Up-Pradhan, they shall choose another member from amongst themselves to be the Pradhan or Up-Pradhan, as the case may be:

Provided that no election shall be held if a vacancy is for a period of less than one month.

(2) The election of Pradhan and Up-Pradhan and the filling up of the vacancies in the said offices shall be in accordance with such rules as may be made.

29. Election Of Pramukh And Up-Pramukh :-

(1) The elected members of the Zila Parishad shall, as soon as may be, choose two members from amongst themselves to be respectively the Pramukh and Up-Pramukh thereof and so often as there is a casual vacancy in the office of the Pramukh or Up-Pramukh, they shall choose another member from amongst themselves to be the Pramukh or Up-Pramukh, as the case may be:

Provided that no election shall be held if a vacancy is for a period of less than one month.

(2) The election of the Pramukh or the Up-Pramukh of a Zila Parishad and the filling up of vacancies in the said offices shall be in accordance with such rules as may be made.

30. Term Of Office Of Members, Chairpersons And Deputy Chairpersons :-

Except as otherwise provided in this Act,-

(a) the members and the chairpersons of a Panchayati Raj Institution shall hold office during the term of the concerned Panchayati Raj Institution; and

(b) the deputy chairperson of a Panchayati Raj Institution shall hold office as long as he continues to be a member of the concerned Panchayati Raj Institution.

31. Section 31 :-

32. Section 32 :-

33. Section 33 :-

34. Section 34 :-

35. Section 35 :-

36. Resignation Of Sarpanch, Up-Sarpanch, Panch, Pradhan, Up-Pradhan, Pramukh, Up-Pramukh And Members Of Panchayat Samiti Or Zila Parishad :-

(1) The Sarpanch, Up-Sarpanch or Panch may resign his office by writing under his hand addressed to the Vikas Adhikari.

(2) A member holding office as Pradhan of the Panchayat Samiti may resign his office at any time by writing under his hand addressed to the Pramukh, Zila Parishad and the Up-Pradhan or a member of a Panchayat Samiti may resign his office at any time by writing under his hand addressed to the Pradhan, Panchayat Samiti.

(3) The Pramukh may resign his office by writing under his hand addressed to the Divisional Commissioner, and the Up-Pramukh or a member, Zila Parishad may resign his office by writing under his hand addressed to the Pramukh.

(4) Every resignation under sub-section (1), (2), and (3) shall take effect on the expiry of fifteen days from the date of its receipt by the authority aforesaid unless withdrawn within this period of fifteen days.

(5) Every Up-Sarpanch, Pradhan, Up-Pradhan, Pramukh and Up-Pramukh shall vacate the office if he ceases to be a member of Panchayat or, as the case may be, a Panchayat Samiti or a Zila Parishad.

37. Motion Of No-Confidence In Chairpersons And Deputy Chairpersons :-

(1) A motion expressing want of confidence in the chairperson or deputy chairperson of a Panchayati Raj Institution may be made in accordance with the procedure laid down in the following sub-

sections.

(2) A written notice of intention to make the motion in such form as may be prescribed, signed by not less than one-third of the directly elected members of the Panchayati Raj Institution concerned together with a copy of the proposed motion, shall be delivered in person by any one of the members signing the notice to the competent authority.

(3) The competent authority shall thereupon -

(i) forward a copy of the notice, together with a copy of the proposed motion to the Panchayat in the case of a Sarpanch or Up-Sarpanch, to the Panchayat Samiti, in the case of a Pradhan or Up-Pradhan and to the Zila Parishad in the case of a Pramukh or Up-Pramukh;

(ii) convene a meeting for the consideration of the motion at the office of the concerned Panchayati Raj Institution on a date appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (1) was delivered to him; and

(iii) give to the members a notice of not less than 1[seven] clear days of such meeting in such manner as may be prescribed.

Explanation.- In computing the period of thirty days specified in this sub-section, the period during which the convening of a meeting is stayed by a court shall be excluded.

(4) The competent authority shall preside at such meeting:

Provided that if, 2[XXX] for reasons to be recorded in writing, he is unable to do so, the officer nominated by him shall so preside.

(5) A meeting convened under sub-section (3) shall not be adjourned.

1. Subs. by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No.2 of 2000) published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha), dated 6.1.2000 with immediate effect.

2. The expression "For reasons to be recorded in writing" deleted

by Sec.5 of Act No. 9 of 2000.

(6) As soon as the meeting convened under this section commences, the presiding officer shall read to the members present, the motion for the consideration of which the meeting has been convened and declare it to be open for debate.

(7) No debate on the motion under this section shall be adjourned.

(8) Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. On the conclusion of the debate or on the expiration of the said period of two hours, whichever is earlier, the motion shall be put to vote.

(9) The presiding officer shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(10) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon, shall, on the termination of the meeting be forwarded forthwith by the presiding officer in the case of the chairperson or the deputy chairperson-

(a) of a Panchayat,

to the concerned Panchayat and the Panchayat Samiti having jurisdiction on such Panchayat;

(b) of a Panchayat Samiti,

to the concerned Panchayat Samiti and the Zila Parishad having jurisdiction on such Panchayat Samiti;

(c) of a Zila Parishad,

to the concerned Zila Parishad and the State Government.

(11) If the motion is carried with the support of not less than two-thirds of the elected members of the concerned Panchayati Raj Institution--

(a) the presiding officer shall cause the fact to be published by affixing a notice thereof on the notice board of the office of the concerned Panchayati Raj Institution and by notifying the same in the Official Gazette, and

(b) the concerned chairperson or the deputy chairperson shall cease to hold office as such and vacate the office on and from the date on which the said notice is affixed on the notice board of the office aforesaid.

(12) If the motion is not carried as aforesaid or if the meeting could not be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same chairperson or deputy chairperson shall be made until after the expiration of one year from the date of such meeting.

(13) No notice of motion under this section shall be made within two years of the assumption of office by a chairperson or deputy chairperson.

(14) The quorum to constitute a meeting for the consideration of a no-confidence motion against the chairperson or deputy chairperson shall be one-third of the total number of persons entitled to vote thereat.

38. Removal And Suspension :-

(1) The State Government may, by order in writing and after giving him an opportunity of being heard and making such enquiry as may be deemed necessary, remove from office any member including a chairperson or a deputy chairperson of a Panchayati Raj Institution, who-

- (a) refuses to act or becomes incapable of acting as such; or
- (b) is guilty of misconduct in the discharge of duties or any disgraceful conduct:

Provided that any enquiry under this sub-section may, even after the expiry of the term of the Panchayati Raj Institution concerned be initiated or, if already initiated before such expiry, be continued thereafter and in any such case, the State Government shall, by order in writing, record its findings on the charges levelled.

(2) The chairperson or the deputy chairperson removed under sub-section (1) may at the discretion of the State Government also be removed from the membership, if any of the Panchayati Raj Institution concerned.

(3) The member or the chairperson or the deputy chairperson removed under sub-section (1) or against whom findings have been recorded under the proviso to that sub-section, shall not be eligible for being chosen under this Act for a period of five years from the date of his removal or, as the case may be, the date on which such findings are recorded.

(4) The State Government may suspend any member including a chairperson or a deputy chairperson of a Panchayati Raj Institution against whom an enquiry has been initiated under sub-section (1) or against whom any criminal proceedings in regard to an offence involving moral turpitude is pending trial in a court of law and such person shall stand debarred from taking part in any act or proceeding of the Panchayati Raj Institution concerned while being under such suspension¹[:]

²[Provided that the State Government may also suspend any Panch on the recommendation of the Ward Sabha or a Sarpanch on the recommendation of the Gram Sabha, but the State Government shall do so only when a resolution to that effect passed by a Ward Sabha, or a Gram Sabha, as the case may be, is referred by the State Government to the Collector for convening a special meeting of the Ward Sabha or the Gram Sabha, as the case may be, for finally ascertaining the wished of the members and the members present in the meeting so convened by the Collector and presided over by his nominee, reaffirm the resolution seeking suspension of the Panch or the Sarpanch, as the case may be, by a majority of two-third of the members present and voting :]

Provided further that no resolution seeking suspension of the Panch or Sarpanch shall be moved or passed before the completion of a tenure of two years by a Panch or a Sarpanch, as the case may be.

(5) The decision of the State Government on any matter arising under this section shall, subject to any order made under section 97, be final and shall not be liable to be questioned in any court of law.

39. Cessation Of Membership :-

(1) 3[A] A member of a Panchayati Raj Institution shall not be eligible to continue to be such member if he -

(a) is or becomes subject to any of the disqualifications specified in section 19; or
(b) has absented himself from three consecutive meetings of the Panchayati Raj Institution concerned without giving information in writing to such Panchayati Raj Institution; or
(c) is removed from the membership; or
(d) resigns from the membership; or
(e) dies; or
(f) fails to make the prescribed oath or affirmation of the office of membership within three months from the date of election or appointment.

(2) Whenever it is made to appear to the competent authority that a member has become ineligible to continue to be a member for any of the reasons specified in sub-section (1), the competent authority may, after giving him an opportunity of being heard, declare him to have become so ineligible and thereupon he shall vacate his office as such member.

4[XXX]

Provided 4[XXX] that until a declaration under this sub-section is made, he shall continue to hold his office.

1. Substituted for (.) by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha), dated 6.1.2000 with immediate effect.

2. Proviso Added by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (=Act No.9 of 2000).

3. Subs. for expression "subject to provision of section 40" by Notification No. F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) dated 6.1.2000 with immediate effect.

4. Proviso deleted by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (Act No.9 of 2000).

40. Judge To Decide Questions Of Disqualifications :-

41. Vacation Of Office Of Chairperson And Deputy Chairperson :-

42. Filling Up Vacancies :-

The event of the office of a member or chairperson or deputy chairperson of a Panchayati Raj Institution becoming vacant by death, removal, resignation or otherwise under this Act shall be forthwith reported to the State Election Commission. An election to fill the vacancy shall be held in such manner as may be prescribed. The foregoing provisions of this Act shall apply to such election and the member or the chairperson or the deputy chairperson so elected shall hold office for the remainder of the term during which the outgoing member or the chairperson or the deputy chairperson would have been entitled to hold office, if the vacancy had not occurred:

Provided that it shall not be necessary to fill up the vacancy if the term of such vacancy would expire within six months from the date of the occurrence of the vacancy.

43. Determination Of Dispute As To Elections :-

(1) An election under this Act or the rules made thereunder may be called in question by any candidate at such election by presenting in the prescribed manner to the District Judge having jurisdiction a petition in this behalf on the prescribed grounds and within the prescribed period:

Provided that an election petition presented as aforesaid may, for the reasons to be recorded in writing, be transferred by the District Judge for hearing and disposal to a Civil Judge or Additional Civil Judge (Senior Division) subordinate to him.

(2) A petition presented under sub-section (1) shall be heard and disposed of in the prescribed manner and the decision of the Judge thereon shall be final.

44. Section 44 :-

45. Section 45 :-

46. Section 46 :-

47. Section 47 :-

48. Section 48 :-

49. An Act Of The Panchayati Raj Institution Not To Be Invalidated By Vacancy Or Irregularity :-

No act of a Panchayati Raj Institution shall be deemed invalid by reason only of any vacancy in the office of the chairperson or deputy chairperson of such Institution or in the number of members prescribed for such Panchayati Raj Institution or by reason of any defect, error, omission or irregularity in the election or appointment of the chairperson or the deputy chairperson or of the members of such Panchayati Raj Institution.

50. Section 50 :-

51. Section 51 :-

52. Section 52 :-

53. Section 53 :-

54. Section 54 :-

55. Section 55 :-

56. Standing Committees Of The Panchayat Samiti :-

(1) Every Panchayat Samiti shall constitute five standing committees, one for each for the groups of subjects specified in Sub-sec. (1) of Sec. 55-A and may constitute a sixth standing committee for any of the subject not specified in any group or groups of subjects as aforesaid.

(2) In relation to the constitution, term of office and conduct of business of such committees and other cognate matters, the provisions of Sec. 55-A. shall mutatis mutandis apply subject to the variation that for the expressions "Sarpanch", "Up-Sarpanch" and "Panchayat" the expressions "Pradhan", "Up-Pradhan" and "Panchayat Samiti" shall respectively be substituted.

57. Standing Committees Of The Zila Parishad :-

(1) Every Zila Parishad shall constitute five Standing Committees, one each for the groups of subjects specified in sub-section (1) of section 55-A and may constitute a sixth committee for any of the

subjects not specified in any group or groups of subjects as aforesaid.

(2) In relation to the constitution, term of office, and conduct of business, of such committees and other cognate matters, the provisions of section 55-A shall mutatis mutandis, apply subject to the variation that for the expressions "Sarpanch", "Up-Sarpanch" and "Panchayat" the expressions "Pramukh", "Up-Pramukh" and "Zila Parishad" shall respectively be substituted.]

1. Deleted by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (Act No.9 of 2000).

2 . Substituted by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (Act No.9 of 2000).

3. Substituted by Notification No.F.4(1)/Vidhi/2/2000 dated 6.1.2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6.1.2000 with immediate effect (Act No.9 of 2000).

58. Section 58 :-

59. Section 59 :-

60. Section 60 :-

61. Section 61 :-

62. Section 62 :-

63. Section 63 :-

64. Section 64 :-

65. Section 65 :-

66. Section 66 :-

67. Section 67 :-

68. Section 68 :-

69. Section 69 :-

70. Section 70 :-

71. Section 71 :-

72. Section 72 :-

73. Section 73 :-

74. Section 74 :-

75. Section 75 :-

76. Section 76 :-

77. Section 77 :-

78. Section 78 :-

79. Section 79 :-

80. Section 80 :-

81. Section 81 :-

82. Section 82 :-

83. Section 83 :-

84. Section 84 :-

85. Section 85 :-

86. Section 86 :-

87. Section 87 :-

88. Section 88 :-

89. Section 89 :-

90. Section 90 :-

91. Section 91 :-

92. Section 92 :-

93. Section 93 :-

CHAPTER 4 Power of the State Government etc

94. Power Of Government To Dissolve A Panchayati Raj Institution :-

If at any time Government is satisfied that a Panchayati Raj Institution is not competent to perform or persistently makes

default in the performance of the duties imposed on it by or under this Act or otherwise by law, or have exceeded or abused its powers, the Government may by an order published, alongwith the reasons thereof, in the Official Gazette, declare the Panchayati Raj Institution to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and may dissolve such Panchayati Raj Institution on and from a date to be specified in the order of dissolution:

Provided that no action shall be taken under this sub-section unless the Panchayati Raj Institution has been afforded a reasonable opportunity of submitting an explanation and of being heard if the Panchayati Raj Institution so desires.

Explanation.- If for any reason the number of vacancies in a Panchayati Raj Institution exceeds two-third of the total number of seats, the Panchayati Raj Institution shall be deemed to be not competent to perform the duties imposed on it by or under this Act.

95. Consequences Of Dissolution :-

(1)When a Panchayati Raj Institution is dissolved under this Act, the following consequences shall ensue:-

(a) all the members of the Panchayati Raj Institution including the chairperson shall, on the date of dissolution vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment;

(b) all powers and duties of the Panchayati Raj Institution shall, during the period of dissolution, be exercised and performed by such administrator as the State Government may appoint in this behalf; and

(c) all property vested in the Panchayati Raj Institution shall, during the period of dissolution, vest in the Government.

(2) If it shall not be possible to reconstitute the Panchayati Raj Institution within the time specified in clause (b) of sub-section (3) of section 17 because of any stay by any competent court or authority on any general election to the Panchayati Raj Institution concerned and the proceedings consequent thereon the

consequences specified in clauses (b) and (c) of sub-section (1) shall follow.

(3) An order of dissolution made under section 94 together with a statement of the reasons thereof shall be laid before the House of the State Legislature, as soon as may be, after it has been made.

95A. Transitional Provision As To Administrators :-

Notwithstanding anything contained in this Act, an Administrator exercising the powers and performing the duties of a Panchayati Raj Institution on the date of coming into force of the Constitution (Seventy-Third Amendment) Act, 1992 shall continue to do so till 31st March, 1995 or till the concerned Panchayati Raj Institution is constituted after the first election held under the provisions of the Act, whichever is earlier.]

1. Inserted by section 8 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, Extra-ordinary, Part IV (A) dated 6.10.94 as a new section (95 A) after section 95 (w.e.f. 23.4.94).

96. Section 96 :-

97. Power Of Revision And Review By Government :-

(1) The State Government may, either of its own motion or on an application from any person interested, call for and examine the record of a Panchayati Raj Institution or of a Standing Committee or sub-committee thereof in respect of any proceedings to satisfy itself as to the correctness, legality or propriety of any decision or order passed therein or as to the regularity of such proceedings and, if in any case, it appears to the State Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly:

Provided that the State Government shall not pass any order prejudicial to any party unless such party has had a reasonable opportunity of being heard in the matter.

(2) The State Government may stay the execution of any such decision or order prejudicial to any party, pending the exercise of its powers under sub-section (1) in respect thereof.

(3) The State Government may, of its own motion or on an application received from any person interested, at any time, within ninety days of the passing of an order under sub-section (1), review any such order if it was passed by it 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 section (2) shall apply to a proceeding under this sub-section.

97A. Appeals :-

(1) Any person aggrieved by an order or direction of a Panchayati Samiti, made or issued under this Act or under any rule made thereunder may appeal against the order or direction given to Zila Parishad having jurisdiction within thirty days from the date of such order or direction and the time taken in obtaining a copy thereof shall be executed in computing the same period.

(2) Any person aggrieved by any order or direction of a Zila Parishad made or issued under this Act or under any rule made thereunder may appeal against the order or direction given to the Divisional Commissioner having jurisdiction within thirty days from the date of such order or direction and the time taken in obtaining a copy thereof shall be excluded in computing the said period.

98. Delegation Of Powers :-

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

(a) all or any of its power under this Act to any officer or authority subordinate to it, and

(b) all or any of the powers of the officer-in-charge of Panchayats under this Act to any other officer or authority.

99. Appointment Of Officers And Staff By Government :-

For the discharge of such functions in regard to the administration of Panchayats as are provided for in this Act or as may be prescribed thereunder, the State Government may appoint an Officer-in-charge of Panchayats with such designation as it may

from time to time notify and such other subordinate officers and staff as the State Government may deem necessary.

100. Section 100 :-

101. Alteration In The Limits Of A Panchayati Raj Institution :-

(1) The State Government may, at any time, after one months notice published in the prescribed manner either on its own motion or at the request made in this behalf, and by notification in the Official Gazette,-

(a) declare the whole or a part of any local area included within the limits of a municipality to be a Panchayat Circle; or

(b) include in a Panchayat Circle any such local area or a part thereof or, as the case may be, any local area included within the limits of another Panchayat Circle; or

* Inserted by Sec. 54 of the Rajasthan Act No. 9 of 2000.

(c) otherwise alter the limits of a Panchayat Circle by amalgamating one Panchayat Circle into another or by splitting up a Panchayat Circle into two or more Panchayat Circles; or

(d) exclude the whole or a part of any local area from a Panchayat Circle, whether on its ceasing to be a rural area or, as the case may be, for its being included within the limits of another Panchayat Circle.

(2) Upon any action being taken under sub-section (1), the State Government shall, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette, make provision for the following, namely:-

(a) that, in a case falling under clause (a) of that sub-section, a Panchayat shall be established for the local area declared to be a Panchayat Circle; or

(b) that, in a case falling under clause (b) of that sub-section, the election of the members for the additional local area shall be held; or

(c) that, in a case falling under clause (c) of that sub-section, the

existing Panchayats shall stand dissolved and new Panchayats shall be constituted--

in accordance with the provisions of this Act within a period of six months from the appointed day; or

(d) that, in a case falling under clause (d), the Panchayat shall stand dissolved or, as the case may be, the members who, in the opinion of the State Government, represent the local area excluded from the Panchayat Circle shall stand removed:

Provided that for so long as a Panchayat or a new Panchayat is not established under clause (a) or, as the case may be, under clause (c), all power and duties of the Panchayat shall be exercised and performed by such administrator as the State Government may appoint in this behalf:

Provided further that no act of a Panchayat shall be deemed invalid by reason of any vacancy of the members referred to in clause (b).

(3) Upon the exclusion of any local area of a municipality and its declaration as or, as the case may be, inclusion in, a Panchayat Circle under sub-section (1),-

(a) such area shall cease to be a municipality;

(b) the members of the board representing the area of the municipality so declared or included in a Panchayat Circle shall vacate their respective offices but without prejudice to their eligibility for election to the Panchayat to be constituted for such area or, as the case may be, the Panchayat, in the area whereof, such area is included;

(c) the whole of the assets vesting in, and of the liabilities subsisting against, the municipality so declared to be a Panchayat or, in case where only a part of a municipality is included in, or declared to be a Panchayat, such portion of the said assets and liabilities as the State Government may direct, shall devolve upon the Panchayat declared for such area or upon the Panchayat in which such area of the municipality is included;

(d) until new rules, notifications, orders and bye-laws are made or

issued under this Act and unless the State Government otherwise directs, all rules, notifications, orders and bye-laws applicable;-

(i) to the Panchayat in which such area is included; and

(ii) where the whole or a parts of a municipality is declared to be a Panchayat, to the area of the Panchayat Samiti which shall, by reason of the concerned area falling in the block of such Panchayat Samiti, have jurisdiction on the area so declared to be a Panchayat, shall continue to apply to the area so included or declared;

(e) the Panchayat so established by inclusion of any area of a municipality therein or by the declaration of a municipality as a Panchayat shall levy or continue to levy such of the taxes as are lawfully imposed under this Act;

(f) any such area shall cease to be subject to all rules, notifications, orders and bye-laws made under the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959); and

(g) the Panchayat in which such area is included or the Panchayat which is declared for such area and the Panchayat Samiti and Zila Parishad respectively of the Block and District, in which the area so included or declared falls, shall exercise jurisdiction over such area and the municipality in which such area was included or, as the case may be, the municipality which was established for such area shall cease to function therein.

(4) When any local area ceases to be a Panchayat and is included within the local limits of the jurisdiction of some other local authority, the Panchayat Fund and other property and rights vesting in the Panchayat shall vest in such other local authority and the liabilities of the Panchayat shall be the liabilities of such other local authority.

(5) When any local area is excluded from a Panchayat Circle and included in another Panchayat Circle, such portion of the Panchayat Fund and other property vested in the Panchayat of the first mentioned Circle shall vest in, and such portion of the liabilities thereof shall be the liabilities of the other Panchayat as the State Government may, after consulting both the Panchayats, declare, by notification in the Official Gazette:

Provided that the provisions of this sub-section shall not apply in any case where the circumstances, in the opinion of the State Government, render undesirable the transfer of any portion of the Panchayat Fund or properties or liabilities.

1[(5A) When it is considered necessary so to do, whether as a consequence of an action taken under sub-section (1) or otherwise, the State Government may alter the limits of a Panchayat Samiti or a Zila Parishad area and to every such case of alteration the provisions contained in the foregoing sub-sections shall mutatis mutandis apply.]

(6) The State Government may, for the purpose of the foregoing sub-sections, make such orders and give such directions as it may consider necessary.

(7) Save as otherwise provided in this section its provisions shall have effect, notwithstanding anythings contained in this Act or the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959) or any other law for the time being in force.

Explanation.- In this section, "appointed day" means the day from which a change referred to in sub-section (1) takes place.

102. Power To Make Rules :-

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

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

(a) for the whole or any part of the State of Rajasthan and for all or any Panchayati Raj Institution;

1. Inserted by Section 9 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No.23 of 1994) published in Rajasthan Gazette, Extra-ordinary, Part IV (A), dated 6.10.

(b) to provide for any matter for which power to make provision is conferred expressly or by implication on the State Government by

or under this Act; and

(c) for the guidance of the Panchayati Raj Institutions and of servants and authorities of the matter connected with the carrying out of the provisions of this Act; and

(d) to provide for the levy of fees for the inspection or search of any document issued under this Act or of any record maintained under or for the purposes of this Act and for giving copies of or extracts from such document or record and the scale of such fees.

(3) All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

103. Section 103 :-

104. Section 104 :-

105. Section 105 :-

106. Section 106 :-

107. Section 107 :-

CHAPTER 5 Miscellaneous

108. Members And Officers To Be Public Servants :-

The members, officers and servants of a Panchayati Raj Institution and a Standing Committee or sub-committee thereof shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860, (Central Act 45 of 1860).

109. Suits Etc., Against Panchayat, Panchayat Samiti And Zila Parishad :-

(1) No suit or other civil proceeding against a Panchayati Raj Institution or against any member, officer or servant thereof or against any person acting under the direction of a Panchayati Raj Institution or any member, officer or servant thereof for anything done or purporting to be done under this Act in its or his official capacity--

(a) shall be instituted until the expiration of two months after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the nature of the relief which he claims, has been delivered or left at its office or, in the case of a member, officer, servant or person as aforesaid, delivered to him or left at the office or at his usual place of abode, and the plaint shall in each such case contain a statement that such notice has been so delivered or left, or

(b) shall be instituted, unless it is a suit for the recovery of immovable property or for a declaration title thereto, otherwise than within six months after 1[transfer next] the accrual of the alleged cause of action.

(2) The notice referred to in sub-section (1), when it is intended for a Panchayat, Panchayat Samiti or a Zila Parishad, shall be addressed to the Sarpanch, Vikas Adhikari or the Chief Executive Officer respectively.

1. There is some mistake of printing here in this clause. Hindi text of Clause (b) runs as under, may be persued

110. Section 110 :-

111. Section 111 :-

112. Section 112 :-

113. Section 113 :-

114. Section 114 :-

115. Determination Of Seats After Each Census :-

Upon the publication of the figures of each census, the number of seats of a Panchayati Raj Institution shall be determined by the State Government on the basis of the population of the area of the

Panchayati Raj Institution concerned as ascertained at that census:

Provided that the determination of the number as aforesaid shall not affect the then composition of the Panchayati Raj Institution concerned until the expiry of the term of office of the elected members then in office.

116. Requisitioning Of Vehicles Etc. For Purposes Of General Elections :-

(1) If it appears to the Collector that in connection with general election to be held under this Act, any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with any such election, the Collector may by order in writing requisition such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose in connection with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Collector to be the owner or person deemed by the Collector to be the owner or person in possession of the vehicle, vessel or animal and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any vehicle, vessel or animal is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which the same is required for any of the purposes mentioned in that sub-section.

(4) Whenever the Collector requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof, out of the Consolidated Fund of the State, compensation the amount of which

shall be determined by the Collector on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal :

Provided that, where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined, makes an application within the prescribed time to the State Government, the amount of compensation to be paid shall be such as the State Government may determine.

(5) Where, immediately before the requisition, the vehicle or vessel is, by virtue of a hire purchase agreement, in the possession of a person other than the owner, the amount determined under sub-section (4), as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and, in default of agreement, in such manner, as the Collector or the State Government may decide.

(6) The Collector may, with a view to requisitioning any vehicle, vessel or animal or determining the amount of compensation payable under this section, by order, require any person to furnish to such officer or authority as may be specified in the order, such information in his possession relating to such vehicle, vessel or animal as may be so specified.

(7) Any person authorised in this behalf by the Collector may enter into or upon any land or premises and inspect any vehicle, vessel or animal therein for the purpose of determining whether and if so in what manner, an order under sub-section (1) should be made in relation to such vehicle, vessel or animal, or with a view to securing compliance with any order made under this section.

(8) If any person contravenes any order made under this section shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

117. Bar To Interference By Courts In Certain Matters :-

Notwithstanding anything contained in this Act, -

(a) the validity of any law relating to the delimitation of

constituencies or wards or the allotment of seats to such constituencies or wards made or purporting to be made under this Act, shall not be called in question in any court, and

(b) no election to any Panchayati Raj Institution shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under this Act.

117A Jurisdiction Of Civil Courts Barred

No civil court shall have jurisdiction -

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

(b) to question the legality of any action taken by or under the authority of an electoral registration officer, or any decision given by any authority appointed under this Act for the revision of such roll; or

(c) to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

118. Section 118 :-

119. Officers And Staff Of State Election Commission :-

(1) There shall be a Chief Electoral Officer who shall be such officer of the State Government as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

(2) Subject to the superintendence, direction and control of the State Election Commission, the Chief Electoral Officer shall --

(a) supervise the preparation, revision and correction of all electoral rolls in the State under this Act;

(b) supervise the conduct of all elections under this Act; and

(c) exercise such other powers and functions as the State Election Commission may direct.

(3) For each district in the State, the State Election Commission shall in consultation with the Government, designate or nominate an officer of the Government as a District Election Officer:

Provided that the State Election Commission may designate or nominate more than one such officer for a district if the Commission is satisfied that the functions of the office can not be performed satisfactorily by one officer.

(4) Where more than one District Election Officer are designated or nominated for a district, the Commission shall in the order designating or nominating the District Election Officers also specify the area in respect of which each such officer shall exercise jurisdiction.

1. Inserted by Section 5 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995) published in Rajasthan Gazette, E.O., Part IV (A) dated 26.4.95 (w.e.f. 28.5.94).

(5) The electoral roll for each constituency shall, subject to the control of the District Election Officer, be prepared, revised, modified, updated and published by the Electoral Registration Officer who shall be such officer of the Government or a local authority as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

(6) The State Election Commission may appoint one or more persons as Assistant Electoral Registration Officers to assist the Electoral Registration Officer in the performance of his function.

(7) The Government shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by or under this Act or any other law for the time being in force.

119A. Staff Of Local Authorities To Be Made Available :-

(1) Every local authority in the State shall, when so requested by the Chief Electoral Officer or the District Election Officer (Panchayats), make available to any Electoral Registration Officer

such staff as may be necessary for the performance of any duties in connection with preparation and revision of electoral rolls.

(2) The authorities specified in Sub-sec. (3) shall, when so requested by the Chief Electoral Officer or the District Election Officer (Panchayats), make available to any Returning Officer such staff as may be necessary, for the performance of any duties in connection with an election.

(3) The following shall be the authorities for the purposes of Sub-sec. (2), namely:-

(i) every local authority;

(ii) any other body corporate or public undertaking which is established by the State Government by or under a State Act or a Central Act or which is established otherwise but controlled, aided or financed wholly or substantially by the State Government.

119B. Officers And Staff Deemed To Be On Deputation To State Election Commission :-

The officers or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections under this Act shall be deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period be, subject to the control and superintendence of the State Election Commission.

119C. Penalty For Staff :-

(1) Whether a member of staff having deputed for performing duties in connection with elections or in connection with preparation, revision and correction of electoral rolls under this Act, does not report for duty or having reported for such duty, does not perform duties assigned to him, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Rupees five thousand, or with both.

(2) An offence punishable under Sub-sec. (1) shall be cognizable.

120. Delegation Of Functions Of Election Commission :-

The functions of the State Election Commission under this Act or the rules or orders issued thereunder, subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, be performed also by a Deputy Election Commissioner, if any, or by the Secretary to the State Election Commission.

121. Committee For District Planning :-

(1) The Government shall constitute in every district a District Planning Committee, hereinafter in this section, referred to as "the Committee" to consolidate the plans prepared by the Panchayati Raj Institutions and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

1. Subs. by Sec. 11 of the Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F.4(12)Vidhi/2/99 Pub. in Raj. Gazette, E.O., Part IV-B, dated 27.12.99. (=by S. 55 of the Raj. Act No. 9 of 2000).

2. Inserted by Notification No.F.4(2)/Vidhi/2/2000 dated 22.1.2000 (Ordinance No. 3 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) dated 22.1.2000 with immediate effect. (= S. 56 of the Raj. Act No. 9 of 2000).

(2) The Committee shall consist of such number of members as may be fixed by the Government from time to time by notification in the Official Gazette and in so fixing the total number of members of the committee, the Government shall specify the number respectively of the nominated members and elected members.

Provided that not less than four-fifth of the total number of members of such committee shall be elected by, and from amongst, the elected members of the Zila Parishad and of the municipalities in the district in proportion to the ratio between the population of the rural area and of the urban areas in the district.

(3) The elected members shall be chosen in such manner as may be prescribed.

(4) The nominated members may consist of :-

(a) persons representing the State Government;

(b) members of the House of the People or of the Rajasthan Legislative Assembly who represent a constituency comprising the whole or part of the district;

(c) members of the Council of States who are registered as electors in the district; and

(d) members representing such organisations and in situations as may be deemed necessary by the Government.

(5) The committee shall have -

(a) such functions relating to district planning as may be assigned to it by the Government; and

(b) such powers as may be conferred on it by the Government.

(6) The Chairperson of such Committee shall be the Pramukh of the Zila Parishad concerned.

(7) Every Committee shall, in preparing the draft development plan,-

(a) have regard to -

(i) matters of common interest between the Panchayati Raj Institutions and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation; and

(ii) the extent and type of available resources whether financial or otherwise; and

(b) consult such institutions and organisations as the Government may by order, specify.

(8) The Chairperson of every Committee shall forward the development plan, as recommended by such committee to the Government.

EXPLANATION:- for the purpose of this section, the term "Municipality" shall have the meaning assigned to it by the Rajasthan Municipalities Act, 1959.

122. Section 122 :-

123. Removal Of Difficulties :-

(1) If any difficulty arises in giving effect to, enforcing or carrying out the provisions of this Act, the State Government may, by order published in the Official Gazette, give such directions and do such things which appear to it to be necessary for the removal of such difficulty:

Provided that no such order shall be made after the expiration of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the House of the Rajasthan Legislative Assembly.

124. Repeal And Savings :-

[(1)] On the date of commencement of this Act, hereinafter in this section referred to as the date of commencement, the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953) and the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959) shall stand repealed and the following consequences shall ensue, that is to say--

(a) all property, movable and immovable, and all interests of whatsoever kind therein, which vested in an existing Panchayati Raj Institution, immediately before the date of commencement, shall be deemed to be transferred to, and shall vest in the successor Panchayati Raj Institution, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the date of commencement;

(b) all rights, liabilities and obligations of an existing Panchayati Raj Institution, (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the successor Panchayati Raj Institution;

(c) all functions of the existing Panchayati Raj Institutions, whether

under the Acts repealed as aforesaid or under any other law for the time being in force, shall be deemed to have been transferred to the successor Panchayati Raj Institutions under this Act;

(d) all sums due to an existing panchayati Raj Institution, whether on account of any tax or otherwise, shall be recoverable by the successor Panchayati Raj Institution and for the purposes of such recovery the successor Panchayati Raj Institution shall be competent to take any measure or institute any proceedings which it would have been open to an existing Panchayati Raj Institution or any authority thereof to take or institute before the date of commencement;

(e) the unexpended balance in the funds of the existing Panchayati Raj Institutions and all sums due to such Institutions and such sums of any other body or bodies as the State Government may direct shall form part of, and be paid into, the funds of the corresponding successor Panchayati Raj Institutions;

(f) all contracts made with, and all instruments executed by or on behalf of an existing Panchayati Raj Institution shall be deemed to have been made with, or executed by or on behalf of the successor Panchayati Raj Institution, and shall have effect accordingly;

(g) all proceedings and matters pending before an existing Panchayati Raj Institution or any authority of an existing Panchayati Raj Institution under the repealed Acts immediately before the date of commencement shall be deemed to have been instituted and to be pending before the successor Panchayati Raj Institution or such authority as the successor Panchayati Raj Institution may direct;

(h) in all suits and legal proceedings pending on the date of commencement in or to which an existing Panchayati Raj Institution, is a party, the successor Panchayati Raj Institution, shall be deemed to be substituted therefor;

1. Numbered by section 10 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, extra-ordinary, Part IV (A) dated 6-10-94, (w.e.f. 26-7-94).

(i) any appointment notification, notice, tax, fee, order, scheme,

licence, permission, rule, bye-law, regulation or form made, issued, imposed or granted in respect of any existing Panchayati Raj Institution or the local area thereof under the repealed Acts and in force immediately before the date of commencement, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted under this Act in respect of the successor Panchayati Raj Institution or the corresponding local area thereof until superseded or modified by any appointment, notification, notice tax, fee, order, scheme, licence, permission, rule, bye-law, regulation or form made, issued, imposed or granted under this Act;

(j) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by or in respect of an existing Panchayati Raj Institution under the repealed Acts and in force immediately before the date of commencement shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made or authenticated by the successor Panchayati Raj Institution;

(k) all officer and servants in the employment of an existing Panchayati Raj Institution immediately before the date of commencement, shall, subject to the provisions of this Act, be deemed to be transferred to the service of the successor Panchayati Raj Institution; and

(l) any reference in any law or in any instrument to any provision of the repealed Acts, or any authority constituted, elected or appointed thereunder shall, unless a different intention appears, be construed as a reference to the corresponding provision of this Act, or as the case may be, to the corresponding authority constituted, elected or appointed under this Act.

1[(2) On the date of commencement of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994), section 43 of the Rajasthan Gramdan Act, 1971 (Act No. 12 of 1971) shall stand deleted, and as a result of such deletion, consequences enumerated in clauses (a) to (1) of sub-section (1) shall ensue as if the Gram Sabha of a Gramdan Village referred to in the aforesaid deleted section was an existing Panchayati Raj Institution.]

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

(a) "an existing Panchayati Raj Institution" means a Panchayat, Panchayat Samiti or a Zila Parishad existing immediately before the date of commencement and, where any such Panchayat Raj Institution has been superseded or dissolved or the term thereof has expired, includes the person or persons appointed to exercise the powers or to perform the functions of such Panchayati Raj Institution; and

(b) "the successor Panchayati Raj Institution" means a Panchayat, a Panchayat Samiti or a Zila Parishad constituted under this Act for such local area as corresponds to the respective local area of the existing Panchayat, Panchayat Samiti or Zila Parishad.

1. Added by section 10 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, extra-ordinary, Part IV (A) dated 6-10-94 as sub-section (2) after existing section 124 numbered as sub-section (1) (w.e.f. 26-7-94).