

## **Uttar Pradesh Panchayat Raj Act, 1947**

**26 of 1947**

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## **SCHEDULE 1 :- SECHEDULE**

### **Uttar Pradesh Panchayat Raj Act, 1947**

#### **26 of 1947**

An Act to establish and develop local self-Government in the rural areas of the United Provinces Whereas it is expedient to establish and develop local self-Government in the rural areas of the United Provinces and to make better provision for village administration and development ; It is hereby enacted as follows :

## **CHAPTER 1 Preliminary**

### **1. Short title, extent and commencement :-**

- (i) This Act may be called the U.P. Panchayat Raj Act No. 26 of 1947.<sup>1</sup>
- (ii) It shall extend to the whole of Uttar Pradesh except the area

which has been or may hereafter be declared as, or included in, <sup>2</sup>[a city under the Uttar Pradesh] <sup>3</sup>[Municipal Corporation Act, 1959, or] a Municipality or Notified Area under the provisions of the U.P. Municipalities Act, 1916, or as a Cantonment under the provisions of the Cantonments Act, 1924, or as a <sup>2</sup>[Nagar Panchayat] under the provisions of the <sup>4</sup>[U.P. Town Areas Act, 1914].

<sup>5</sup>[\* \* \*]

(iii) It shall come into force at once.

1 The work "Up-Pradhan" wherever occurring including marginal Headings Omitted by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10th December, 2007 (w.e.f. 20 August, 2007)

2 Ins. by Act No. 37 of 1978.

3 Subs. by U.P. Act No. 12 of 1994.

4 Now repealed by U.P. Act No. 12 of 1994.

5 Explanation omitted by U.P. Act No. 37 of 1978.

## **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context. -

a) Nyaya Panchayat means a Nyaya Panchayat established under section 42 and includes a bench thereof;

b) Adult means a person who has attained the age of twenty-one years;

<sup>1</sup>[(bb)backward classes means the backward classes of citizens specified in Schedule 1 of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1994 (4 of 1994)];

c) Criminal case means a criminal proceeding in respect of an offence triable by a Nyaya Panchayat <sup>2</sup>[and includes a proceedings under Section 53];

d) Circle means the area within which a Nyaya Panchayat exercises jurisdiction under Section 42;

e) Collector or District Magistrate or Sub-divisional Magistrate with reference to a <sup>3</sup>[Gram Sabha], means the Collector, District Magistrate or Sub-divisional Magistrate of the district or the sub-division, as the case may be, in which such <sup>3</sup>[Gram Sabha] is constituted; and shall respectively include Additional Collector,

Additional District Magistrate and Additional Sub-divisional Magistrate;

**4**["ee) Electoral Registration Officer means an officer designated or nominated as such by the State Election Commission in consultation with the State Government for preparing and revising the electoral rolls in a district

**4**[eee) Assistant Electoral Registration Officer means a person appointed as such by the Electoral Registration Officer for one or more Panchayat areas".

**5**[f) Zila Panchayat shall have the meaning assigned to it under Clause (11) of Section 2 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961;

**6**[g) "Gram Sabha" means a body, established under Section 3, consisting of persons registered in the electoral rolls relating to a village comprised within the area of Gram Panchayat;

**7**[h) Gram Panchayat means the Gram Panchayat **8**[constitute] under Section 12;

**9**[hh) Finance Commission means the Finance Commission constituted under Article 243-I of the Constitution

**9**[hhh) Kshettra Panchayat shall have the meaning assigned to it under Clause (6) of Section 2 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961];

i) [\* \* \*] Deleted by U.P. Act No. 17 of 1990.

j) Minority Community [omitted by Section 3 of U.P. Act II of 1955];

**10**[k) Munsif and Judicial Magistrate with reference to Nyaya Panchayat, means the Munsif or the Magistrate as the case may be, having local jurisdiction in respect of civil or criminal cases respectively, in the circle of such Nyaya Panchayat];

**11**[kk) State Election Commission means the State Election Commission referred to Article 243-K of the Constitution;

**12**[kkk) Mukhya Nirvachan Adhikari (Panchayat) means an Officer of the State Government appointed, designated or nominated as such by the State Election Commission in consultation with the State Government];

I) Population means the population as ascertained at the last preceding census of which the relevant figures has been published;

II) Panchayat Area means the territorial area of a Gram Panchayat declared as such under sub-section (1) of Section 11-F];

m) **13**[\* \* \*]

mm) Public Property and Public land means any public building,

park or garden or other place to which for the time being the public have or are permitted to have access whether on payment or otherwise;

n) Public Servant means public servant as defined in Section 21 of the Indian Penal Code, 1860;

o) Public Street means any road, street, bridge, lane, square, court, alley or passage which the public has right to pass along and includes on either side the drains or gutters and the land up to the defined boundaries of any abutting property, notwithstanding any projection over such land or any verandah or other superstructure but does not include any such road, street, bridge, lane, square, court, alley or passage owned, maintained or repaired by the State Government or any other local authority;

p) Prescribed means prescribed by this Act or rules made thereunder;

**14**[q) Prescribed authority means -

i) for the purposes of the provisions of this Act mentioned in Schedule III of the [Uttar Pradesh KshettraPanchayat and Zila Panchayat Adhiniyam, 1961], the Zila Parishad or the Kshettra Samiti, as may be specified in column 3 of that Schedule; and

ii) in respect of any other provisions of this Act, the authority notified as such by the State Government whether generally or for any particular purpose;

r) [Omitted by Act II of 1955];

s) Civil Suit means a civil suit triable by a Nyaya Panchayat; **15**[ss) Sub-divisional officer includes an Additional Sub-divisional Officer designated or appointed as such by the appropriate authority];

t) Village means any local area, recorded as a village in the revenue records of the district in which it is situate, and includes any area which the State Government may, by general or special order, declare to be a village for the purposes of this Act;

u) [Omitted by Act II of 1955];

v) [Omitted by Act II of 1955];

w) **16**[\* \* \*]

**17**[x) Bhumi Prabandhak Samiti means a Bhumi Prabandhak Samiti established or deemed to be established under Section 28-A].

1 Ins. by U.P. Act No. 9 of 1994.

2 Ins. by U.P. Act No. 37 of 1978, dated 30th December, 1978.

3 Subs. by U.P. Act No. 9 of 1994.

4 Ins. by U.P. Act No. 12 of 2004 (w.e.f. 5.7.2004).

5 Subs. by U.P. Act No. 9 of 1994.

6 Subs. by U.P. Act No. 9 of 1994.

7 Subs. by U.P. Act No. 9 of 1994.

8 Subs. by U.P. Act No. 29 of 1995.

9 Ins. by U.P. Act No. 9 of 1994.

10 Subs. by U.P. Act No. 37 of 1978.

11 Ins. by U.P. Act No. 9 of 1994

12 Ins. by U.P. No. 21 of 1995.

13 Clause (m) omitted by U.P. Act No. 37 of 1978.

14 Subs. by U.P. Act No. 9 of 1994.

15 Ins. by U.P. Act No. 19 of 1957 and shall be deemed always to have been inserted.

16 Clause (w) omitted by U.P. Act No. 37 of 1978.

17 Ins. by U.P. Act No. 33 of 1961.

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

### **3. Gram Sabha :-**

**1**[3. Gram Sabha The State Government shall, by notification in the official Gazette, establish a Gram Sabha for a village or group of villages by such name as may be specified;

Provided that where a Gram Sabha is established for a group of villages, the name of the village having the largest population shall be specified as the name of the Gram Sabha.

1 Subs. by U.P. Act No. 9 of 1994.

### **4. xxx xxx xxx :-**

4. **1**[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

### **5. Membership of Gram Sabha :-**

**1**[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

**CHAPTER 2A** Disqualifications of members of Gram Panchayat and Electoral Rolls, etc.

**5A. Disqualification of membership :-**

<sup>1</sup>[5-A. Disqualification of membership -

A person shall be disqualified for being chosen as, and for being,

<sup>2</sup>[the Pradhan or] a member of a Gram Panchayat, if he -

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

(b) is a salaried servant of the Gram Panchayat or a Nyaya Panchayat;

(c) holds any office of profit under a State Government or the Central Government or a <sup>3</sup>[local authority, other than a Gram Panchayat or Nyaya Panchayat; or a Board, Body or Corporation owned or controlled by a State Government or the Central Government;]

(d) has been dismissed from the service of State Government, the Central Government or a local authority or a Nyaya Panchayat for misconduct;

(e) is in arrears of any tax, fee, rate or any other dues payable by him to the Gram Panchayat, Kshettra Panchayat or Zila Panchayat for such period as may be prescribed, or has, in spite of being required to do so by the Gram Panchayat, Kshettra Panchayat or Zila Panchayat failed to deliver to it any record or property belonging to it which had come into his possession by virtue of his holding any office under it;

(f) <sup>4</sup>[is an undischarged involvement;

(g) has been convicted of an offence involving moral turpitude;

(h) has been sentenced to imprisonment for a term exceeding three months for contravention for any order made under the Essential Commodities Act, 1955;

(i) has been sentenced to imprisonment for a term exceeding six months or to transportation for contravention of any order made under the Essential Supplies (Temporary Powers) Act, 1946 or the U.P. Control of Supplies (Temporary Powers) Act, 1947;

(j) has been sentenced to imprisonment for a term exceeding three

months under the U.P. Excise Act, 1910;

(k) has been convicted of an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985;

(l) has been convicted of an election offence;

(m) has been convicted of an offence under the U.P. Removal of Social Disabilities Act, 1947 or the Protection of Civil Rights Act, 1955; or

(n) has been removed from office under sub-clauses (iii) or (iv) of Clause (g) of sub-section (1) of Section 95 unless such period, as has been provided in that behalf in the said section or such lesser period as the State Government may have ordered in any particular case, has elapsed;

Provided that the period of disqualification under Clauses (d), (f), (g), (h), (i), (j), (k), (l) or (m) shall be five years from such date as may be prescribed. Provided further that the disqualification under Clause (e) shall cease upon payment of arrears or delivery of the record of property, as the case may be; Provided also that a disqualification under any of the clauses referred to in the first proviso may in the manner prescribed, be removed by the State Government.

1 Chapter II-A has been inserted by U.P. Act No. 9 of 1994.

2 Ins. by U.P. Act No. 21 of 1995.

3 Subs. by U.P. Act No. 21 of 1998 published in U.P. Gazette Extra Part I, Section (ka), dated July 9th 1998.

4 Subs. by U.P. Act No. 9 of 1994.

## **5B. Qualification for holding office of Pradhan :-**

<sup>1</sup>[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

## **6. Cessation of Membership :-**

(1) <sup>1</sup>[member of Gram Panchayat] shall cease to be such member if the entry relating to that member is deleted from the electoral <sup>1</sup>[roll for a territorial constituency of Gram Panchayat].

(2) Where any person ceases to be a member of a <sup>2</sup>[Gram Panchayat] under sub-section (1) he shall also cease to hold any office to which he may have been elected, nominated or appointed by reason of his being a member thereof.

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 9 of 1994.

#### **6A. Decision on question as to disqualifications :-**

If any question arises as to whether a person has become subject to any disqualification mentioned in Section 5-A or in sub-section (1) of Section 6, the question shall be referred to the prescribed authority for his decision and his decision shall, subject to the result of any appeal as may be prescribed, be final.

#### **7. xxx xxx xxx :-**

<sup>1</sup>[\* \* \*]

1 Deleted by U.P. Act No. 2 of 1955.

#### **8. Effect of change in population or inclusion of the area of a Gram Panchayat in Municipalities, etc. :-**

If the whole of the area of Gram Panchayat is included in a city, municipality, cantonment, notified area, or <sup>1</sup>[Nagar Panchayat] the [Gram Panchayat] shall cease, and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included, its jurisdiction shall be reduced by that part.

1 Subs. by U.P. Act No. 12 of 1994.

#### **9. Electoral roll for each territorial constituency :-**

<sup>1</sup>[9. Electoral roll for each territorial constituency -

(1) For each territorial constituency of Gram Panchayat, and electoral roll shall be prepared, in accordance with the provisions of this Act <sup>1</sup>[and the rules made thereunder] the superintendence, direction and control of the State Election Commission.

<sup>2</sup>[(1-A) Subject to the Superintendence, direction and control of the State Election Commission, the Mukhya Nirvachan Adhikari (Panchayat) shall supervise and perform all functions relating to the preparation revision and correction of the electoral rolls in the State in accordance with this Act and the rules made thereunder.

<sup>3</sup>[(1-B) The preparation, revision and correction of the electoral rolls shall be done by such persons, and in such manner, as may be prescribed];

(2) The electoral roll referred to in sub-section (1) shall be

published in the prescribed manner and upon its publication it shall, subject to any alteration, addition or modification made in accordance with this Act and the rules made thereunder be the electoral roll for that territorial constituency prepared in accordance with the provisions of this Act.

(3) Subject to the provisions of sub-section (4), (5) and (7) every person who has attained the age of 18 years of the first day of January of the year in which the electoral roll is prepared or revised and who is ordinary resident in the territorial constituency of a Gram Panchayat shall be entitled to be registered in the electoral roll for that territorial constituency.

Explanation -

(i) A person shall be deemed to be ordinarily resident in the territorial constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

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

(iii) A member of Parliament or of the Legislature of the State shall not, during the term of his office, cease to be ordinarily resident in the territorial constituency merely by reason of his absence from that area in connection with his duties as such member.

(iv) Any other factor that may be prescribed shall be taken into consideration for deciding as to what persons may or may not be deemed to be ordinarily residents of a particular area at any relevant time.

(v) 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 facts of the case.

(4) A person shall be disqualified for registration in an electoral roll, 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 provisions of any law relating to corrupt practices and other offences in connection with elections.

(5) The name of any person who becomes disqualified under sub-section (4) after registration shall forthwith be struck off the electoral roll in which it is included; Provided that the name of any person struck off the electoral roll by reason of any such disqualification shall forthwith be reinstated in that roll, if such

disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

(6) No person shall be entitled to be registered in the electoral roll for more than one territorial constituency or more than once in the electoral roll for the same territorial constituency.

(7) No person shall be entitled to be registered in the electoral roll for any territorial constituency if his name is entered in any electoral roll pertaining to any city, municipality or cantonment unless he shows that his name has been struck off such electoral roll.

(8) Where the <sup>4</sup>["Electoral Registration Officer or Assistant Electoral Registration Officer"] is satisfied after making such inquiry as it may deem fit, whether on an application made to it or on its own motion, that any entry in the electoral roll should be corrected or deleted or that the name of any person entitled to be registered should be added in the electoral roll, it shall subject to the provisions of this Act and rules and orders made thereunder, correct, delete or add the entry, as the case may be :

Provided that no such correction, deletion or addition shall be made after the last date for making nominations for an election in the Gram Panchayat and before the completion of that election;

Provided further that no deletion or correction of any entry in respect of any person affecting his interest adversely shall be made without giving him reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

(9) The State Election Commission may, if it thinks it necessary so to do for the purposes of a general or by election, direct a special revision of the electoral roll for any territorial constituency of a Gram Panchayat in such manner as it may think fit;

Provided that subject to the other provisions of this Act, the electoral roll for territorial constituency, as in force at the time of issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

(10) <sup>5</sup>[In so far as provision is not made by this Act or the rules, the State Election Commission] may, by order, make provisions in respect of the following matters concerning the electoral roll, namely,-

(a) the date on which the electoral roll prepared under this Act shall come into force and its period of operation;

(b) the correction of any existing entry in the electoral roll on the application the elector concerned;

(c) the correction of clerical or printing errors in electoral roll;

- (d) the inclusion in the electoral roll of the name of person -
- (i) whose name is included in the Assembly electoral roll for the area relatable to the territorial constituency but is not included in the electoral roll for that territorial constituency or whose name has been wrongly included in the electoral roll for some other territorial constituency, or
- (ii) whose name is not so included in the Assembly electoral roll but who is otherwise qualified to be registered in the electoral roll for the territorial constituency;
- (e) the custody and preservation the electoral roll;
- (f) fees payable on application for inclusion or exclusion of names;
- (g) generally all matters relating to the preparation and publication of the electoral roll.
- (11) Notwithstanding anything contained in the foregoing subsection the State Election Commission may, for the purposes of preparation of the electoral roll for a territorial constituency adopt the electoral roll for the Assembly constituency prepared under Representation of the People Act, 1950 for the time being in force so far as it relates to the area of that territorial constituency; Provided that the electoral roll for such territorial constituency shall not include any amendment, alteration or correction made after the last date for making nomination for the election of such constituency and before the completion of such election.
- (12) No Civil Court shall have jurisdiction -
- (a) to entertain or adjudicate upon the question whether any person is or is not entitled to be registered in an electoral roll for a territorial constituency; or
- (b) to question the legality of any action taken by or under the authority of the State Election Commission<sup>6</sup>[or of any decision given by any authority or Officer appointed in this behalf] in respect of preparation and publication of electoral rolls.

1 Subs. by U.P. Act No. 9 of 1994.

2 Ins. by U.P. Act No. 21 of 1995.

3 Ins. by U.P. Act No. 9 of 1995.

4 Subs. by U.P. Act No. 12 of 2004 (w.e.f. 5.7.2004).

5 Subs. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1994).

6 Ins. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.95).

**9A. Right to vote etc. :-**

<sup>1</sup>[9-A. Right to vote etc.

Except as otherwise provided by or under this Act, every person whose name is for the time being included in the electoral roll for a territorial consistency <sup>2</sup>[of a Gram Panchayat] shall be entitled to vote at any election and be eligible for election, no nomination or appointment to any office in <sup>3</sup>[that Gram Panchayat or the concerned Nyaya Panchayat];

Provided that a person who has not completed the age of twenty-one years shall not be qualified to be elected as a member or office-bearer of the Gram Panchayat].

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.95).

3 Subs. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.95).

## **10. Removal of difficulty in the establishment of [Gram Sabha] and in the working of a Gram Panchayat :-**

If, in establishing a [Gram Sabha] or in the working of a [Gram Panchayat], and any dispute of difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the State Government whose decision thereon shall be final and conclusive.

## **CHAPTER 3 The Gram Sabha : Its Meetings and Functions**

### **11. Meeting and functions of the Gram Sabha :-**

(1) Every [Gram Sabha] shall hold two general meeting in each year, one soon after harvesting of the Kharif Crop (hereinafter called the Kharif meeting) and the other soon after harvesting of the Rabi Crop (hereinafter called the Rabi meeting) [which shall be presided over the Pradhan of the concerned Gram Panchayat].

Provided that the Pradhan at any time may, or upon a requisition in writing by the prescribed authority or by not less than one-fifth of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. The time and place of all the meetings of the [Gram Sabha] shall be published in the prescribed manner;

Provided further that where the Pradhan fails to call a meeting as aforesaid, the prescribed authority may do so within a period to be prescribed.

(2) For any meeting of Gram Sabha one-fifth of the number of members shall form the quorum; provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

<sup>2</sup>[(3) The Gram Sabha shall consider the following matters and may make recommendations and suggestions to the Gram Panchayat -

(a) the annual statement of accounts of the Gram Panchayat the report of administration of the preceding financial year and the last audit note and replies, if any, made thereto;

(b) the annual statement of accounts of the Gram Panchayat relating to the proceedings year and the development programmes proposed to be undertaken during the current financial year;

(c) the promotion of unity and harmony among all sections of society in the village;

(d) programmes of adult education within the village;

(e) such other matters as may be prescribed.

(4) The Gram Panchayat shall give due consideration to the recommendations and suggestions of the Gram Sabha.

(5) The Gram Sabha shall perform the following functions namely -

(a) Mobilising voluntary labour and contributions for the community welfare programmes;

(b) Identification of beneficiaries for the implementation of development schemes pertaining to the village;

(c) Rendering assistance in the implementation of development schemes pertaining to the village.]

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 9 of 1994.

### **CHAPTER 3A** Gram Panchayat

#### **11A. Pradhan and Up-Pradhan of Gram Panchayat :-**

<sup>2</sup>[11-A. Pradhan and Up-Pradhan of Gram Panchayat

<sup>3</sup>[(1) There shall be a Pradhan of the Gram Panchayat, who shall be the Chairperson thereof.

(2) The State Government shall, by order, reserve offices of Pradhans for the Scheduled Castes, the Scheduled Tribes, and the backward classes; Provided that the number of offices of Pradhans reserved for the Scheduled Castes, the Scheduled Tribes and the backward classes in the State shall bear, as nearly as may be, the

same proportion to the total number of such offices as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or of the backward classes in the State bears to the total population of the State. Provided that the reservation for the backward classes shall not exceed <sup>4</sup>[twenty-seven] percent of the total number of offices of Pradhans. <sup>5</sup>[Provided also that if the figures of population of the backward classes are not available, their population may be determined by carrying out a survey in the prescribed manner.]

(3) Not less than one-third of the total number of offices of Pradhans reserve under sub-section (2) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes.

(4) Not less than one-third of the total number of offices of Pradhans, including the number of offices of Pradhans reserved under sub-section (3), shall be reserved for women.

(5) The offices of the Pradhans reserved under this section shall be allotted by rotation to different Gram Panchayats in such order as may be prescribed.

(6) The reservation of the offices of Pradhans for the Scheduled Castes and Scheduled Tribes under the section shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

Explanation - It is clarified that nothing in this section shall prevent persons belonging to the Scheduled Castes, the Scheduled Tribes, the backward classes and the women from contesting election to unreserved seats.]

1 After Section 11 Chapter III-A has been inserted and Sections 11-A and 11-B has been substituted by U.P. Act No. 9 of 1994.

2 After Section 11 Chapter III-A has been inserted and Sections 11-A and 11-B has been substituted by U.P. Act No. 9 of 1994.

3 Sub-section (1) subs. by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10th December, 2007 (w.e.f. 20 August, 2007)

4 The word "twenty seven" read the word "Fourteen" by Uttaranchal Act No. 30 of 2005. Published in Uttaranchal Gazette Extra Part I Section (Ka) dated 11 November, 2005.

5 Ins. by U.P. Act No. 21 of 1995.

**11B. Election of Pradhan :-**

(1) The Pradhan of the Gram Panchayat shall be elected by the persons registered in the electoral rolls for the territorial constituencies of the Panchayat area from amongst themselves.

(2) If at any general election to a Gram Panchayat, the Pradhan is not elected, and less than two-thirds of the total number of members of Gram Panchayat are elected, the State Government or an officer authorized by it in this behalf may, by order, either appoint -

(i) an Administrative Committee consisting of such number of persons qualified to be elected as members of the Gram Panchayat, as it may consider proper; or

(ii) an Administrator.

(3) The members of the Administrative Committee or the Administrator shall hold office for such period not exceeding six months as the State Government may specify in the order referred to in sub-section (2).

(4) On the appointment of an Administrative Committee or an Administrator under sub-section (2), the person, if any, chosen as Pradhan or member of the Gram Panchayat before such appointment shall cease to be such Pradhan or member, as the case may be, and all powers, functions and duties of the Gram Panchayat, its Pradhan and Committees shall vest in and be exercised, performed and discharged by such administrative committee or the Administrator, as the case may be.

(5) The Administrative Committee or the Administrator shall be deemed to be duly constituted Gram Panchayat for the purposes of this Act :

Provided that if at any time after the appointment of the Administrative Committee or the Administrator under sub-section (2) the State Government is satisfied that there is no difficulty in duly constituting the Gram Panchayat, the State Government may, notwithstanding that the period for which the Administrative Committee or the Administrator had been appointed has not expired, direct the State Election Commission for holding the elections for constituting the Gram Panchayat.

(6) Except as otherwise provided in this Act, the term of office of Pradhan shall be coterminous with the term of the Gram Panchayat.

### **11C. Election of Up-Pradhan and his term :-**

The Up-Pradhan shall be elected by the members of the Gram Panchayat from amongst themselves in such manner as may be prescribed.

Provided that if a Gram Panchayat fails to so elect and Up-Pradhan within the time fixed by or under the rules in that behalf, the Prescribed Authority may nominate as Up-Pradhan any member; of the Gram Panchayat, and the person so nominated shall be deemed to have been duly elected.

(2) The term of office of the Up-Pradhan whether elected or nominated before or after the commencement of the Uttar Pradesh Rural Local Self-Government Laws (Amendment) Act, 1972 shall commence from the date of his election or nomination, as the case may be, and unless otherwise determined under the provisions of the Act, shall expire with the term of the Gram Panchayat.

<sup>2</sup>[(3) The provisions of Section 14 shall Mutatis Mutandis apply to the removal of Up-Pradhan as they apply to the removal of Pradhan.]

1 Section 11-C omitted by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10th December, 2007 (w.e.f. 20 August, 2007).

2 Sub-section (3) substituted by U.P. Act No. 9 of 1994. Now omitted by U.P. Act No. 24 of 2001 Published in U.P. Gazette Extra Part 1 Section (Ka) dated 6 October 2001.J

#### **11D. Prohibition of holding certain offices simultaneously :-**

<sup>1</sup>[11-D Prohibition of holding certain offices simultaneously

- No person shall simultaneously -

(a) be the Pradhan of a Gram Panchayat and a Panch of the Nyaya Pachayat, or

(b) be a member of a Gram Panchayat for more than one territorial constituency, or

(c) be a member of a Gram Panchayat and a Panch of Nyaya Panchayat, or

(d) hold any office in more than one Gram Panchayat or Nyaya Panchayat, and the rules may provide for the vacation of all but one office by any person chosen to fill offices which he cannot hold simultaneously.

1 Sections 11-D, 11-E, 11-F and 12 has been substituted by U.P. Act No. 9 of 1994.

#### **11E. Further bar on holding two offices simultaneously :-**

(1) A person shall be disqualified for being elected to or holding the office of Pradhan or member of Gram Panchayat or a Panch of a Nyaya Panchayat, if he is -

(a) a member of Parliament or of the State Legislature, or

<sup>1</sup>(b) member, Pramukh or Up-Pramukh of a Kshettra Panchayat, or

<sup>2</sup>(c) member, Adhyaksha or Up-Adhyaksha of a Zila Panchayat, or

(d) Adhyaksha or Up-Adhyaksha of any co-operative society.

(2) A person shall cease to hold the office of Pradhan or member of the Gram Pradhan or Panch of a Nyaya Panchayat, as the case may be, if subsequently he is elected to any of the offices mentioned in Clauses (a) to (d) of sub-section (1) with effect from the date of such subsequent election and a casual vacancy shall thereupon occur in the office of such Pradhan or member of Panch, as the case may be.

<sup>3</sup>[(3) Notwithstanding anything in this Act, if in the first elections held after the commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994 to constitute Panchayats at the village, khand and district levels, a person is chosen member of Panchayats at two or more levels, he shall submit his resignation from all but one of these seats within sixty days of the date of the declaration of the results of elections, or if the declaration of the results of elections in respect of the Panchayats at the said two or more levels has been made on different dates, within sixty days of the last of such dates and in the event of failure to so resigns seats in all the Panchayats except the seat in the highest level amongst the Panchayats to which he has been elected shall be deemed vacated.]

1 Subs by U.P. Act No. 29 of 1995 (Second Amendment) (w.e.f. 20.5.1995).

2 Subs by U.P. Act No. 29 of 1995 (w.e.f. 20.5.1995).

3 Subs by U.P. Act No. 29 of 1995 (Second Amendment) (w.e.f. 20.5.1995).

#### **11F. Declaration of Panchayat area :-**

(1) The State Government may, by notification, declare any area comprising a village or group of villages, having, so far as practicable, a population of one thousand, to be a Panchayat area for the purposes of this Act by such name as may be specified; Provided that for the purposes of declaration of a Panchayat area

no revenue village or any hamlet thereof shall be divided;

<sup>1</sup>[Provided further that in the hill districts of Nainital, Almora, Pithoragarh, Tehri, Pauri, Dehradun, Chamoli or Uttarkashi, the State Government may declare the area of a Gram Sabha established under Section 3 of this Act as it stood before the commencement of the Uttar Pradesh Panchayat Land (Amendment) Act, 1994, to be a Panchayat area through such area may have a population of less than one thousand.]

(2) The State Government may, on the request of the Gram Panchayat concerned or otherwise, and after previous publication of the proposal, by notification at any time -

- (a) modify the area of any Panchayat area by including therein or excluding therefrom any area of a village or group of villages;
- (b) alter the name of the Panchayat area; or
- (c) declare that any area shall cease to be a Panchayat area.

STATE AMENDMENT (UTTARANCHAL)

<sup>2</sup>[11-F. Declaration of Panchayat area. -

(1) For the purposes of this Act the State Government may by notification declare any area comprising a village or group of villages, having, so far as practicable, a population of 300 in hill area and 1000 in plane area to be a Panchayat area for the purpose of this Act by such name as may be specified :

Provided that the population shall not exceed 1000 in hill area and 5000 in plane area of the state as far as practicable :

Further provided that for the purpose of declaration of a Panchayat area no revenue village or any hamlet thereof shall be divided :

Also provided that if it is not practically possible to follow the above provisions then the State Government may relax the aforesaid restrictions by order in specific and unavoidable circumstances.

(2) The State Government may, on the request of the Gram Panchayat concerned or otherwise, and after previous publication of the proposal, by notification at any time -

- (a) modify the area of any Panchayat area by including therein or excluding therefrom any area of a village or group of villages;
- (b) alter the name of the Panchayat area; or
- (c) declare that any area shall cease to be a Panchayat area".

1 Subs. by U.P. Act No. 21 of 1995.

2 Amendment by Uttaranchal Act No. 8 of 2002. Published in Uttaranchal Gazette Extra Part I Section (Ka) dated 19th June, 2002.

## **12. Gram Panchayat. :-**

- (1) (a) There shall be <sup>1</sup>[constituted] for every Panchayat area, a Gram Panchayat bearing the name of the Panchayat area.
- (b) Every Gram Panchayat shall be a body corporate.
- (c) A Gram Panchayat shall consist of a Pradhan and in the case of a Panchayat area having a population of -
- (i) <sup>2</sup>[upto one thousand ] nine members;
- (ii) more than two thousand but not more than two thousand, eleven members;
- (iii) more than two thousand but not more than three thousand, thirteen members; or
- (iv) more than three thousand, fifteen members.

#### STATE AMENDMENT (UTTARANCHAL)

<sup>3</sup>["(c)A Gram Panchayat shall consist of a Pradhan and in the case of Panchayat area having a population of :-

- (1) Up to 500 : 5 members
- (2) 501 to 1000 : 7 members
- (3) 1001 to 2000 : 9 members
- (4) 2001 to 3000 : 11 members
- (5) 3001 to 5000 : 13 members
- (6) 5001 and above : 15 members

(d) For the purpose of election of members of Gram Panchayat every Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as a practicable, be the same throughout the Panchayat area.

(e) Each territorial constituency of a Gram Panchayat shall be represented by one member in the Gram Panchayat.

<sup>4</sup>[(f) The territorial constituencies of a Gram Panchayat may be delimited in the prescribed manner and, if necessary, rules in this regard may be made with retrospective effect from a date not earlier than the date of commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994.]

(2) <sup>5</sup>[\* \* \*]

(3) (a) A Gram Panchayat shall, unless sooner dissolved under Clause (f) of sub-section (1) of Section 95, continue for five years from the date appointed for its first meeting and no longer.

(b) An election to constitute a Gram Panchayat shall be completed -

- (i) before the expiry of its duration specified in Clause (a);
- (ii) before the expiration of a period of six months from the date of its dissolution :

Provided that were the remainder of the period for which the dissolved Gram Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Gram Panchayat.

(c) A Gram Panchayat constituted upon the dissolution of a Gram Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Gram Panchayat would have continued under Clause (a) had it not been so dissolved.

(d) The constitution of a Gram Panchayat shall be notified in such manner as may be prescribed and thereupon the Gram Panchayat shall be deemed to have been duly constituted, any vacancy therein notwithstanding :

Provided that the constitution of a Gram Panchayat shall not be so notified till the Pradhan and at least two-thirds of the members of the Gram Panchayat have been elected.

<sup>6</sup>[(3-A) However, anything contained in the other provisions of this Act, where, due to unavailable circumstances or in the public interest. It is not possible to conduct the election for constituting any village Panchayat before expiry of its terms, State Government or any authority authorized for this purpose by it, by order, may appoint an administrative committee including such number of persons, which may be considered sufficient, having eligibility to be elected as member of village Panchayat or an administrator and the members of administrative committee or administrator shall hold the office for the period, which may be specified in the aforesaid order, not more than six months and all the powers, functions and duties of the village panchayat, its Pradhan and committees, as may be, shall be vested in such administrative committee or administrator and shall be used, exercised and done by him.]

STATE AMENDMENT (UTTARANCHAL)

<sup>7</sup>["(3-A) Notwithstanding anything contained in any other provisions of this Act, where due to unavoidable circumstances or in public interest, it is not practicable to hold an election to constitute a Gram Panchayat before the expiry of its duration, the State Government or an officer authorized by it in this behalf may, by order, appoint an administrator, who shall hold office for such period not exceeding six months as may be specified in the said order and all powers, functions and duties of the Gram Panchayat its Pradhan and Committees shall vest in and be exercised, performed and discharged by such administrator.

(4) The term of a member of Gram Panchayat shall, unless

otherwise determined under the provisions of this Act, expire with the term of the Gram Panchayat.

(5) (a) In every Gram Panchayat, seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the backward classes and the number of seats so reserved shall, as nearly as may be, bear the same proportion to the total number of seats in the Gram Panchayat, as the population of the Scheduled Castes in the Panchayat area or of the Scheduled Tribes in the Panchayat area or of the backward classes in the Panchayat area bears to the total population of such area and such seats may be allotted by rotation to different territorial constituencies in a Gram Panchayat in such order as may be prescribed :

Provided that the reservation for the backward classes shall not exceed <sup>8</sup>[twenty-seven] percent of the total number of seats in the Gram Panchayat;

<sup>9</sup>[Provided further that if the figures of population of the backward classes are not available, their population may be determined by carrying out a survey in the prescribed manner.]

b) Not less than one-third of the seats reserved under Clause (a) shall be reserved for the women belonging respectively to the Scheduled Castes, the Scheduled Tribes and the backward classes.

c) Not less than one-third of the total number of seats in the Gram Panchayat, including the number of seats reserved for women under Clause (b), shall be reserved for women and such seats may be allotted by rotation to different territorial constituencies in a Gram Panchayat in such order as may be prescribed.

d) The reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

Explanation - It is clarified that nothing in this section shall prevent the persons belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes and the women from contesting election to unreserved seats.

(6) The Pradhan shall be deemed a member of the Gram Panchayat.]

1 Subs. by U.P. Act No. 29 of 1995 (Second Amendment).

2 Subs. by U.P. Act No. 21 of 1995.

3 Amendment by Uttaranchal Act No. 8 of 2002.

4 Ins. by U.P. Act No. 21 of 1995.

5 Omitted by U.P. Act No. 21 of 1995.

6 Added by U.P. Act No. 22 of 2000 (w.e.f. 18.3.2000).

7 Notification No. 217/Vidhaye Evam SansadiKarya/2002 dated 19 June 2002.

8 The word "twenty seven" read the word "Fourteen" by Uttaranchal Act No. 30 of 2005. Published in Uttaranchal Gazette Extra Part I Section (Ka) dated 11 November, 2005.

9 Ins. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1995).

**12A. Manner of election :-**

The election to the office of a Pradhan or Up- Pradhan <sup>1</sup>[\* \* \*] or a member of a Gram Panchayat shall be held to secret ballot in the manner prescribed.

1 Omitted by U.P. Act No. 9 of 1994.

**12AA. Allowances to Pradhan, Up-Pradhan and members :-**

<sup>1</sup>[12-AA Allowances to Pradhan, Up-Pradhan and members -

(1) The Pradhan and Up-Pradhan of the Gram Panchayat shall receive such allowances and honoraria as may be prescribed.

(2) The member of a Gram Panchayat, other than Pradhan and Up-Pradhan shall receive such allowances as may be prescribed.]

1 Subs. by U.P. Act No. 9 of 1994.

**12B. Meetings of Gram Panchayats :-**

<sup>1</sup>["12-B Meetings of Gram Panchayats -

<sup>2</sup>[(1) A Gram Panchayats shall ordinarily meet for the transaction of business at least once every month but two months shall not intervene between two consecutive meetings; Provided that the date to be appointed for the first meeting of a Gram Panchayat shall be within thirty days from the date of its constitution.

(2) The meetings of the Gram Panchayat shall be held at such place and in such manner as may be prescribed."

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 24 of 2001 Published in U.P. Gazette Extra Part I Section (Ka) dated 6 October, 2001.

**12BB. Superintendence, etc. of the election :-**

<sup>1</sup>[12-BB. Superintendence, etc. of the election -

<sup>2</sup>[(1) The Superintendence, direction and control of the conduct of the election to the office of the Pradhan, Up-Pradhan or a member of a Gram Panchayat shall be vested in the State Election Commission.]

<sup>3</sup>[(2) Subject to Superintendence, direction and control of the State Election Commission, the Mukhya Nirvachan Adhikari (Panchayat) shall supervise and perform all functions relating to the conduct of election to the office of Pradhan, Up-Pradhan or a member of a Gram Panchayat in the State.

<sup>4</sup>[(3) State Government with consultation of State Election Commission, by notification, shall appoint the date or dated for the general election or by election of Pradhan, Up-Pradhan or members of any village.]

1 .Subs. by U.P. Act No. 9 of 1994.

2 Renumbered as sub section (1) by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1994).

3 Ins. by U.P. Act No. 21 of 1995.

4 Ins. by Noti. No. 1246/17-V-1-1(A)-12-2000, dated 5.5.2000.

**12BC. Other provisions relating to holding of elections :-**

12-BC. Other provisions relating to holding of elections -

<sup>1</sup>[(1) Subject to the supervision and control of the State Election Commission, the District Magistrate shall supervise the conduct of all of elections of the Pradhans, the Up- Pradhans and the members of Gram Panchayats in the District.]

(2) Every local authority and the management of every educational institution receiving grant-in-aid from the State Government in the district shall, when so required by the District Magistrate make available to him or to any other officer appointed by the District Magistrate as Nirvachan Adhikari such staff as may be necessary for the performance of any duties in connection with such election.

(3) The State Election Commission may likewise require all or any of the local authorities and the managements of all or any of such institutions as aforesaid in the State to make available to any officer referred to in sub-section (2) such staff as may be necessary for the performance of any duties in connection with such election, and they shall comply with every such requisition.

(4) Where any employees of any local authority or institution referred to in sub-section (2) or sub-section (3) is appointed to perform any duty in connection with such elections he shall be bound to perform such duty.

1 Subs. by U.P. Act No. 9 of 1994.

**12BCA. Requisitions of premises vehicles, etc. for election purposes :-**

<sup>1</sup>[12-BCA. Requisitions of premises vehicles, etc. for election purposes -

(1) If it appear the District Magistrate that in connection with an elections under this Act to be held within the district -

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling place or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose for the purpose of transport of ballot boxes to or from any place, 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 performances of any duties in connection with such election, he may, by order in writing, requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further order as may appear to it 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 connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at the election.

(2) The requisition shall be affected by an order in writing addressed to the person deemed by the District Magistrate to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

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

(4) In this section -

(a) premises means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) vehicle means any vehicle used or capable of being used for the

purpose of road transport, whether propelled by mechanical power or otherwise.

1 New Section 12-BCA, 12-BCB, 12-BCC, 12-BCD, 12-BCE and 12-BCF inserted by U.P. Act No. 29 of 1995 (Second Amendment).

**12BCB. Payment of compensation :-**

(1) Whenever in pursuance of Section 12-BCA the District Magistrate requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely :

i- The rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

ii- If in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the District Magistrate for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the District Magistrate may determine;

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation it shall be referred by the District Magistrate to an arbitrator appointed in this behalf by him for determination and shall be determined in accordance with the decision of such arbitrator.

Explanation - In this sub-section, the expression person interested means the person who was in actual possession of, the premises requisitioned under Section 12- BCA immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of Section 12-BCA the District Magistrate requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the District Magistrate on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal;

Provided that whether 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 District Magistrate for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the District Magistrate may determine;

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as 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 an arbitrator appointed by the District Magistrate in this behalf may decide.

**12BCC. Power to obtain information :-**

The District Magistrate may, with a view to requisitioning any property under Section 12-BCA or determining the compensation payable under Section 12-BCB by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

**12BCD. Power of entry into and inspection of premises, etc. :-**

(1) Any person authorized in this behalf by the District Magistrate may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so what manner, an order under Section 12- BCA should be made in relation to such premises vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

(2) In this section the expressions premises and vehicle have the same meanings as in Section 12-BCA.

**12BCE. Eviction from requisitioned premises :-**

(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under Section 12-BCA may be summarily evicted from the premises by any Officer empowered by the District Magistrate in this behalf.

(2) Any Officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw,

remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

**12BCF. Release of premises from requisition :-**

(1) When any premises requisitioned under Section 12-BCA are to be released from requisition, the possession thereof shall be delivered to the person from whom possession thereof shall be delivered to the person from possession was taken at the time when the premises were requisitioned, or if there were no such person to the person deemed by the District Magistrate to be the owner of such premises, and such delivery of possession shall be a full discharge of the District Magistrate from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession to the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under Section 12-BCA is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the District Magistrate shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the District Magistrate shall not be liable for any compensation of other claim in respect of such premises for any period after the said date.]

**12BD. Breaches of official duty in connection with elections :-**

<sup>1</sup>[12-BD. Breaches of official duty in connection with elections

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

( 2 ) An offence punishable under sub-section (1) shall be cognizable.

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

(4) The persons to whom this section applies are the Nirvachan Adhikaris, Sahayak Nirvachan Adhikaris, Matdan Adhyakshas, Matdan Adhikaris and any other person appointed to perform any duty in connection with the receipt of nomination or withdrawal of candidature or the recording or counting of votes at an election, and the expression official duty shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

1 Subs. by U.P. Act No. 37 of 1978.

### **12C. Application for questioning the elections :-**

(1) The election of a person as Pradhan <sup>1</sup>[\* \* \*] or as member of a Gram Panchayat including the election of a person appointed as the Panch of the Nyaya Panchayat under Section 43 shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that -

(a) the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election, or

(b) that the result of the election has been materially affected -

i- by the improper acceptance or rejection of any nomination or;

ii- by gross failure to comply with the provisions of this Act or the rules framed thereunder.

(2) The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act.

(A) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person with the connivance of a candidate of any gratification of any person whomsoever, with the object, directly, or indirectly of including -

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

(b) an elector to vote or refrain from voting at an election; or as a reward to -

i- a person for having so stood or not stood or having withdrawn his candidature; or

ii- an elector for having voted or refrained from voting.

(B) Undue influence, that is to say, any direct or indirect

interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right; Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who -

i- threatens any candidate, or any elector, or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

ii- induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

(3) This application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed.

Explanation - Any person who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidates at the election.

(4) The authority to whom the application under sub-section (1) is made shall in the matter of -

i- hearing of the application and the procedure to be followed at such hearing;

ii- setting aside the election, or declaring the election to be void or declaring the applicant to be duly elected or any other relief that may be granted to the petitioner, have such powers and authority as may be prescribed.

(5) Without prejudice to generality of the powers to be prescribed under subsection (4) the rules may provide for summary hearing and disposal of an application under sub-section (1).

<sup>2</sup>[(6) Any party aggrieved by an order of the prescribed authority upon an application under sub-section (1) may, within thirty days from the date of the order, apply to the District Judge for revision of such order on any one or more the following grounds, namely -

(a) that the prescribed authority has exercised a jurisdiction not vested in it by law;

(b) that the prescribed authority has failed to exercise a jurisdiction so vested;

(c) that the prescribed authority has acted in the exercise of its jurisdiction illegally or with material irregularity.

(7) The District Judge may dispose of the application for revision himself or may assign it for disposal to any Additional District Judge, Civil Judge or Additional Civil Judge under his administrative control and may recall it from any such officer or transfer it to any other such officer.

(8) The revising authority mentioned in sub-section (7) shall follow such procedure as may be prescribed, and may confirm, vary or rescind the order of the prescribed authority or remand the case to the prescribed authority for re-hearing and pending its decision pass such interim orders as may appear to it to be just and convenient.

(9) The decision of the prescribed authority, subject to any order passed by the revising authority under this section, and every decision of the revising authority passed under this section, shall be final.]

1 Omitted by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 37 of 1978, dated 30th December, 1978 for subsection (6)..

**12D. XXX XXX XXX :-**

The provisions of Section 12-C shall mutatis mutandis apply to the election of person as Up-Pradhan of a <sup>1</sup>[Gram Panchayat], Sarpanch or Sahayak Sarpanch of a Nyaya Panchayat.

1 Subs. by U.P. Act No. 9 of 1994.

**12E. Oath of office :-**

(1) <sup>1</sup>[Every person] shall, before entering upon any office referred to in Sections (11-A, 12), 43 or 44, make and subscribe before such authority as may be prescribed on oath or affirmation in the form to be prescribed.

(2) Any member who declines or otherwise refuses to make and subscribe such oath or affirmation as aforesaid shall be deemed to have vacated the office forthwith.

1 Subs. by U.P. Act No. 9 of 1994.

**12F. Registration :-**

A Pradhan, Up-Pradhan or a member of Gram Panchayat may, by writing under his hand addressed to such authority as may be

prescribed, resign his office and his office shall thereupon become vacant.

**12G. General Election :-**

<sup>1</sup>[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

**12H. Casual Vacancy :-**

<sup>1</sup>[12-H. Casual Vacancy

- If a vacancy in the office of the Pradhan, Up-Pradhan or a member of a Gram Panchayat arises by reason of his death, removal, resignation, voidance of his election or refusal to take oath of office, it shall be filled before the expiration of a period of six months from the date of such vacancy, for the remainder of his term in the manner, as far as may be, provided in Sections 11-B, 11- C, or 12, as the case may be :

Provided that if on the date of occurrence of such vacancy the residue of the term of the Gram Panchayat is less than six months, the vacancy shall not be filled.]

1 Subs. by U.P. Act No. 33 of 1999.

**12I. Jurisdiction of Civil Courts in election matters barred :-**

No Civil Court shall have jurisdiction to question in legality of any action taken or any decision given by an officer or authority appointed under this Act in connection with the conduct of elections thereunder.

**12J. Temporary arrangement in certain cases :-**

<sup>1</sup>[Where the office of Pradhan is vacant by reason of death, removal, resignation or otherwise or where the Pradhan is incapable to act by reason of absence, illness or for any reason whatsoever, the prescribed authority shall nominate a member of the Gram Panchayat, to discharge the duties and exercise the powers of Pradhan until such vacancy in the office of Pradhan is filled in, or until such incapacity of Pradhan is removed.

1 Section 12-J subs. by U.P. Act No. 44 of 2007. Published in U.P. Gazette Part I Section (Ka) dated 10th December, 2007 (w.e.f. 20 August, 2007).

**12K. Tenure of Office of Pradhan and Up-Pradhan :-**

## **12K. Tenure of Office of Pradhan and Up-Pradhan :-**

**1**[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

## **13. Annual estimate of income and expenditure :-**

**1**[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

## **14. Removal of Pradhan :-**

**1**[\* \* \*] -

"**2**(1) The Gram Sabha may at a meeting specially convened for the purpose and of which atleast 15 days previous notice shall be given, remove the Pradhan by a majority of two-thirds of the members of the Gram Sabha present and voting.

(1-A) Notwithstanding anything contained in Section 11, one-third of the members of the Gram Sabha shall form the quorum for a meeting under subsection (1)."

(2) A meeting for the removal of a Pradhan shall not be convened within **3**[two years] of his election.

(3) If the motion is not taken up for want of quorum or fails for lack of requisite majority at the meeting no subsequent meeting for the removal of the same Pradhan shall be convened within one year of the date of the previous meeting.

(4) Subject to the provisions of this section, the procedure for the removal of a Pradhan, including that to be followed at such meeting, shall be such as may be prescribed.

1 Word "and Up-Pradhan" omitted by U.P. Act No. 24 of 2001. Published in U.P. Gazette Extra Part I, Section (Ka) dated 6th October, 2001.

2 Subs. by Act No. 24 of 2001.

3 Subs. by Act No. 21 of 1998.

## **14A. Punishment for failure to handover records etc. :-**

(1) If any person on ceasing to act as Pradhan, Sarpanch or Sahayak Sarpanch willfully fails, in spite of being required to do so by the prescribed authority, to handover all records, money or other property of **1**[Gram Sabha], Gram Panchayat or Nyaya

Panchayat as the case may be, to his successors or to any person authorized in this behalf by the prescribed authority, he shall be punishable with imprisonment which may extend to three years or with fine or with both.

(2) Without prejudice to the provisions of sub-section (1), any such money may on a certificate issued in that behalf by the prescribed authority be recovered as arrears of land revenue.

1 Subs. by U.P. Act No. 9 of 1994.

#### **14B. Removal of Up-Pradhan :-**

<sup>1</sup>[14-B. Removal of Up-Pradhan

(1) The Gram Panchayat may at a meeting specially convened for the purpose and of which at least fifteen days previous notice shall be given, remove the Up-Pradhan by a majority of two-thirds of the members of the Gram Panchayat.

<sup>2</sup>[(1) Removal of Up-Pradhan - The Gram Panchayat may at a meeting specially convened for the purpose and of which at least fifteen days previous notice shall be given, remove the Up-Pradhan by a majority of two-thirds of the members of the Gram Panchayat.

(2) A meeting for the removal of an Up-Pradhan shall not be convened within two years of election.

(3) If the motion is not taken up for lack of requisite majority at the meeting, no subsequent meeting for the removal of the same Up-Pradhan shall be convened within two years of the date of the previous meeting.

(4) Subject to the provisions of this section, the procedure for the removal of an Up-Pradhan, including that to be followed at such meeting, shall be such as may prescribed.".

1 Section 14-B Ins. by U.P. Act No. 24 of 2001, Pub. In U.P. Gazette Extra Part I Section (Ka), dated 6 October, 2001 and now omitted by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10 December 2007 (w.e.f. 20 August 2007).

2 Sub-section (1) subs. place of sub-section (1) by Uttarakhand Act No. 5 of 2007. Published in Uttarakhand Gazette Extra Part I Section (Ka) dated 17th July, 2007.

**CHAPTER 4** Powers, Duties, Functions and Administration of Gram Panchayat

#### **15. Functions of Gram Panchayat :-**

## <sup>1</sup>[15. Functions of Gram Panchayat

Subject to such conditions as may be specified by the State Government, from time to time, a Gram Panchayat shall perform the following functions, namely -

i- Agriculture including agricultural extension -

- (a) Promotion and development of agriculture and horticulture,
- (b) Development of wastelands and grazing lands and preventing their unauthorized alienation and use.

ii - Land and development, land reform implementation, land consolidation and soil conservation;

- (a) Assisting the Government and other agencies in land development, land reform and soil conservation.
- (b) Assisting in land consolidation.

iii- Minor irrigation, water management and watershed development;

- (a) Managing and assisting in water distribution from minor irrigation projects.
- (b) Construction, repair and maintenance of minor irrigation projects, regulation of supply of water for irrigation purpose.

iv- Animal husbandry, dairying and poultry;

- (a) Improving breed of cattle, poultry, and other live stock.
- (b) Promotion of dairying, poultry, piggery etc.

v- Fisheries -

- (a) Development of fisheries in the villages.

vi- Social and farm forestry;

- (a) Planting and preserving trees on the sides of roads and public lands.
- (b) Development and promotion of social and farm, forestry and sericulture.

vii- Minor forest produce;

Promotion and development of minor forest produce.

viii- Small industries;

- (a) Assisting in the development of agriculture and commercial industries.
- (b) Promotion of local trades.

ix- Cottage village industries;

- (a) Assisting in the development of agricultural and commercial industries.
- (b) Promotion of cottage industries.

x- Rural housing;

- (a) Implementation of rural housing programmes.
- (b) Distribution house sites and maintenance of records relating to

them.

xi- Drinking water;

Construction, repair and maintenance of public wells, tanks and ponds for supply of water for drinking, washing, bathing purposes and regulation of sources of water supply for drinking purposes.

xii- Fuel and fodder land;

(a) Development of grass and plants relating to fuel and fodder land.

(b) Control on irregular transfer of fodder land.

xiii- Roads, Culverts, bridges, ferries, water-ways and other means of communication;

(a) Construction and maintenance of village roads, bridges, ferries and culverts.

(b) Maintenance of water-ways.

(c) Removal of encroachment on public places.

xiv- Rural electrification;

Provision for and maintenance of lighting of public street and other places.

xv- Non-conventional energy source;

Promotion and development of programmes of non-conventional energy source and its maintenance in village.

xvi- Poverty alleviation programmes;

Promotion and implementation of poverty alleviation programmes.

xvii- Education including primary and secondary schools; Public awareness about education.

xviii- Technical training and vocational education;

Promotion of rural art and artisans.

xix- Adult and informal education;

Promotion of adult literacy.

xx- Library

Establishment and maintenance of libraries and reading rooms.

xxi- Sports and cultural affairs;

(a) Promotion of social and cultural activities.

(b) Organising cultural seminars on different festivals.

(c) Establishment and maintenance of rural clubs for sports.

xxii- Markets and fairs;

Regulation of melas, markets and hats in Panchayat areas.

xxiii- Medical and sanitation

(a) Promoting rural sanitation.

(b) Prevention against epidemics.

(c) Programmes of human and animal vaccination.

(d) Preventive actions against stray cattle and live stock.

(e) Registering births, deaths, and marriages.

xxiv- Family welfare;

Promotion and implementation of family welfare programmes.

xxv- Plan for economic development;

Preparation of plan for economic development of the area of the Gram Panchayat.

xxvi- Maternity and child development

(a) Participation in the implementation of women and child welfare programmes at Gram Panchayat level.

(b) Promoting child health and nutrition programme.

xxvii- Social welfare including welfare of the handicapped and mentally retarded;

(a) Assisting in old-age and widow pension schemes.

(b) Participation in the social welfare programmes including welfare of the handicapped and the mentally retarded.

xxviii- Welfare of the weaker sections and in particular of the Scheduled Castes and the Scheduled Tribes;

(a) Participation in the implementation of the specific programmes for the Scheduled castes, the Scheduled Tribes and other weaker sections of the society.

(b) Preparation and implementation of schemes for social justice.

xxix- Public distribution system;

(a) Promotion of public awareness with regard to the distribution of essential commodities.

(b) Monitoring the public distribution system.

xxx- Maintenance of community assets;

Preservation and maintenance of community assets.

1 Section 15-A and 16 have been substituted by U.P. Act No. 9 of 1994.

### **15A. Preparation of plan :-**

<sup>1</sup>[15-A. Preparation of plan

A Gram Panchayat shall prepare every year a development plan for the Panchayat area and submit it to the Kshettra Panchayat concerned before such date and in such form and manner as may be prescribed.

1 Subs. by U.P. Act No. 9 of 1994.

### **16. Functions that may be assigned to Gram Panchayat :-**

<sup>1</sup>[16. Functions that may be assigned to Gram Panchayat

The State Government may, by notification, and subject to such conditions as may be specified therein, assign to Gram Panchayat any or all of the following functions, namely -

- (a) management and maintenance of a forest situated in the Panchayat area;
- (b) management of waste lands, pasture lands or vacant lands belonging to the Government situated within the Panchayat area;
- (c) Collection of any tax or land revenue and maintenance of related records.]

1 Subs. by U.P. Act No. 9 of 1994.

**16A. Power to make contributions for organizations, etc. outside jurisdiction :-**

A <sup>1</sup>[Gram Panchayat] may contribute such amounts for such organizations, institutions and functions outside the jurisdiction of the Gram Panchayat as the State Government may be general or special order permit.

1 Subs. by U.P. Act No. 9 of 1994.

**17. Power of Gram Panchayats as to public streets, waterways and other matters :-**

A Gram Panchayat shall have control of the public streets, water-ways, other than canals as defined in sub-section (1) of Section 3 of the Northern India Canal and Drainage Act, 1873, situate within its jurisdiction not being a private street or water-ways and not being under the control of the State Government or the <sup>1</sup>[Zila Panchayat] or any other authority specified by the State Government and may do all things necessary for the maintenance and repair thereof, and may

- (a) construct new bridges and culverts;
- (b) divert, discontinue or close any public street, culvert or bridge;
- (c) widen, open, enlarge for otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;
- (d) deepen or otherwise improve water-ways;
- (e) with the sanction of the prescribed authority and where a canal exists under the Northern India Canal and Drainage Act 1873; with the sanction also of such officer of the Irrigation Department as the State Government may prescribe, undertake small irrigation projects in addition to those specified by order under clause (u), section 15;

(f) cut any hedge or branch of any tree projection on a public street;

(g) notify the setting apart of any public water-course for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing other acts likely to pollute the course so set apart; Provided that nothing shall be done under clause (g) which may affect a canal governed by the Northern India Canal and Drainage Act, 1873, without the prior permission of the authority prescribed by the State Government in this behalf.

1 Subs. by U.P. Act No. 9 of 1994.

### **18. Improvement of sanitation :-**

For the improvement of sanitation, a <sup>1</sup>[Gram Panchayat] may, by notice, direct the owner or occupier of any land or building, taking into consideration his financial position and giving him reasonable time for compliance thereof -

(a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cesspool or refuse pertaining to such land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;

(b) to cleanse, repair, cover, fill up, drain off, deepen, or to remove water from a private well, tank, reservoir, pool, pit, depression, or excavation therein which may appear to the Gram Panchayat to be injurious to health or offensive to the neighbourhood;

(c) to close off any vegetation, undergrowth, prickly pear or scrub-jungle;

(d) to remove any dirt, dung, night-soil manure or any noxious or offensive matter therefrom and to cleanse the land or building; Provided that a person on whom a notice under clause (b) is served may, within 30 days of the receipt of notice, appeal to the District Medical Officer of Health against the said notice who may vary, set aside or confirm it.

1 Subs. by U.P. Act No. 9 of 1994.

### **19. Maintenance and improvement of schools and Hospitals :-**

(1) Gram Panchayat -

(a) shall, subject to such rules as may be prescribed regarding the curriculum, employment and qualification of teachers and supervision of a school, maintain any existing primary school including the buildings and furniture thereof and be responsible for its proper working and may similarly establish and maintain a new school or improve any existing school;

(b) shall, subject to such rules as may be prescribed regarding the establishment, maintenance and supervision, maintain any existing Ayurvedic, (Homoeopathic) or Unani hospital or dispensary including the building and equipments thereof and may similarly establish and maintain a new hospital or dispensary for one or more the systems of medicine mentioned above.

(2) The Zila Panchayat and the State Government shall make such grants for such schools, hospitals or dispensary may be prescribed.

**19A. XXX XXX XXX :-**

19-A <sup>1</sup>[\* \* \*]

1 Deleted by U.P. Act No. 37 of 1978.

**20. Establishment of primary school, hospital, dispensary, road or bridge for a group of Gram Panchayat :-**

Where a group of neighbouring <sup>1</sup>[Gram Panchayat] has no primary school or Ayurvedic, Homoeopathic or Unani hospital or dispensary, or it needs a road or bridge for its common benefit, the Gram Panchayats thereof shall, if so directed by the prescribed authority, combine to establish and maintain such a school, hospital or dispensary, or to construt and maintain such a road or bridge, and it shall be managed and financed in the manner prescribed. The State Government and Zila Panchayat shall make such grants for such school, hospital, dispensary, road or bridge as prescribed.

1 Subs. by U.P. Act No. 9 of 1994.

**21. Assistance to Government servants :-**

A Gram Panchayat shall, if so prescribed by the State Government and so far as practicable, assist any Government servant in the performance of his duties within its area.

**22. Representations and recommendations by Gram Panchayats :-**

A Gram Panchayat may make to the proper authority -

- (a) any representation concerning the welfare of the persons residing within its jurisdiction, and
- (b) any recommendation as to the appointment, transfer or dismissal of patrol of the Irrigation Department, Patwari (or Lekhpal, village Choukidar) or Mukhia serving in any area within the jurisdiction of such Gram Panchayat.

**23. Power to enquire and report about the misconduct of certain official :-**

On receiving a complaint from any person, residing within the jurisdiction of a Gram Panchayat about any misconduct in the discharge of his official duties by any amin, process-server, vaccinator constable, [village choukidar], patwari, [Patrol and Tubewell operator of the Irrigation Department, forest guard, forest chowkidar, Teacher of a primary school, pond keeper, village stockman] or peon of any Government Department, such Panchayat may, if there be prima facie evidence, forward the complaint to the proper authority with its own report. The authority shall, after such further enquiry which may be required, take suitable action and inform the Gram Panchayat of the result.

**24. Power to contract for collection of taxes and other dues for properties :-**

A Gram Panchayat may, as prescribed and in respect of any area within its jurisdiction enter into a contract -

- (a) with the State Government or any local authority to collect any taxes or dues payable to State or to such local authority upon payment of such collection charges as may be prescribed; or
- (b) with the State Government or any local authority for carrying out any work on such terms as may be agreed upon.

**25. Staff :-**

<sup>1</sup>[25. Staff

(1) Notwithstanding anything contained in any other provisions of this Act, any Uttar Pradesh Act, rules, regulations or bye-laws or in any judgement, decree or order of any Court, -

- (a) the State Government may, by general or special order, transfer any employee or class of employees serving in connection

with the affairs of the State to serve under Gram Panchayats with such designation as may be specified in the order and thereupon posting of such employee or employees in Gram Panchayats of a district shall be made by such authority in such manner as may be notified by the State Government.

(b) The employee or employees on being so transferred and posted in a Gram Panchayat, shall serve under the supervision and control of the Gram Panchayat on the same terms and conditions and with the same rights and privileges as to retirement benefit and other matters including promotion as would have been applicable to him immediately before such transfer and shall perform such duties as may be specified from time to time by the State Government.

(2) Subject to the provisions of sub-section (1), a Gram Panchayat may, after prior approval of the prescribed authority, appoint from time to time such employee as may be considered necessary for efficient discharge of its functions under this Act in accordance with such procedure as may be prescribed;

Provided that the Gram Panchayat shall not create any post except with the previous approval of the prescribed authority.

(3) The Gram Panchayat shall have power to impose punishment of any description upon the employees appointed under sub-section (2) subject to such conditions and restrictions and in accordance with such procedure as may be prescribed.

(4) The Gram Panchayat may delegate to the Pradhan or to any of its committees, subject to such conditions and restrictions as may be prescribed, the power to impose any minor punishment upon the employees appointed under subsection (2).

(5) An appeal from an order imposing any punishment on an employee under sub-section (3) shall lie to such officer or committee as may be specified by the State Government by notification.

(6) The prescribed authority may, subject to such conditions as may be prescribed, transfer any employee referred to in clause (b) of sub-section (1) from one Gram Panchayat to any other Gram Panchayat within the same district and the State Government or such other officer as may be empowered in this behalf by the State Government may similarly transfer any such employee from one district to another.

(7) A Nyaya Panchayat may, with the previous approval of the prescribed authority, appoint any person on its staff in the manner prescribed. The person so appointed shall be under the administrative control of the prescribed authority who shall have

power to transfer, punish, suspend, discharge or dismiss him.

(8) Appeal shall lie from an order of the prescribed authority punishing, suspending, discharging or dismissing a person under sub-section (7) to an authority appointed in this behalf by the State Government.

1 Section 25 and 25-A Subs. by U.P. Act No. 27 of 1999.

### **25A. Secretary :-**

<sup>1</sup>[25-A. Secretary

The State Government, or such officer or authority as may be empowered by it in this behalf shall appoint a Secretary from amongst the employees referred in clause (b) of sub-section (1) or sub-section (2) of Section 25, who shall act as Secretary of such Gram Panchayat or Gram Panchayats, the Gram Sabhas concerned and the Nyaya Panchayats within whose territorial limits such Gram Panchayats are situated and perform such other duties as may be specified by the State Government or such officer or authority as may be empowered in this behalf by the State Government.]

1 Subs. by U.P. Act No. 27 of 1999 (w.e.f. 27.6.1999).

### **26. Right of individual members. :-**

A member of a Gram Panchayat may at any meeting, move any resolution and put question to the Pradhan and Up-Pradhan on matters connected with the administration of the Gram Panchayat in the manner prescribed.

### **27. Surcharge :-**

<sup>1</sup>[27. Surcharge

(1) Every Pradhan or Up-Pradhan of a Gram Panchayat every member of a <sup>2</sup>[Gram Panchayat] or of a Joint Committee or any other committee constituted under this Act and every Sarpanch, Sahayak Sarpanch or Panch of a Nyaya Panchayat shall be liable to surcharge for the loss, waste or misapplication of money or property <sup>2</sup>[belonging to the Gram Panchayat or Nyaya Panchayat] as the case may be, if such loss, waste or misapplication is direct consequence of his neglect or misconduct while he was such Pradhan, Up-Pradhan, member, Sarpanch, Sahyok Sarpanch or Panch;

Provided that such liability shall cease to exist after the expiration

of the years from the occurrence of such loss, waste or misapplication, or five years from the date on which the person liable ceases to hold his office, whichever is later.

(2) The prescribed authority shall fix the amount of the surcharge according to the procedure that may be prescribed and shall certify the amount to the Collector who shall, on being satisfied that the amount is due, realize it as if were an arrear of land revenue.

(3) Any person aggrieved by the order of the prescribed authority fixing the amount of surcharge may, within thirty days of such order, appeal against the order to the State Government or such other appellate authority as may be prescribed.

(4) Where no proceeding for fixation and realization of surcharge as specified in sub-section (2) is taken the State Government may institute a suit for compensation for such loss, waste or misapplication, against the person liable for the same.

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 9 of 1994.

## **28. Members and servants to be public servants :-**

Every member or servant of a Nyaya Panchayat, a Gram Panchayat, a joint committee or any other committee constituted under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

## **28A. Bhumi Prabandhak Samiti :-**

<sup>1</sup>[28-A. Bhumi Prabandhak Samiti

(1) The [Gram Panchayat] <sup>2</sup>[\* \* \*] shall also be Bhumi Prabandhak Samiti and as such discharge the duties of up-keep, protection and supervision of all property belonging to or vested in or held by the Gram Panchayat under Section 117 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act No. 1 of 1951) or under any other provisions of that Act.

<sup>3</sup>[(2) The Pradhan shall be the Chairperson of the Bhumi Prabandhak Samiti, and the Lekhpal of the area comprised in the jurisdiction of the <sup>4</sup>[Gram Panchayat] shall be its Secretary.

1 Subs. by U.P. Act No. 39 of 1973.

2 The words "of every Gaon Sabha" omitted by U.P. Act No. 9 of 1994.

3 Sub-section (2) swubs. By U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part 1 Section (Ka) dated 10th December, 2007 (w.e.f. 20 August, 2007).

4 Subs. by U.P. Act No. 9 of 1994.

**28B. Functions of the Bhumi Prabandhak Samiti :-**

(1) The Bhumi Prabandhak Samiti shall, for and on behalf of the [Gram Panchayat] be charged with the general management, preservation and control of all property referred to in Section 28-A including -

(a) the settling and management of land but not including the transfer of any property for the time being vested in the <sup>1</sup>[Gram Panchayat] under Section 117 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act 1950 (U.P. Act No. 1 of 1951) or under any other provision of that Act;

(b) the preservation, maintenance and development of forests and trees;

(c) the maintenance and development of abadi sites and village communication;

(d) the management of hats, bazaars and meals;

(e) the maintenance and development of fisheries and tanks;

(f) the rendering of assistance in the consolidation of holdings;

(g) the conduct and prosecution of suits and proceedings by or against the Gram Panchayat relating to or arising out of the functions of Samiti;

(h) the performance of functions specifically assigned to the Bhumi Prabandhak Samiti under the U.P. Zamindari Abolition and Land Reforms Act, 1950 or any other enactment; and

(i) any other matter relating to such management, preservation and control as may be prescribed; and may exercise all powers of the <sup>1</sup>[Gram Panchayat] necessary for or incidental to the discharge of such duties.

(2) The Bhumi Prabandhak Samiti shall function subject to the provisions of the U.P. Zamindari Abolition and Land Reforms Act, 1950.

<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

**28C. Members and officers not to acquire interest in contract etc., with Bhumi Prabandhak Samiti :-**

(1) No member or office bearer of [Gram Panchayat] or Bhumi

Prabandhak Samiti shall, otherwise than with the permission in writing of the Collector, knowingly acquire or attempt to acquire or stipulate for or agree to receive or continue to have himself or through a partner or otherwise any share or interest in any licence, lease, sale exchange, contract or employment with, by or on behalf of the Samiti concerned;

Provided that a person shall not be deemed to acquire or attempt to acquire or continue to have or stipulate for or agree to receive any share or interest in any contract or employment by reason only of his -

(a) having acquired any interest before he became a member or office bearer;

(b) having a share in a joint stock company which makes the contract; and

(c) having a share or interest in the occasional sale through the Samiti concerned of an article in which he regularly trades upto a value not exceeding Rs. 50 in any one year.

(2) No court or other authority shall enforce at the instance of any person a claim based upon a transaction in contravention of the provisions of subsection (1).

## **29. Committees :-**

### **<sup>1</sup>[29. Committees**

(1) Notwithstanding anything to the contrary contained in any other provisions of this Act or the rules made thereunder, every Gram Panchayat shall constitute such committee or committees as may be notified by the State Government from time to time, to assist the Gram Panchayat in the performance of all or any of its functions and may delegate to such committee or committees such of its powers or functions as it may deem fit.

(2) Every committee constituted under sub-section (1) shall consist of a Chairman and six other members, who shall be elected by the members of the Gram Panchayat from amongst themselves in the prescribed manner; Provided that in each such committee there shall be atleast one woman member, one member belonging to the Scheduled Castes or the Scheduled Tribes and one member belonging to backward classes;

Provided further that the State Government may, by notification, direct that the Pradhan or Up-Pradhan or any other member of Gram Panchayat shall be the Chairman of any such committee.]

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### **30. Joint Committee :-**

(1) Subject to such rules as may be prescribed, two or more <sup>1</sup>[Gram Panchayat] may combine by means of a written instrument to appoint a joint committee consisting of other representatives, for the purpose of transacting any business in which they are jointly interested and may -

(a) delegate to such Committee Power, with such conditions as they may think proper to impose, to frame any scheme binding on each Gram Panchayat as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Gram Panchayat in relation to such scheme; and

(b) frame or modify rules regarding the continuation of such committee and the terms of office of members thereof and the method of conducting proceedings and correspondence.

(2) If any difference of opinion arises between the Gram Panchayats acting under this section, it shall be referred to the prescribed authority whose decision thereon shall be final.

(3) Where the prescribed authority so directs, two or more Gram Panchayats shall appoint a joint committee under this section for the joint discharge of any of the functions specified in Sections 15 and 16.

1 Subs. by U.P. Act No. 33 of 1999.

### **31. Delegation :-**

<sup>1</sup>[\* \* \*]

1 Omitted by U.P. Act No. 9 of 1994.

## **CHAPTER 5 Acquisition of Land, Gaon Fund and Property**

### **32. Gaon Fund :-**

(1) There shall be a Gaon Fund for each <sup>1</sup>[Gram Panchayat] and the same shall, subject to the provisions of the annual estimate of income and expenditure passed under Section 41, be utilized for carrying out the duties or obligation imposed upon the Gram Sabha or the Gram Panchayat or any committee thereof by this or any other enactment;

Provided that such amount up to the total of all sums credited to the Gaon Fund under the Uttar Pradesh Zamindari Abolition and

Land Reforms Act, 1950, minus the amount credited to the Consolidated Gaon Fund under Section 125-A of that Act as may be required by the Bhumi Prabandhak Samiti for being utilized in carrying out its duties or obligations shall be made available out of the Gaon Fund to the Bhumi Prabandhak Samiti every year;

Provided further that in the event of any difference between the Bhumi Prabandhak Samiti on the one hand and the Gram Panchayat or Gram Sabha on the other hand about the requirements of funds by the Bhumi Prabandhak Samiti the matter shall be referred by the Pradhan to the prescribed authority whose decision shall be binding.

(2) The following shall be credited to the Gaon Fund.

(a) The proceeds of any tax imposed under this Act.

(b) All sums handed over by the State Government to the <sup>2</sup>[Gram Panchayat.]

(c) The balance, if any, standing to the credit of the village Panchayat previously in existence under the Village Panchayat Act.

(d) All sums ordered by a Court [or required under any law] to be placed to the credit of the Gaon Fund.

(e) All sums received under Section 104.

(f) The sale proceeds of all dust, dirt, dung or refuse including the dead bodies of animals collected by the servants of the Gram Panchayat.

(g) Such portion of the rent or other proceeds of nazul property as the State Government may direct to be placed to the credit of the Gaon Fund.

(h) Sums contributed to the Gaon Fund by any <sup>3</sup>[Zila Panchayat] or other local authority.

(i) All sums received by way of loan or gift.

(j) Such other sums as may be assigned to the Gaon Fund by any special or general order to the State Government.

(k) All sums received by the Gram Panchayat from any individual or corporation or the State Government under Section 24 or any other law.

<sup>4</sup>[(1) All sums received by way of grants-in-aid from the consolidated fund of the State.

(3) Nothing in this Act shall affect any obligation of a <sup>5</sup>[Gram Panchayat] arising from a trust legally imposed upon or accepted by it.

<sup>6</sup>[(4) All withdrawal of moneys from the Gaon Fund and disbursement thereof shall be made jointly by the Pradhan and the

Secretary of the Gram Panchayat].

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 9 of 1994.

3 Subs. by U.P. Act No. 9 of 1994.

4 Ins. by U.P. Act No. 9 of 1994.

5 Subs. by U.P. Act No. 9 of 1994.

6 Ins. by U.P. Act No. 9 of 1999.

### **32A. Finance Commission :-**

<sup>1</sup>[32-A. Finance Commission

(1) The Governor shall, as soon as may be, within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Gram Panchayat, Kshettra Panchayat and Zila Panchayat and to make recommendations to the Governor as to -

(a) the principles which should govern -

i- the distribution between the State and the Gram Panchayats, Kshettra Panchayats and Zila Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Gram Panchayats, Kshettra Panchayats and Zila Panchayats of their respective shares of such proceeds;

ii- the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by the Gram Panchayats, Kshettra Panchayats and Zila Panchayats;

iii- the grants-in-aid to the Gram Panchayats, Kshettra Panchayats and Zila Panchayats;

(b) the measures needed to improve the financial position of the Gram Panchayats, Kshettra Panchayats and Zila Panchayats;

(c) any other matter referred to the Financial Commissions by the Governor in the interest of sound finance of the Gram Panchayats, Kshettra Panchayats and Zila Panchayats;

(2) The Finance Commission shall consist of Chairman and two other members who shall possess such qualifications and shall be selected in such manner as may be prescribed.

(3) The Finance Commission shall determine their procedure.

(4) The Chairman or a member of the Finance Commission may

resign his office by writing under his hand addressed to the Governor but shall continue in his office till the resignation is accepted.

(5) A casual vacancy in the office of the Chairman or a member of the Finance Commission may be filled for the remained of the period of his predecessor.

(6) The Finance Commission shall have the following powers for the performance of its functions, namely -

(a) call for any record from any officer or authority;

(b) summon any person to give evidence or produce a record; and

(c) such other powers as may be prescribed;

(7) The Governor shall cause every recommendation made by the Finance Commission under this section together with an explanatory memorandum as to the action, taken thereon to be laid before both the Houses of State Legislature.

1 Ins. by U.P. Act No. 9 of 1994.

### **33. Power to acquire land :-**

Where a Gram Panchayat or a number of Gram Panchayats which have combined under the provisions of Section 20 or 30 require any land to carry out any purposes of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Gram Panchayat or Gram Panchayats may make any application in the prescribed form to the Collector to acquire land and the Collector may acquire such land for such Gram Panchayat nf Gram Panchayats.

Explanation - In this chapter the expression land includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

### **34. Property vested in the [Gram Panchayat] :-**

34. Property vested in the <sup>1</sup>[Gram Panchayat]

(1) Subject to any special reservation made by the State Government, all public property situated within the jurisdiction of Gram Panchayat shall vest in and belong to the Gram Panchayat and shall, with all other property which may become vested in the Gram Panchayat, be under its direction, management and control.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the Gram Panchayat and the Gram Panchayat shall receive to the credit of the Gaon

Fund all dues levied or imposed in respect thereof.

1 Subs. by U.P. Act No. 9 of 1994.

### **35. Disposal of claims :-**

Where any dispute arises as regards the ownership of any property mentioned in Section 34 between a Gram Panchayat and any person, the Gram Panchayat shall give such person a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Gram Panchayat.

### **36. Power to borrow :-**

A <sup>1</sup>[Gram Panchayat] may borrow money from the State Government or with the prior sanction of the prescribed Authority and subject to such conditions as may be prescribed from any financial corporation established by law or any scheduled bank or the Uttar Pradesh Co-operative Bank or a District Cooperative Bank [or from any other Gram Panchayat] to carry out any of the purposes of this Act.

1 Subs. by U.P. Act No. 9 of 1994.

### **37. Imposition of taxes and fees :-**

(1) A <sup>1</sup>[Gram Panchayat] shall levy the taxes described in clauses (a) and (b) and may levy all or any of the taxes, fees and rates described in clauses (c), (d), (e), (f), (g), (h), (i), (j), and (k), hereinafter appearing namely :

(a) in areas where the right, title and interest of intermediaries have been acquired under the Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act No. 1 of 1952), the Jaunsar Bawar Zamindari Abolition and Land Reforms Act, 1956 (U.P. Act XI of 1956) or the Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960 (U.P. Act XVII of 1960) a tax on land <sup>1</sup>[not less than twenty-five paise by not exceeding fifty paise] in a rupee on the amount of land revenue payable or deemed to be payable therefor;

Provided that where the land is in the actual cultivation of a person other than the person by whom the land revenue therefore is payable or deemed to be payable the tax shall be payable by the person in actual cultivation.

(b) in areas other than those referred to in clause (a), a tax on land

revenue [not less than twenty five paise but not exceeding fifty paise] in a rupee on the amount of land revenue payable by a tenant, by whatever name called, under the law in force relating to land tenures;

Provided that where the land is in the actual cultivation of the person other than the person liable to pay land revenue therefore, the tax shall be payable by the person in actual cultivation of such land.]

<sup>2</sup>[(c) a tax on theater, cinema or similar entertainment temporarily stationed in the area of the <sup>2</sup>[Gram Panchayat] not exceeding five rupees per diem;

(d) a tax payable by the owner thereof on animals and vehicles other than mechanically propelled vehicles kept within the area of the <sup>3</sup>[Gram Panchayat] and plied for hire, at there rate -

i- in the case of animals, not exceeding three rupees per animal per annum;

ii- in the case vehicles, not exceeding six rupees per vehicle per annum;

(e) a tax on person, not being persons assessed to tax under clause © exposing goods for sale in markets, hats, or melas belonging to or under the control of the Gram Panchayat concerned;

(f) fees on the registration of animals sold in any market or place belonging to or under the control of the Gram Panchayat;

(g) fees for the use of slaughter-houses and encamping grounds;

(h) a water rate where water for domestic consumption is supplied by the Gram Panchayat;

(i) a tax for cleaning private latrines and drains payable by the owners or occupiers of the houses to which the private latrine or drain is attached, where such cleaning is done through the agency of the Gram Panchayat;

<sup>4</sup>[(j) a tax for cleaning and lighting of streets and sanitation;]

(k) an irrigation rate where water for irrigation purposes is supplied by the Gram Panchayat from any small irrigation project constructed or maintained by it, and

<sup>5</sup>[(l) any other tax which the State Legislature has the power under the Constitution, including Article 277 thereof, to impose in the State and of which imposition by the Gram Panchayat has been authorized by the State Government.]

(2) The taxes, rates and fees under sub-section (1) shall be imposed, assessed and realised in such manner and at such times as may be prescribed.

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 9 of 1994.

3 Subs. by U.P. Act No. 9 of 1994.

4 Subs. by U.P. Act No. 9 of 1994.

5 Ins. by U.P. Act No. 9 of 1994.

**37A. Appeal against levy of tax, rates or fee :-**

(1) An appeal against the levy of a tax, rate or fee by the <sup>1</sup>[Gram Panchayat] shall lie to the prescribed authority.

(2) Where it is brought to the notice of the prescribed authority, that a tax, rate or fee has not been imposed on any person on whom it should have been imposed, it may direct the [Gram Panchayat] to impose it on that person or persons and th [Gram Panchayat] shall thereupon act accordingly.

1 Subs. by U.P. Act No. 9 of 1994.

**37B. Taxes and dues recoverable as arrears of land revenue :-**

All dues on account of the taxes imposed and other sums payable to a [Gram Panchayat] under this Act shall be recorded as arrears of land revenue if the [Gram Panchayat] concerned passes a resolution to that effect within three months from the date of assessment;

Provided that where a Gram Panchayat fails to pass such a resolution within the said period of three months the prescribed authority shall authorise the recovery of the arrears of taxes as arrears of land revenue.

**37C. Revision of tax, rate or fee :-**

(1) The State Government may remit the whole or part of any tax, rate or fee levied by a [Gram Panchayat] in respect of a period whether or after the commencement of U.P. Panchayat Raj (Amendment) Act, 1954.

(2) The power exercisable by the State Government under subsection (1) shall also be exercisable either generally or in any specified area by the prescribed authority under such circumstances as the State Government may prescribe.

(3) A Gram Panchayat also may be resolution and under such

circumstances as may be prescribed remit the whole or part of any such tax, rate or fee imposed or levied by it, provided that no such resolution shall take effect unless it is approved by the prescribed authority.

(4) Where any tax, rate or fee has been remitted under sub-section (1 to (3), any sum realized from the assessee on account of the tax, rate or fee so remitted shall be refunded to him by the [Gram Panchayat].

### **38. Realisation of dues, custody of funds and accounts :-**

The Gram Panchayat shall, as prescribed, arrange for the realization of Panchayat taxes and dues, custody of its funds and maintenance of accounts.

### **39. Expenses of Nyaya Panchayat to be a charge on Gaon Fund :-**

(1) The expenses of Nyaya Panchayat shall be charged to the Gaon Fund or Gaon Funds of the Gram Panchayat comprised in the circle in such proportion as may be determined by the prescribed authority.

(2) All sums realised by way of court-fees or fines in a case tribal under this Act shall be credited to the State Government, but the State Government shall out of the sums so realized pay by way of grant such portion not exceeding fifty per centum as it may fix to the <sup>1</sup>[Gram Panchayat] concerned for defraying the exepenses of the Nyaya Panchayat.

1 Subs. by U.P. Act No. 9 of 1994.

### **40. Audit :-**

The accounts of every Gram Panchayat and Nyayaa Panchayat shall be audited <sup>1</sup>[every year] in such manner, <sup>2</sup>[and on payment of such fee] as may be prescribed.

1 Ins. by U.P. Act No. 37 of 1978, dated 30th December, 1978.

2 Ins. by U.P. Act No. 9 of 1994.

### **41. Budget of Gram Panchayat :-**

<sup>1</sup>[41. Budget of Gram Panchayat

Every Gram Panchayat shall within such period and in such manner

as may be prescribed, prepare a statement of the estimated receipts and expenditure of the Gram Panchayat for the financial year commencing on the first day of April next following which shall be passed by the Gram Panchayat by a simple majority of the members present and voting at a meeting of the Gram Panchayat and the quorum for such a meeting shall be more than half of the total number of the members of the Gram Panchayat.]

1 Ins. by U.P. Act No. 9 of 1994.

## **CHAPTER 6** The Nyaya Panchayat

### **42. Establishment of Nyaya Panchayat :-**

(1) The State Government or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of the [Gram Panchayat] as may be expedient, and establish Nyaya Panchayat of each such circle; Provided that the areas of [Gram Panchayat] within each circle shall, as far as possible be contiguous.

(2) Subject to a minimum of ten and a maximum of twenty-five, every Nyaya Panchayat shall have such number of members as may be prescribed, but it shall be lawful for a Nyaya Panchayat to function notwithstanding any vacancy therein; Provided the number of Panches therein is not less than two-thirds of the prescribed strength.

### **43. Appointment of Panches and their term :-**

(1) There shall be appointed by the prescribed authority out of the members of a Gram Panchayat such number of persons, as may be prescribed to the Panches of the Nyaya Panchayat and thereupon the members so appointed shall cease to be member of the Gram Panchayat and their seats in the Gram Panchayat shall be filled, as far as may be in the manner provided in Section 12;

<sup>1</sup>[Provided that if the requisite number of members of a Gram Panchayat are not available for being Panches of the Nyaya Panchayat, it shall be lawful for the prescribed authority to fill in any seat so remaining vacant by nomination from amongst other members of the Gram Panchayat.]

(2) No person may be appointed as a Panch of the Nyaya Panchayat unless he has the qualification that may be prescribed; Provided that where suitable person having the prescribed qualifications are not available for such appointment any or all of

such qualifications may, by an order in writing, be relaxed by the prescribed authority.

1 Added. by U.P. Act No. 3 of 1973.

#### **44. Election of Sarpanch or Sahyak Sarpanch :-**

The Panches appointed under Section 43 shall, in the manner and within the period to be prescribed, elect from amongst them two persons who are able to record proceedings, one as the Sarpanch and the other as the Sahayak Sarpanch;

Provided that if the Panches fail to elect the Sarpanch or the Sahayak as aforesaid the prescribed authority may appoint the Sarpanch or the Sahayak Sarpanch.

#### **45. Term of Panch :-**

The term of every Panch of a Nyaya Panchayat shall commence on the date of his appointment as such, and unless otherwise determined under the provisions of this Act, shall expire with the Gram Panchayat, from which he was appointed;

Provided that Sarpanch and the Sahayak Sarpanch shall continue in office until their respective successors are elected or appointed.

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

**1**[\* \* \*]

1 Omitted by Section 46 of U.P. Act No. 2 of 1955.

#### **47. Resignation of Panches :-**

A Panch, a Sarpanch or Sahayak Sarpach may resign his office as such by writing under his hand addressed to such authority as may be prescribed and his office shall thereupon become vacant.

#### **48. XXX XXX XXX :-**

**1**[\* \* \*]

1 Deleted by U.P. Act No. 2 of 1955, Section 48..

#### **49. Bnch of Nyaya Panchayat :-**

(1) The Sarpanch shall form Benches consisting of five Panches each for the disposal of cases and inquiries coming up before the

Nyaya Panchayat.

(2) The formation of Benches, the period for which they will work including the hearing of part heard cases, the method of distribution, transfer or re-transfer of work among the Benches and procedure generally to be followed by them in cases and enquiries shall be governed by rules.

(3) No Panch, Sarpanch or Sahayak Sarpanch shall take part in the trial of or inquiry in any case to which he or any relation, employer, employee debtor, creditor or partner of his is a party or in which any of this is personally interested.

(4) Notwithstanding anything contained in this section, the State Government may prescribe the constitution of Special Benches for the trial of any class or classes of cases;

Provided that the State Government may at any time order for the reconstitution of such Special Bench.

(5) Any dispute relating to the formation of Benches or method of their working, shall be referred to the prescribed authority whose decision shall be final.

#### **50. Filling of casual vacancies :-**

(1) If a vacancy in the office of a Panch arises by reason of his death, removal or resignation it shall, subject to the provisions of Section 45, be filled for the unexpired part of his terms by the prescribed authority by appointing a person from amongst the members for the time being of the Gram Panchayat, and if the Panch vacating the office was also Sarpanch or Sahayak Sarpanch a new Sarpanch or Sahayak Sarpanch, as the case may be, shall be elected in the manner provided in Section 44.

(2) Any person appointed as Panch under sub-section (1) shall cease to be a member of the Gram Panchayat from the date of his appointment and the vacancy so caused in the <sup>1</sup>[Gram Panchayat] shall be deemed to be a casual vacancy for the purpose of Section 12-H.

1 Subs. by U.P. Act No. 9 of 1994.

#### **50A. Powers of Sahayak Sarpanch :-**

The Sahayak Sarpanch shall exercise such powers of the Sarpanch as may be prescribed.

#### **51. Territorial Jurisdiction :-**

(1) Notwithstanding anything contained in the [Code of Criminal Procedure, 1973] every criminal case triable by a Nyaya Panchayat shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the offence is committed.

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908, every civil case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the defendant or, where there are more than one, all the defendants ordinarily reside or carry on business at the time of the institution of the civil case irrespective of the place where the cause of action arose.

## **52. Offences cognizable by Nyaya Panchayats :-**

[(1) The following offences as well as abetments of and attempts to commit such offences, if committed within the jurisdiction of a Nyaya Panchayat shall be cognizable by such Nyaya Panchayat] :

(a) Offences under section 140, 160, 172, 174, 179, 269, 277, 283, 285, 289, 290, 294, 324, 334, 341, 352, 357, 358, 374, 379, 403, 411 (where the value of the stolen or misappropriated property in cases under Sections 379, 403 and 411 does not exceed fifty rupees), 427, 428, 430, 431, 447, 448, 504, 506, 509, and 510 of the Indian Penal Code, 1860;

(b) Offences under sections 24 and 26 of the Cattle Trespass Act, 1871;

(c) Offences under sub-section (1) of 10 of the United Provinces District Board Primary Education Act, 1926;

(d) Offences under Section 3, 4, 7 and 13 of the Public Gambling Act, 1867;

(e) Any other offence under aforesaid enactments or any other enactment as may, by notification in the official Gazette, be declared by the State Government to be cognizable by a Nyaya Panchayat; and

(f) Any offence under this Act or any rule made thereunder.

(1-A) The State Government may by order published in the Official Gazette empower any Nyaya Panchayat to take cognizance of offences under Section 279, 286, 336 and 356 of the Indian Penal Code, 1860 and may likewise withdraw any offence referred to in clauses (a) to (d) of sub-section (1) from the cognizance of Nyaya Panchayats generally or such Nyaya Panchayats as may be specified.

(2) Any criminal relating to an offence under Section 143, 145, 151

or 153 of the Indian Penal Code, 1860, pending before any court may be transferred for trial to the Nyaya Panchayat if in the opinion of such court the offence is not serious.

### **53. Security for keeping the peace :-**

(1) Wherever the Sarpanch of a Nyaya Panchayat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquility, he may call upon such person to show cause how he should not execute a bond or an amount not exceeding Rs. 100 with or without sureties for keeping the peace for a period not exceeding 15 days.

(2) The Sarpanch shall after issue of such notice report the matter to a Bench. The Bench may either confirm the order or discharge the notice after hearing such person and such witnesses as he may desire to produce.

(3) If the person required to execute a bond as aforesaid under sub-section (2) fails to do so, he shall be liable to pay a penalty up to five rupees as the Bench may fix for every day if the default continues during the period fixed in the order.

### **54. Penalties :-**

(1) No Nyaya Panchayat shall inflict a substantive sentence of imprisonment.

(2) A Nyaya Panchayat may impose a fine not exceeding <sup>1</sup>[two hundred and fifty rupees] but not imprisonment may be awarded in default of payment;

Provided that no accused shall be tried for more than three offences in the same criminal case and the fine that may be imposed on any one accused in a criminal case shall not in the aggregate exceed <sup>2</sup>[two hundred and fifty rupees].

1 Ins. by U.P. Act No. 37 of 1978, dated 30th December, 1978.

2 Subs. by U.P. Act No. 37 of 1978.

### **55. Cognizance of cases :-**

(1) After a Nyaya Panchayat has been established for any area, no Court except as otherwise provided in this Act shall take cognizance of any case triable by such Nyaya Panchayat.

(2) When a Nyaya Panchayat is suspended, superseded or dissolved under Section 95, or for any other reason ceases to function all

cases pending before it shall stand transferred to the Court of competent jurisdiction which shall dispose them of according to law;

Provided that the trial of all such cases in Court shall commence de novo;

Provided further that a Nyaya Panchayat shall not be deemed to cease to function merely for the reason that its Panches have to be re-elected.

(3) Notwithstanding anything contained in Section 52 and in sub-section (1) of this section any court may take cognizance of any offence under Section 431 and 447 of the Indian Penal Code, 1860, if it is otherwise competent to do so.

(4) Notwithstanding anything contained in Section 52 and Sub-section (1) to (3) of this section but subject always to the provisions of the Code of Criminal Procedure, 1898, (Now Act 2 of 1974) where any Court has taken cognizance of any offence referred to in the said section and a summons or warrant, as the case may be, has been issued for the appearance of the accused in such case, the offence may be enquired into and tried by such Court.

#### **56. Transfer of cases by Courts to Nyaya Panchayat :-**

A Court if it finds that a case is triable by a Nyaya Panchayat, shall, except as provided in sub-section (4) of Section 55 transfer the case to the Nyaya Panchayat of competent jurisdiction which shall thereafter try the same de novo.

#### **57. Summary dismissal of complaint :-**

A Nyaya Panchayat may dismiss any complaint if after examining the complainant and taking such evidence as he produces it is satisfied that the complaint is frivolous, vexatious or untrue.

#### **58. Transfer of cases by Nyaya Panchayat to courts :-**

If at any time it appears to a Nyaya Panchayat -

(a) that it has no jurisdiction to try any case pending before it.

(b) that the offence involved is one for which it cannot award adequate punishment, or

(c) that the case should otherwise be tried by a court; it shall transfer the same to the Court of competent jurisdiction and shall give information of such transfer to the parties concerned.

## **59. Certain persons not to be tried by Nyaya Panchayat :-**

No Nyaya Panchayat shall take cognizance of any criminal case against a person where such person

(a) has been previously convicted of an offence punishable with imprisonment of either description for a term of three years or more.

(b) has been previously fined for theft by any Nyaya Panchayat.

(c) has been found over to be of a good behaviour under <sup>1</sup>[Sections 109 or 110 of the Code of Criminal Procedure, 1973].

(d) has been previously convicted under the Public Gambling Act, 1867, or

(e) is a public servant.

<sup>1</sup> Subs. by U.P. Act No. 37 of 1978.

## **60. Compensation to complainants. :-**

In imposing any fine the Nyaya Panchayat may order any portion or the whole of the fine recovered to be applied -

(a) in defraying the expenses properly incurred in the criminal case by the complainant.

(b) In the payment to any person of compensation for any material loss or injury caused by the offence, or

(c) In compensation any bona fide purchaser of stolen property for loss of the same, where property is re-stored to the possession of the person entitled thereto.

## **61. Compensation to the accused :-**

(1) If any criminal case instituted before a Nyaya Panchayat any person is accused of any offence triable by a Nyaya Panchayat and the Nyaya Panchayat acquits the accused and is of the opinion that the accusation against him was false and either frivolous or vexatious, the Nyaya Panchayat may call upon the complainant forthwith to show cause why he should not pay compensation to such accused.

(2) If after hearing the complainant, the Nyaya Panchayat is satisfied that the accusation was false and either frivolous or vexatious, it may direct that compensation not exceeding twenty-five rupees be paid by such complainant to the accused.

## **62. Release of offenders on probation :-**

The powers under Section 4 of the U.P. First Offenders Probation Act, 1938, may be exercised by a Nyaya Panchayat.

### **63. Enquiry in cases forwarded by Magistrates :-**

Notwithstanding anything in the Code of Criminal Procedure, <sup>1</sup>[1973] a Magistrate may direct an enquiry referred to in Section 202 of the Code to be made by a Nyaya Panchayat in a criminal case in which the offence was committed within the territorial jurisdiction of such Nyaya Panchayat and the Nyaya Panchayat shall enquire into the case and submit its report to the said Magistrate. On the receipt of the directions the Sarpanch or Sahayak Sarpanch and in their absence the Panch mentioned in Section 75 shall entrust it to a Bench formed under Section 49.

1 Subs. by U.P. Act No. 37 of 1978, dated 30th December, 1978.

### **64. Extent of jurisdiction in Civil cases :-**

(1) Subject to the provisions of Section 66 a Nyaya Panchayat may take cognizance of any civil case of the following description if its value does not exceed one hundred rupees -

- (a) a civil case for money due on contract other than a contract in respect of immovable property;
- (b) a civil case for the recovery of movable property or for the value thereof;
- (c) a civil case for compensation for wrongfully taking or injuring a movable property; and
- (d) a civil case for damages caused by cattle trespass.

(2) The State Government may, by notification in the official Gazette, direct that the jurisdiction of any Nyaya Panchayat shall extend to all such civil cases of the value not exceeding five hundred rupees.

### **65. Extension of jurisdiction by agreement of parties :-**

<sup>1</sup>[\* \* \*]

1 Deleted by U.P. Act No. 9 of 1955.

### **66. Exclusion of Nyaya Panchayats jurisdiction :-**

Subject to the provisions of Section 64, a Nyaya Panchayat, shall have no jurisdiction to take cognizance of the following civil cases -

- (1) a civil case for a balance due on partnership account, except

where the balance has been struck by the parties or their agents;

(2) a civil case for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;

(3) a civil case by or against the State Government or the Central Government or a public servant for acts done in his official capacity;

(4) a civil case by or against a minor or a person of unsound mind, and

(5) a civil case the cognizance of which by a Panchayat established under U.P. Village Panchayat Act, 1920, is barred by Section 25 of the United Provinces Debt Redemption Act, 1940.

**67. Civil case to include the whole claim :-**

(1) Every civil case instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Nyaya Panchayat.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

**68. Limitation :-**

Every civil case instituted before Nyaya Panchayat after the period of limitation prescribed therefor in the Schedule shall be dismissed, even though limitation has not been set up as defence;

Provided that in computing the period of limitation prescribed for any civil case the time during which the plaintiff has been prosecuting with due diligence another civil case against the defendant in any court shall be excluded where the other case is founded upon the same cause of action and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature is unable to entertain it.

**69. Effect of the decision by Nyaya Panchayat :-**

(1) The decision of Nyaya Panchayat on the question of the title, legal character contract or obligation shall not bind the parties except in respect of the civil case in which such matter is decided.

<sup>1</sup>[(2) No conviction ordered by a Nyaya Panchayat shall by itself operate as, or be the basis of any disqualification or penalty under

any law for the time being in force.

1 Subs. by U.P. Act No. 37 of 1978.

## **70. Proceedings under the U.P. Land Revenue Act, 1901 :-**

**1**[\* \* \*]

1 Deleted by U.P. Act No. 2 of 1955.

## **71. Revision :-**

**1**[\* \* \*]

1 Deleted by U.P. Act No. 2 of 1955.

## **72. Procedure for cases under Section 70 :-**

**1**[\* \* \*]

1 Deleted by U.P. Act No. 2 of 1955.

## **73. Res judicata and pending cases :-**

(1) No Nyaya Panchayat shall try any civil case, proceedings or issue in respect of any matter which is pending for decision in or has been heard or decided by a court of competent jurisdiction in a former civil case between the same parties or between the parties under whom they or any of them claim.

(2) Where a criminal case is pending in any court against an accused in respect to any offence or where an accused has been tried for any offence, no Nyaya Panchayat shall take cognizance of any such offence or on the same facts, of any other offence of which the accused might have been charged or convicted.

## **74. Concurrent jurisdiction :-**

Where a [criminal or civil case] is maintainable in more than one Nyaya Panchayat the complainant or the plaintiff as the case may be, may bring the [criminal or civil case] in any one of such Nyaya Panchayats. Any dispute regarding jurisdiction shall be decided by the [Judicial Magistrate or Munsif] having jurisdiction as the case may be.

## **74A. Trial when cause of action in a civil [\* \* \*] case arises in circles more than one :-**

74A Trial when cause of action in a civil <sup>1</sup>[\* \* \*] case arises in circles more than one -

Section 10 of the Code of Civil Procedure, 1908, shall apply to trial of <sup>2</sup>[\* \* \*] civil cases pending before two or more Nyaya Panchayats having jurisdiction.

1 Deleted by U.P. Act No. 37 of 1978.

2 Deleted. by U.P. Act No. 37 of 1978.

**74B. Trial where scene of offence is uncertain or not in one circle only or where offence is a continuing one or consists of several acts :-**

Where it is uncertain in which of several circles an offence was committed or where an offence was committed partly in one circle and partly in another or where an offence is a continuing one and continues to be committed in more circles than one or where it consists of several acts done in different circles, it may be enquired into by a Nyaya Panchayat, having jurisdiction in any such circle.

**75. Institution of civil cases and criminal cases :-**

(1) Any person who wishes to institute <sup>1</sup>[a civil case or a criminal case] under this Act before a Nyaya Panchayat may make an application orally or in writing to the Sarpanch and in his absence to the Sahayak Sarpanch of the Nyaya Panchayat or in case of their absence from the circle to such other Panch as may have been appointed by the Sarpanch in this behalf and shall at the same time pay the prescribed fee. The Court Fees Act VII, 1870, shall not apply to Nyaya Panchayats except as may be prescribed. In every civil case the plaintiff shall state its value.

(2) Where a [\* \* \*] case is instituted orally the Sarpanch, Sahayak Sarpanch or Panch receiving the application shall record without delay the prescribed particulars and the signature or thumb-impression of the applicant shall be taken thereon.

1 Subs. by U.P. Act No. 379 of 1978.

**76. Application to be laid before the Bench :-**

The Sarpanch, Sahayak Sarpanch or in their absence the Panch mentioned in Section 75, shall thereupon lay the application before a Bench of the Nyaya Panchayat formed under Section 49 for disposal and shall also fix a date for the first hearing of the

applicatioin before the said bend and give notice of the date of the applicant complainant or plaintiff as the case may be and to the members of the Bench.

### **77. Chairman of the Bench :-**

The Bench shall choose one of the members to be the Chairman of that Bench who shall conduct the proceedings; Provided that were the Sarpanch or the Sahayak Sarpanch is a member of the Bench, he, and where both of them are members of the same Bench, the Sarpanch shall be the Chairman.

### **77A. Absence of a Panch from the Bench :-**

(1) If any Panch appointed to a Bench constituted under Section 49 is absent at any hearing, the remaining Panches may, notwithstanding anything contained in this Act, try the case, provided, however that at least three Panches including the Chairman, are present, and provided further that at least one of the Panches present is able to record evidence and proceedings.

(2) No trial as aforesaid shall be invalid to reason merely that all the five panches forming the Bench were not present at any hearing or that the same Panches were not present at all the hearings.

(3) The provisions of sub-sections (1) and (2) shall mutates mutandis apply to an inquiry made by a Nyaya Panchayat under Section 63.

### **78. Dismissal of civil cases and criminal cases in the absence of the party concerned :-**

<sup>1</sup>[(1) If the plaintiff or the complainants, as the case may be, fails to appear after having been informed of the time and place fixed for hearing, the Nyaya Panchayat may dismiss the case or pass such other order as it may deem fit.

(2) The Nyaya Panchayat may hear and decide <sup>2</sup>[civil or a criminal case in the absence of the defendant or the accused, as the case may be], if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

1 Subs. by U.P. Act No. 37 of 1978.

2 Deleted by U.P. Act No. 37 of 1978.

### **79. Nyaya Panchayat not to revise or review its decision :-**

(1) Except as provided in sub-section (2), or to correct a clerical error, a Nyaya Panchayat shall have no power to cancel, revise or alter any decree or order passed by it.

(2) A Nyaya Panchayat may, for sufficient reasons to be recorded, on application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been effected, restore any [civil or criminal case] which has been dismissed in default or in which a decree or order has been passed ex parte.

### **80. Legal Practitioner not to appear before Nyaya Panchayat :-**

No legal practitioner shall appear plead or act on behalf of any party before a Nyaya Panchayat.

Provided that a person who is arrested and is detained in custody shall have the right to consult and be defended by a legal practitioner of his choice.

### **81. Appearance in person or by representative :-**

Subject to the provisions of Section 80, any party to a <sup>1</sup>[civil case or criminal case] may appear before Nyaya Panchayat either in person or by such servant (not bearing a tout), partner, relation or friend duly authorized in writing by him as the Nyaya Panchayat may admit as a fit person to represent him;

Provided that no stamp duty shall be required to be paid for any power of attorney filed under this section.

1 Subs. by U.P. Act No. 37 of 1978.

### **82. Special jurisdiction in certain matters :-**

Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be lawful for a Nyaya Panchayat to decide any dispute arising in its local area and not pending in any Court in accordance with any settlement, compromise or oath agreed upon in writing by the parties.

### **83. Procedure and power to ascertain, truth :-**

(1) The Nyaya Panchayat shall receive such evidence in a <sup>1</sup>[civil case or criminal case] as the parties may adduce and may call for

such further evidence as, in their opinion, may be necessary for the determination of the points in issue. It shall be the duty of the Nyaya Panchayat to ascertain the facts of every [civil case or criminal case] before it by every lawful means in its power and thereafter to make such decree or order with or without cost, as to it may seem just and legal. It may make local investigation in the <sup>2</sup>[locality] to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The code of Civil Procedure, 1908 the <sup>2</sup>[Code of Criminal Procedure, 1973] the Indian Evidence Act, 1872 and [the Indian Limitation Act, 1963] shall not apply to any <sup>2</sup>[civil case or criminal case] in a Nyaya Panchayat except as provided in this Act or as may be prescribed.

(2) Nothing in this sub-section shall entitle any party to compound any offence which is not compoundable under the provisions of the <sup>2</sup>[Code of Criminal Procedure 1973] or to compound an offence without the permission of the Bench concerned, if it is compoundable with permission under the provisions of said Code.

<sup>2</sup>[(3) Where in the opinion of the Nyaya Panchayat, any party deliberately delays the disposal of a case it may impose on such party costs not exceeding five rupees payable to the other party.

1 Subs. by U.P. Act No. 37 of 1978.

2 Subs. by U.P. Act No. 37 of 1978, dated 30th December, 1978.

#### **84. Majority to prevail :-**

In the event of any disagreement between the Panches the opinion of the majority shall prevail.

#### **85. Power of Superior Court to transfer cases from Nyaya Panchayats :-**

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard or on his own motion without such notice the Judicial Magistrate or the Munsif according to the case pending before a Nyaya Panchayat in <sup>1</sup>[criminal or civil case] may, at any stage, withdraw the same and -

i- try to dispose of the same, or

ii- transfer it to another Bench of the Nyaya Panchayat, or

iii- transfer the same for trial or disposal to any other <sup>2</sup>[Magistrate or Munsif] competent to try or dispose of the case.

(2) Where any criminal or civil case has been withdrawn under sub-section (1), the court which thereafter tries it may either retry it or proceed from the state at which it was withdrawn.

(3) If any application under sub-section (1) is either frivolous or vexatious the applicant may be fined up to fifty rupees by the <sup>3</sup>[Judicial Magistrate or the Munsif], as the case may be.

1 Subs. by U.P. Act No. 37 of 1978, dated 30th December, 1978.

2 Subs. by U.P. Act No. 37 of 1978, dated 30th December, 1978

3 Subs. by U.P. Act No. 37 of 1978, dated 30th December, 1978

### **86. Issue of summons to witnesses :-**

A Nyaya Panchayat may, if considers the evidence of or the production of a document by any person necessary in a [civil or criminal case] issue and cause, to be served in the prescribed manner, a summons on such person to compel his attendance or to produce or cause the production of such documents, and such person shall be bound to comply with the direction contained in the summons.

### **87. Penalties for failing to appear before the Nyaya Panchayat :-**

If any person who is summoned by a Nyaya Panchayat by a written order to appear to give evidence or to produce any document before it, willfully disobeys such summons or notice or order, the Nyaya Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees;

Provided that no woman shall be compelled to appear in person before the Nyaya Panchayat. She may be examined on commission in the manner prescribed; Provided also that if a document is produced in obedience to a summons issued under this section, the Nyaya Panchayat shall cause the document to be copied, mark the copy, after comparing with original, to be true copy and return the original document to the person producing the same;

Provided further that where it appears to the Nyaya Panchayat that a witness is unable to appear before it by reason of illness or physical infirmity or that his presence cannot be procured without unreasonable delay, expense or inconvenience, it may, subject to such restrictions as may be prescribed, issue a commission in the

manner prescribed to take the evidence of such witness. The evidence so taken shall form part of the record of the case.

### **88. Dismissal of civil cases etc. :-**

A Nyaya Panchayat may dismiss any civil <sup>1</sup>[\* \* \*]case if after examining the plaintiff or the applicant it is satisfied that the civil <sup>1</sup>[\* \* \*]case is frivolous, vexatious or untimely.

1 Deleted by U.P. Act No. 37 of 1978.

### **89. Revisions :-**

(1) A <sup>1</sup>[Judicial Magistrate or Munsif] according as it is criminal or civil case may either on his own motion or on the application of any party made within 60 days from the date of the order complained of where personal service of summons had not been effected on the application from the date or the knowledge of the order call for the record of any case which has been decided by a Nyaya Panchayat and if it appears to him that injustice or material irregularity has occurred, he may make such order in the case as he thinks fit.

Explanation - Failure to exercise a jurisdiction vested by law or exercise of jurisdiction in excess of that vested by law shall for purpose of this section be deemed to be a material irregularity.

(2) Without prejudice to the generality of the foregoing provisions, the [Judicial Magistrate or Munsif], as the case may be, may -

(a) quash the decree or order passed by the Nyaya Panchayat.

(b) modify the order,

(c) remand the case to the Nyaya Panchayat for retrial with such direction as he may deem fit, or

(d) try the case himself or transfer it to another court or officer competent to try the same.

(3) If any application under sub-section (1) is found by the [Judicial Magistrate or Munsif] as the case may be frivolous or vexatious, he may, for reasons to be recorded, make an order for the payment to the opposite party by the application of special costs not exceeding fifty rupees by way of compensation.

(4) Except as aforesaid, a decree or order passed by a Nyaya Panchayat in any [civil or criminal case] shall not be open to appeal or revision in any court.

(5) Notwithstanding anything contained in Section 95 where any Judicial Magistrate or Munsif records a finding in an order passed under this section that any Bench or Panches (including any

Sarpanch) of a Nyaya Panchayat has or have in relation to the case which gave rise to the revision, behaved in a manner becoming of his or their offices the prescribed authority may remove such Panch or Panches on the basis of such finding and it shall not be necessary to give him or them any opportunity to show cause against the action proposed.

1 Subs. by U.P. Act No. 37 of 1978.

### **90. Summons to defendant or accused persons :-**

A Nyaya Panchayat after an application is made under Section 75 shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant <sup>1</sup>[\* \* \*] to attend and produce his evidence at such time and place.

1 Deleted by U.P. Act No. 37 of 1978.

### **91. Warrant :-**

<sup>1</sup>[\* \* \*]

1 Deleted by U.P. Act No. 2 of 1955.

### **92. Payment or adjustment of decree to be recorded :-**

If on the application of the decree-holder or the judgment debtor the Nyaya Panchayat which passed the decree finds after enquiry that the decree has been satisfied wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

### **93. Execution of decrees :-**

(1) A decree or order passed by a Nyaya Panchayat shall be executed by it in such manner as may be prescribed. If the property of the defendant is situated outside the jurisdiction of the Nyaya Panchayat passing the decree or order, it may in the manner prescribed, transfer the decree or order for execution to the Nyaya Panchayat, with in whose jurisdiction the property may situated, and if there be no Nyaya Panchayat then to the court of the <sup>3</sup>[Munsif] as the case may be within whose jurisdiction it may be

situated.

(2) If a Nyaya Panchayat finds any difficulty in executing decree or order, it may forward the same to the <sup>1</sup>[Munsif] who shall then execute the same as if it were decree or order passed by him.

1 Subs. by U.P. Act No. 9 of 1994.

#### **94. Recovery of fine :-**

Any fine imposed, or compensation ordered to be paid in Section 61 by a Nyaya Panchayat shall be recoverable in the manner prescribed. But if the Nyaya Panchayat finds any difficulty in its recovery, it may request the Judicial Magistrate within whose jurisdiction the Nyaya Panchayat lies to recover it and he shall recover it as if the sentence of fine had been passed by him.

#### **94A. Contempt of Nyaya Panchayat :-**

(1) If any person intentionally offer any insult a Nyaya Panchayat or any member thereof, while it is sitting in any stage of judicial proceedings in its or his view or presence or refuses to take oath duly administered or sign a statement made by the said persons when legally required to do so, the Nyaya Panchayat may at any time before rising on the same day take cognizance of the offence and sentence the offender to a fine not exceeding [ten rupees].

(2) The fine imposed under sub-section (1), shall, for the purposes of Section 94 be deemed to be a fine imposed in a criminal case.

### **CHAPTER 7 External Control**

#### **95. Inspection :-**

(1) The State Government may -

(a) cause to be inspected an immovable property owned used or occupied by a Gram Panchayat, or a joint committee <sup>1</sup>[or a Nyaya Panchayat] or any work in progress under the direction of such [Gram Panchayat] <sup>2</sup>[or Joint Committee or a Nyaya Panchayat].

(b) by an order in writing call for and inspect a book or document in the possession or under the control of a Gram Panchayat or a Joint Committee or a Nyaya Panchayat.

(c) by an order in writing require a Gram Panchayat or a Joint Committee or a Nyaya Panchayat to furnish such statements, reports or copies of documents relating to the proceedings or duties of the Gram Panchayat or such committee or a Nyaya Panchayat as

it thinks fit;

(d) record in writing for the consideration of a Gram Panchayat or Joint Committee any observation which it thinks proper in regard to the proceedings or duties of such Gram Panchayat or Joint Committee.

(e) institute any enquiry in respect of any matter relating to a Gram Sabha, Gram Panchayat or Nyaya Panchayat; and

(f) <sup>3</sup>[\* \* \*] dissolve any Gram Panchayat, Joint Committee, Bhumi Prabandhak Samiti or Nyaya Panchayat if in the opinion of the State Government such Gram Panchayat, Joint Committee [Bhumi Prabandhak Samiti] or Nyaya Panchayat has abused its position or has continuously failed to perform the duties imposed upon it by or under this Act or its continuance is not considered desirable in public interest;

Explanation. - <sup>4</sup>[\* \* \*]

<sup>5</sup>[(g)

<sup>6</sup>[remove a Pradhan, Up-Pradhan or member of a Gram Panchayat]

<sup>7</sup>[\* \* \*] or a Joint Committee or Bhumi Prabandhak Samiti, or a Panch, Sahayak Sarpanch or Sarpanch of a Nyaya Panchayat if he -  
i - absents himself without sufficient cause for more than three consecutive meetings or sittings.

ii- refuses to act or becomes incapable of acting for any reason whatsoever or if he is accused of or charged for an offence involving moral turpitude.

iii- has abused his position as such or has persistently failed to perform the duties imposed by this Act or rules made thereunder or his continuance as such is not desirable in public interest, or

<sup>8</sup>[iii-a has taken the benefit of reservation under sub-section (2) of Section 11-A or sub-section (5) or Section 12, as the case may be, on the basis of a false declaration subscribed by him stating that he is a member of Scheduled Castes, the Scheduled Tribes or the backward classes, as the case may be.]

iv- being a Sahayak Sarpanch or a Sarpanch of the Nyaya Panchayat takes active part in politics, or

v- suffers from any of the disqualifications mentioned in Clauses (a) to (m) of Section 5-A;

<sup>9</sup>[Provided that where, in an enquiry held by such person and in such manner as may be prescribed, a Pradhan or Up-Pradhan is prima facie found to have committed financial and other irregularities such Pradhan or Up-Pradhan shall cease to exercise and perform the financial and administrative powers and functions,

which shall, until he is exonerated of the charges in the final enquiry, be exercised and performed by a Committee consisting of three members of Gram Panchayat appointed by the State Government.]

**10**[(gg) [\* \* \*];

**10**[(h) [\* \* \*];

**11**[Provided that -

i- No action shall be taken under Clause (f), Clause (g) **12** [\* \* \*] except after giving to the body or person concerned a reasonable opportunity of showing cause against the action proposed;]

ii- **13** [\* \* \*]

(2) A person under sub-clause (iii) and (iv) of clause (g) of sub-section (1) of this section shall not be entitled to be re-elected or re-appointed to any office under this Act for a period of five years or such lesser period as the State Government may order in any case.

(3) No order made by the State Government under this section shall be called in question in any Court.

(4) Where any **14** [\* \* \*], Gram Panchayat, Joint Committee or Bhumi Prabandhak Samiti is **15** [dissolved] the State Government may appoint such person or persons to exercise and perform the powers and duties thereof as it may deem fit.

1 Subs. by U.P. Act No. 2 of 1955.

2 Subs. by U.P. Act No. 9 of 1994.

3 Subs. by U.P. Act No. 9 of 1994.

4 Deleted by U.P. Act No. 2 of 1955.

5 Subs. by U.P. Act No. 2 of 1955.

6 Subs. by U.P. Act No. 9 of 1994.

7 Omitted by U.P. Act No. 9 of 1994.

8 Ins. by U.P. Act No. 21 of 1998, (w.e.f. 5.5.1998).

9 Ins. by U.P. Act No. 9 of 1994.

10 Omitted by U.P. Act No. 9 of 1994.

11 Subs. by U.P. Act No. 9 of 1994.

12 Omitted by U.P. Act No. 9 of 1994.

13 Omitted by U.P. Act No. 9 of 1994.

14 Omitted by U.P. Act No. 9 of 1994.

15 Subs. by U.P. Act No. 9 of 1994.

**95A. Power of State Government :-**

(1) If at any time it appears to the State Government that the [Gram Sabha or a Gram Panchayat] has made default in performing a duty imposed on it by or under this or any other enactment, the State Government may by order in writing fix a period for the performance of that duty.

(2) If the duty is not performed within the period so fixed, the State Government may direct such authority as may be specified to perform it and may further direct that the expenses, if any, of performing the duty shall be paid from the Gram Sabha Fund and thereupon the person having the custody of the fund shall pay the amount from such fund.

**96. Prohibition of certain proceedings :-**

(1) The prescribed authority or any other officer specially empowered in this behalf by the State Government on information received or on his own initiative, may, by order in writing prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Gram Sabha, Gram Panchayat or a Joint Committee, or any officer or servant thereof if in his opinion such resolution or order is of a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully empowered, or danger to human life, health or safety, or riot or affray. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1) a copy thereof with a statement of the reasons for making it shall forthwith be forwarded by the prescribed authority or the aforesaid officer to the State Government which may after calling for an explanation from the Gram Sabha, Gram Panchayat, Joint Committee or the officer or the servant thereof and considering the explanation, if any, made by it, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Gram Sabha, Gram

Panchayat or the Joint Committee or any officer or servant thereof, if so required by the authority making such order to take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order, of which the further execution is prohibited.

### **96A. Delegation of powers by State Government :-**

<sup>1</sup>[96-A Delegation of powers by State Government

The State Government may delegate all or any of its powers under this Act to any officer to authority subordinate to it subject to such conditions and restrictions as it may deem fit to impose.]

1 Added by U.P. Act No. 10 of 1950.

## **CHAPTER 8 Penalties and Procedure**

### **97. Penalty for infringement of the provisions of the Act :-**

Whoever contravenes any provisions of this Act <sup>1</sup>[except the provisions of Section 12-BCA or Section 12-BCC] shall be punishable, unless otherwise prescribed, with fine, which may extend to <sup>2</sup>[five hundred rupees] and when the breach is a continuing one with a further fine which may extend to <sup>3</sup>[fifty rupees] for every day after the first conviction during which an offender is proved to have persisted in the offence.

1 Ins. by U.P. Act No. 29 of 1955 (second amendment) (w.e.f. 1.4.1955).

2 Subs. by U.P. Act No. 9 of 1994.

3 Ibid.

### **97A. Penalty for contravention of any order regarding requisition :-**

<sup>1</sup>[97-A Penalty for contravention of any order regarding requisition  
Whoever contravenes any order made under Section 12-BCA or Section 12-BCC, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.]

1 Added by U.P. Act No. 29 of 1995 (Second amendment).

### **98. Infringement of rules and bye-laws :-**

In making a rule the State Government, and in making a bye-laws the Gram Panchayat with the sanction of prescribed authority, may direct that a breach of it shall be punishable with fine which may extend to <sup>1</sup>[five hundred rupees] and when the breach is a continuing one with a further fine which may extend to [fifty rupees] for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

1 Subs. by U.P. Act No. 9 of 1994.

### **99. Penalty for tampering with the [Gram Panchayats] property :-**

99. Penalty for tampering with the <sup>1</sup>[Gram Panchayats] property

(1) Whoever removes displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of a public street, or any fence, wall or post thereof, or a lamp post or bracket, direction post, stand post, hydrant, or other such <sup>2</sup>[property of the Gram Panchayat without written sanction] or other lawful authority shall be punishable with fine which may extend to <sup>3</sup>[one thousand rupees].

(2) If through any act, neglect, or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property or a Gram Panchayat the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

1 Subs. by U.P. Act No. 9 of 1994.

2 Subs. by U.P. Act No. 9 of 1994.

3 Subs. by U.P. Act No. 9 of 1994.

### **100. Disobedience to notice issued :-**

If a notice has been given to a person under the provisions of this Act or of any rule or bye-law made thereunder to a person requiring him to execute a work in respect of any property, movable or immovable public or private or to provide or do or refrain from doing anything within a time specified in the notice, and such person fails to comply with the notice, then -

(a) The <sup>1</sup>[Gram Panchayat] may cause such work to be executed or

such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the prescribed manner as arrears of land revenue;

(b) Such persons shall also be liable on conviction before the Nyaya Panchayat, to a fine which may extend to 4[five hundred rupees] and in case of continuing breach to a further fine which may extend to 5[fifty rupees] for each day after the date of the first conviction during which the offender is proved to have persisted in the offence.

1 Subs. by U.P. Act No. 9 of 1994.

### **101. Notice not be invalid :-**

No notice shall be invalid on account of any defect or omission in its form.

### **102. Appeals :-**

(1) Any person aggrieved by an order or direction made by a <sup>1</sup>[Gram Panchayat] under the Act or under any rule or bye-law may, unless otherwise prescribed, within 30 days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof appeal to the prescribed authority which may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal.

(2) The prescribed authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the prescribed authority under sub-section (1) shall be final and shall not be questioned in any Court of law.

1 Subs. by U.P. Act No. 9 of 1994.

### **103. Suspension of prosecution in certain cases :-**

When an appeal has been filed against an order or direction in Section 102 any proceedings to enforce such order or direction and any prosecution for the breach thereof may, by order of the prescribed authority, be suspended pending the decision of the appeal, and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

### **104. Power to compound offences :-**

(1) Subject to any rule made in this behalf a Gram Panchayat may,

either before or after the institution of any case compound an offence against this Act or any rule or bye-law made thereunder on payment of such sum in cash to the Gram Panchayat as may be prescribed.

(2) When an offence has been compounded the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

All sums paid by way composition under this section shall be credited to the Gram Fund.

### **105. Entry and inspection :-**

The Pradhan of the <sup>1</sup>[Gram Panchayat] and, if authorized in this behalf by the <sup>1</sup>[Gram Panchayat], any other member, officer or servant of the Gram Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a <sup>1</sup>[Gram Panchayat] is authorized by this Act or by rules or bye-laws made thereunder, to make or execute, or which it is necessary for a Gram Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or bye-laws, to make or execute :

Provided that -

(a) except when it is in this Act or rule or bye-laws otherwise expressly provided, no such entry shall be made between sunset and sunrise, and

(b) except when it is in this Act or in rules, or bye-laws otherwise expressly provided, no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof, and without giving the said occupier "not less than four hour" previous written notice of the intention to make such entry, and

(c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment appropriated for females to move to some part of the premises where their privacy shall not be disturbed, and

(d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

### **106. Suits against [Gram Sabhas], [Gram Panchayats], their officers or the officers and servants of Nyaya Panchayat :-**

106. Suits against <sup>1</sup>[Gram Sabhas], <sup>1</sup>[Gram Panchayats], their officers or the officers and servants of Nyaya Panchayat

(1) No suit or other legal proceedings shall be instituted against a Gram Sabhas or Gram Panchayat [or BhumiPrabankdhak Samiti or against a member or officer or servant thereof or of Nyaya Panchayat] or against any person acting under the direction of any of these bodies or persons for anything done or purporting to have been done in official capacity under this Act, until the expiration of 2 months next after notice in writing has been in the case of Gram Sabha or <sup>1</sup>[Gram Panchayat], delivered in or left at the office of the Gram Panchayat concerned and in the case of a member, officer or servant of any person acting under his direction or the direction of the Gram Sabha or <sup>1</sup>[Gram Panchayat] or Nyaya Panchayat delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

(2) No action such as is described in sub-section (1) shall be commenced otherwise than within six months next after the accrual of the cause of action.

1 Subs. by U.P. Act No. 9 of 1994.

### **107. Protection to [Gram Panchayat] and Nyaya Panchayat :-**

107. Protection to <sup>1</sup>[Gram Panchayat] and Nyaya Panchayat

(1) The provisions of the Judicial Officers Protection Act, 1850 shall apply to the members of the Nyaya Panchayat.

(2) No civil case or prosecution shall be entertained in any Court against a <sup>1</sup>[Gram Panchayat] or any member or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or bye-law made thereunder.

1 Subs. by U.P. Act No. 9 of 1994.

### **107A. Validity of Proceedings :-**

Except as otherwise provided under this Act, a Gram Sabha, a Gram Panchayat or any committee thereof, shall have power to act, notwithstanding any vacancy in the membership or defect or irregularity in the enrolment of a member thereof, and any

proceedings in any Gram Sabha, Gram Panchayat or committee shall be valid notwithstanding that there was any defect or irregularity in the enrolment of any member or that some person, who was not entitled to do so, sat or voted or otherwise took part in the proceedings. Provided, however, that at least two thirds of the persons present at the time of the act being done were not disqualified to be members.

**108. Powers and duties of Police in respect of offences and assistance to Panchayats :-**

Every police officer shall give immediate information to Gram Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-law made thereunder and shall assist all members and servants of the Gram Panchayat and Nyaya Panchayat in the exercise of their lawful authority.

**109. Dispute about jurisdiction of Nyaya Panchayats, Gram Panchayats and Municipality :-**

If any dispute arises as to the jurisdiction of a Nyaya Panchayat or between two or more Gram Panchayats or between a Gram Panchayat and the <sup>1</sup>[Nyaya Panchayat] or a Municipality or a Zila Panchayat it shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any Court of law.

1 Subs. by U.P. Act No. 9 of 1994.

**109A. Custody and mode of proof of records :-**

<sup>1</sup>[109-A Custody and mode of proof of records

(1) Notwithstanding anything to the contrary contained in any other provisions of this Act, -

(a) all records of a Gram Panchayat shall be in the custody of its Secretary.

(b) The Secretary shall give to a person, on an application and on payment of such fee as may be prescribed, a copy or any such records and certify it as a true copy under his signature and seal of the Gram Panchayat.

(2) A duly certified copy of any record of a Gram Panchayat shall be received as prima facie evidence of the existence of the record and shall be admitted as evidence of the matters therein recorded in every case where and to the same extent as the original record

would, if produced, have been admissible to prove such matters.]

1 Subs. by U.P. Act No. 33 of 1999.

## **CHAPTER 9 Rules, bye-laws and repeals**

### **110. Powers of State Government to make Rules :-**

<sup>1</sup>[(1) The State Government may, by notification in the Gazette make rules for carrying out the purposes of this Act.]

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

i- any matter for which power to make provision is conferred expressly or by implication of State Government by this Act;

ii- the establishment of Gram Sabha [or Nyaya Panchayat or the constitution of Gram Panchayat].

ii-a- qualifications for the Up-Pradhan.

ii-b- distribution of assets and liabilities of Gram Panchayat and Nyaya Panchayats consequent upon a change in their circles;

<sup>2</sup>[ii-c- presentation and disposal of election petitions and applications for revision under Section 12-C].

ii-d- taking of oath by Pradhan, Up-Pradhan, members of Gram Panchayat, Panch, Sahayak Sarpanch and Sarpanch.

ii-e- filing of resignation by Pradhan, Up-Pradhan, members of Gram Panchayat, Panch, Sahayak Sarpanch and Sarpanch.

ii-f- holding of general elections of bye-elections.

ii-g- <sup>3</sup>[the appointment of Panches of Nyaya Panchayat].

ii-h- grant of leave for absence of office-bearers of Gram Panchayat and Nyaya Panchayat; and

ii-i- the carrying out of the duties of the Pradhan and the Up-Pradhan in their absence for any cause.

iii- the time and place of the meeting of Gram Sabha, Gram Panchayat and Nyaya Panchayat, the manner of convening meeting and giving notice thereof;

iv- the conduct of proceedings including the asking of questions by members at meeting and the adjournment of meetings and also minutebooks of meetings;

v- the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees;

vi- the suspension and removal of office-bearers;

vii- the records and registers that shall be maintained by Gram Panchayat and Nyaya Panchayat and the form in which they are to

be;

vii-a- periodical revisions and amendment of Gram Sabha and Gram Panchayat registers;

viii- the action to be taken on the occurrence of a vacancy in the executive committee, Joint committee, any other committee and Nyaya Panchayat;

ix- the authority by which disputes in relation to appointments to executive committee, joint committee any other committee or Nyaya Panchayat may be decided and the procedure to be followed therein;

x- the amount and nature of security to be furnished by a servant of the Gram Panchayat or Nyaya Panchayat from whom it is deemed expedient to require security;

xi- appointment, qualification, supervision, dismissal, discharge, removal or other punishment and other matters, relating to the conditions of service, leave, transfer, pay and privileges of the servants of the Gram Panchayat and the Nyaya Panchayat and their rights of appeal;

xii- management and regulation of provident fund for the servants of Gram Panchayats and Nyaya Panchayats if the system of provident fund is adopted by any Gram Panchayat.

xiii- the establishment, maintenance and management of primary schools and the construction and repair of buildings thereof;

xiv- the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a joint committee, the construction and repairs of buildings connected therewith and the supply of medicine and medical assistance to the poor inhabitants of the <sup>4</sup>[Panchayat area];

xv- the discovery, removal and distribution of water hyacinth, grass, weed or other wild growth on any land, premises or water, the construction of fences and barriers for checking its movements and the costs incurred in carrying out such work;

xvi- action in regard to the sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance;

xvi-a the carrying out of functions and duties of Gram Panchayats as mentioned in Sections 15, 16 and 17;

xvii- the framing of budgets and ear-marking of funds for specific purposes;

xviii- the returns to be submitted by Gram Panchayats and Nyaya Panchayats, the form in which they are to be, the authorities to which and the time when they shall be submitted;

xix- the levy of taxes and licence fees, the authority, by which and the manner in which the taxes may be assessed and the authority to which an appeal from an assessment order may be made;

xix-a collection of State and other dues by <sup>5</sup>[Gram Panchayats] and remuneration to be paid therefore;

xx- the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Gram Panchayats in the recovery of taxes and dues;

xxi- the method of account keeping by Gram Panchayats and Nyaya Panchayats;

xxii- the maintenance of public buildings and nazul land;

xxiii- the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Gram Panchayat;

xxiv- powers of auditors, inspection and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit, inspection and superintendence;

xxv- the issue, service or execution of summons, notices and other processes of Nyaya Panchayat and issue and service of notices by Gram Panchayats;

xxv-a issue of commissions for examination of witnesses;

xxv-b institution of cases where a Sarpanch refuses to entertain;

xxvi- the transfer by Nyaya Panchayat of summons and other processes to another Nyaya Panchayat or any court for service or execution;

xxvii- the fees to be levied by Nyaya Panchayat for institution of civil cases and criminal cases for issue of processes, for obtaining copies of documents and other matters;

xxviii- the court fees and other fees payable where a Nyaya Panchayat with the consent of parties, entertains a civil case which is otherwise beyond its jurisdiction;

xxix- the procedure for execution of decrees, orders and sentence passed by Nyaya Panchayat;

xxx- the allotment by <sup>6</sup>[Gram Panchayat] of funds for the performance by Nyaya Panchayats of their duties under this Act and the extent to which fees paid to Nyaya Panchayats may be appropriated by <sup>6</sup>[Gram Panchayats];

xxxi- the powers that may be exercised by Zila Panchayat or any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised;

xxxii- the procedure to be observed in the making of bye-laws by

prescribed authority for <sup>6</sup>[Gram Panchayats] or by Gram Panchayats;

xxxiii- the prescribing and printing of forms and registers generally relating to any matter under this Act or rules made thereunder;

xxxiv- the submission for approval of plans, designs, specifications and estimates;

xxxv- the duties, powers and functions of village volunteer force;

xxxvi- the submission of annual reports by <sup>6</sup>[Gram Panchayats] and Nyaya Panchayats and their review;

xxxvii- persons, other than members of <sup>6</sup>[Gram Panchayats] who may be present in an advisory capacity in meetings of <sup>6</sup>[Gram Panchayat];

xxxviii- channel of correspondence between a Gram Panchayat and Nyaya Panchayat and other authorities;

xxxix- disposal of assets and liabilities of <sup>6</sup>[a Gram Sabha or Gram Panchayat] or Nyaya Panchayat on its abolition;

xl- the action to be taken on the inclusion of the whole or part of the local area of any <sup>6</sup>[Gram Panchayat] in any <sup>7</sup>[municipality, notified area, or cantonment, and the manner in which the assets and liabilities of the <sup>8</sup>[Gram Panchayat] may be disposed of in such circumstances;

xli- the conditions subject to which sums due to a <sup>8</sup>[Gram Panchayat] may be written the whole or any part of a fee may be remitted; and generally for the guidance of Gram Panchayat, Nyaya Panchayats, Joint Committees, other committees, servants of the Government and other authorities in any matter connected with the carrying out of the provisions of this Act;

xlii- the regulation of the election of the members of the <sup>8</sup>[Gram Panchayat] in order to secure the adequate representation of the Scheduled Castes;

xliii- assistance to be given by the <sup>8</sup>[Gram Panchayat] to Government servants on any matter affecting the general administration;

xliv- powers and duties of Sahayak Sarpanch and Up-Pradhan;

xlv- borrowing and lending of money by <sup>8</sup>[Gram Panchayat];

xlvi- the matters which are to be and may be prescribed; and

xlvii- any matter in respect of which power is conferred in Section 111 on the prescribed authority to frame a bye-law for a Gram Panchayat.

<sup>9</sup>[(3) [\* \* \*]]

1. Subs. by U.P. Act No. 3 of 1973.
- 2 Subs. by U.P. Act No. 37 of 1978.
- 3 Subs. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1994).
- 4 Subs. by U.P. Act No. 9 of 1994.
- 5 Subs. by U.P. Act No. 9 of 1994.
- 6 Subs. by U.P. Act No. 9 of 1994.
- 7 Subs. by U.P. Act No. 37 of 1978.
- 8 Subs. by U.P. Act No. 9 of 1994.
- 9 Omitted by U.P. Act No. 9 of 1994.

**111. Powers of Zila Panchayat to frame bye-laws :-**

The prescribed authority may, when required by the State Government, shall make bye-laws for a Gram Panchayat within its jurisdiction consistent with the Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within the jurisdiction of a Gram Panchayat and for furtherance of administration Gram Panchayat under this Act.

**112. Powers of [Gram Panchayat] to frame bye-laws :-**

112. Powers of <sup>10</sup>[Gram Panchayat] to frame bye-laws

(1) Subject to the provisions of this Act and the rules made thereunder and the bye-laws, if any, made by the prescribed authority, a Gram Panchayat may frame bye-laws;

(a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;

(b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank or any other place;

(c) to prevent damage to public streets and <sup>10</sup>[Gram Panchayat] property;

(d) to regulate sanction conservancy and drainage in the area of <sup>11</sup>[Gram Panchayats];

(e) to prohibit or regulate the use of public streets or other public

places by shop-keepers or other individuals or collection of market tolls on public streets;

(f) to regulate the manner in which tanks, ponds and cesspools, pasture land, playground, manure-pits, land for disposal of dead bodies and bathing places shall be maintained and used;

(g) to regulate any other duties or functions of the <sup>11</sup>[Gram Panchayat] as may be directed by the prescribed authority.

(2) The draft of bye-laws framed by Gram Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Gram Panchayat and the bye-laws shall then be submitted together with the objections, if any, received and the decisions taken thereon to the prescribed authority. The bye-laws as sanctioned by the prescribed authority shall come into force after they have been published in the prescribed manner.

Provided that the State Government may at any time rescind or modify any bye-laws so approved.

10 Subs. by U.P. Act No. 9 of 1994.

11 Subs. by U.P. Act No. 9 of 1994.

### **113. Repeal and transitory provisions :-**

(1) <sup>12</sup>[\* \* \*]

<sup>13</sup>[(2) On and from the date of commencement of the Uttar Pradesh Panchayt Laws (Amendment) Act, 1994, any reference to the Gram Sabha or Gram Panchayat in any rules, regulations, bye-laws, statutory instruments or any other law for the time being in force or in any document or proceedings shall be construed as a reference to the Gram Panchayat.]

12 Omitted by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1994).

13 Ins. by U.P. Act No. 9 of 1994 and came into force (w.e.f. 24.4.1994).

### **114. Casual vacancies to be left unfilled in certain cases :-**

(1) Where a vacancy occurs or any body constituted under this Act by reason of the death, resignation, removal or avoidance of the election of a member or other office-bearer and the term of office of that member or other office-bearer would in the ordinary course of events have determined within six months of the occurrence of the vacancy, the prescribed authority may direct that the vacancy

be left unfilled until the next general election under this Act.

(2) In the event of <sup>14</sup>[vacancy in the office of Pradhan] remaining unfilled by virtue of direction made under sub-section (1), the prescribed authority may, by order make such arrangement as it thinks fit for the discharge of the functions of the Pradhan till a Pradhan is elected.

14 Subs. by U.P. Act No. 44 of 2007 Published in U.P. Gazette Extra Part I Section (Ka) dated 10 December, 2007 (w.e.f. 20 August, 2007).

### **115. Succession to property, assets, rights liabilities and obligations in certain cases :-**

<sup>15</sup>[115. Succession to property, assets, rights liabilities and obligations in certain cases

(1) One and from the date of commencement of the Uttar Pradesh Panchayat Law (Amendment) Act, 1994 -

(a) all property, interest in property and assets, including cash balances, wherever situate, which immediately before such date were vested in the Gaon Sabha shall vest in and be held by the Gram Panchayat for the purposes of this Act; and

(b) all rights, liabilities and obligations of the aforesaid Gaon Sabha whether arising out of any contract or otherwise, existing immediately before such date, shall be the rights, liabilities and obligations of the Gram Panchayat.

(2) Where any doubt or dispute arises as to whether any property, interest or asset has vested in a Gram Panchayat under sub-section (1), or any right, liability or obligation has become the right, liability or obligation of a Gram Panchayat such doubt or dispute shall be referred in the manner prescribed to the State Government whose decision shall, unless superseded by any decision of a court of law be final.

15 Inserted by U.P. Act No. 9 of 1994.

### **116. Sums due :-**

All sums due to the Gram Sabha, whether on account of any tax or any other account, shall be recoverable by the Gram Panchayat, and for the purpose of such recovery, it shall be competent for the Gram Panchayat to take any measure or institute any proceeding which it would have been open to the Gram Sabha to take or institute, if the [Uttar Pradesh Panchayat Laws (Amendment) Act,

1994 has not come into force.

**117. Debts, obligations, contracts and pending proceedings**

:-

(1) All debts and obligation incurred and all contracts made by or on behalf of the Gram Sabha before the date referred to in sub-section (1) of Section 115 and subsisting on the said date shall be deemed to have been incurred and made by the Gram Panchayat in exercise of the powers conferred on it by this Act and shall continue in operation accordingly.

(2) All proceedings pending before any authority of the said Gram Sabha on the said date, which under the provisions of this Act, are required to be instituted before or undertaken by the Gram Panchayat shall be transferred to and continued by the Gram Panchayat, and all other such proceedings shall, so far as may be, be transferred to and continued by such authority before or by whom they have to be instituted or undertaken under the provisions of this Act.

(3) All appeals pending before any authority of the said Sabha and all suits and other legal proceedings instituted by or against the said Gram Sabha or any officer of the said Gram Sabha pending on the said date, shall be continued by or against the Gram Panchayat or the officer, as the case may be as if there was Gram Panchayat constituted when such prosecution, suit or proceedings was instituted.

(4) All prosecutions instituted by or on behalf of the said Gram Sabha and all suits and other legal proceedings instituted by or against the said Gram Sabha or any officer of the said Gram Sabha pending on the said date, shall be continued by or against the Gram Panchayat or the officer, as the case may be as if there was a Gram Panchayat constituted when such prosecution, suit or proceedings was instituted.

**118. Provision until the Constitution of Gram Panchayats :-**

<sup>16</sup>[118. Provision until the Constitution of Gram Panchayats  
Notwithstanding anything in this Act, during the period between the commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994 and the constitution of the Gram Panchayat <sup>17</sup>[for the first time under this Act as amended by the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994], the Gram Panchayat and its Pradhan, Up-Pradhan and members shall

respectively exercise, perform and discharge the powers, functions and duties of the Gram Panchayat and its Pradhan, Up-Pradhan and members and shall be deemed respectively to be the Gram Panchayat and its Pradhan, Up-Pradhan and members.

16 Inserted by U.P. Act No. 9 of 1994.

17 Subs. by U.P. Act No. 21 of 1995.

**119. Power of remove difficulties :-**

**18**[119. Power of remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, or by reason of anything contained in this Act to any other enactment for the time being in force, the State Government may, as occasion requires, by notified order direct that this Act, shall have effect subject to such adaptations, whether by way of modification, addition or omission, as it may deem to be necessary and expedient.

(2) No order under sub-section (1) shall be made after the expiration of the period of two years from the commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994.

(3) The provisions made by any order under sub-section (1) shall have effect as if enacted in this Act and any such order may be made so as to be retrospective to any date not earlier than the date of commencement of the **19**[Uttar Pradesh Panchayat Laws (Amendment) Act, 1994.

(4) Every order made under sub-section (1) shall be laid, as soon as may be, before both the Houses of State Legislature and the provisions of sub-section (1) of Section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.]

18 Inserted by U.P. Act No. 9 of 1994.

19 Came into force (w.e.f. 24.4.1994).

**SCHEDULE 1**

**SECHEDULE**

SECHEDULE			
(See Section 68)			
	Description of suits	Period	Time from which periodbeings

		of limitation	to run
1.	For money due on a contract	3 years	When the money became due to the plaintiff
2.	For the recovery of movable property of the value thereof	do	When the plaintiff became entitled to the delivery of the moveable property
3.	For compensation for wrong-fully taking or injuring to a moveable property	do	When the moveable property was wrongfully taken or when injury was done to it.
4.	For damages caused by cattle trespass	6 months	When the damage was caused by the cattle trespass